



प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद

“सीमा शुल्क भवन,” पहली मंजिल, पुरानेहाईकोटीसामने, नवरांगपुरा, अहमदाबाद – 380009.

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PREAMBLE

A	फाइल संख्या/File No.	:	VIII/26-03/ACC/Adj./Global/2025-26
B	कारण बताओ नोटिस संख्या और तारीख/ Show Cause Notice No. and date	:	ACC/SHED/MISC/768/2024-ACC-AHMD-CUS-COMMRTE-AHMEDABAD Dated 06.12.2024
C	मूल आदेश संख्या/ Order- in-Original No.	:	42/ADC/ACC/OIO/Global/2025-26
D	द्वारापारित/Passed by	:	ADDITIONAL COMMISSIONER
E	आदेशतिथि/ Date of Order	:	22.07.2025
F	जारी करने की तारीख/ Date of Issue	:	22.07.2025
G	आयातक का नाम और पता /Name and Address of Importer	:	M/s. Global Enterprises, Sanjay Nagar, Shop No. 123, Sector No.23, Ghaziabad, Uttar Pradesh-201001.
H	DIN NO.	:	20250771MN000083078A

- (1) This is granted free of charge for the use of person to whom it is issued.
- (2) Any person deeming himself aggrieved by this order may appeal against the order to the Commissioner of Custom (Appeals), 4th Floor, HUDCO Building, Ishwar Bhuvan Road, Navrangpura, Ahmedabad – 380009 within sixty (60) days from the date of receipt of the order.
- (3) The appeal should bear a Court Fee stamp of Rupees Two only (Rs. 2.00), and it must be accompanied by :
 - i. A copy of the appeal and,
 - ii. This copy or any copy of this order will must bear a Court fee Stamp of Rupees Two only (Rs. 2.00/-).
- (4) Any person desirous of appealing against this order shall deposit 7.5% (subject to maximum of Rs. 10 crores) of duty demanded, in case where duty or penalty levied, where such penalty is in dispute and produce proof of such payment along with the appeal, falling

which the appeal is liable to reject for non-compliance of the provisions of Section 129 of the Customs Act, 1962.

BRIEF FACTS OF THE CASE

M/s Global Enterprises (IEC-AHRPF8143P), having office address at Sanjay Nagar, Shop No. 123, Sector No. 23 Ghaziabad Uttar Pradesh 201 001 (hereinafter referred as 'the said exporter'), has filed two (02) Shipping Bills i) 9721018 dated 08.05.2024 & ii) 9744172 dated 09.05.2024 at Air Cargo Complex, Ahmedabad, through authorized Customs Broker, M/s C P Logistics, for export of the commodities declared item description as 'Electric & Electronic Items Part of Ship Engine Item code T01062-000', classifying the same under 'HSN- 85112090', to the port of destination 'Dubai-DXB'. The detail of the subject Shipping Bills is as follows:

Table-I									
S1 No	Shipping Bil the No. & Date	Name of the exporter (IEC)	Declared description of the goods as per S/B	Declared quantit y	FOB value (in Rs.)	IGST benefi t claimed (in Rs.)	Drawba ck claimed (in Rs..)	RoDTE P claimed (in Rs.)	
01	9721018 dated 08.05.20 24	M/s Global Enterprises (IEC- AHRPF814 3P)	Electric & Electronic Items Part of Ship Engine tem code T01062-000'	05 Nos.	33,49,430 /-	9,43,607/-	--	--	
02	9744172 dated 09.05.20 24			05 Nos.	33,49,430 /-	9,43,607/-	--	--	
Total			10 Nos.		68,98,860 /-	18,87,214 /-	--	--	

2. The Directorate General Analytics and Risk Management, National Customs Targeting Centre, Mumbai 400020, vide its' Alert No. 94/EXP/2024-25 dated 09.05.2024, has red flagged, the two Shipping Bills, as mentioned above at Table-I, stating that the exporter 'M/s Global Enterprises' is making an attempt to export goods declared as 'Electric & Electronic Items Part of Ship Engine', falling under HSN 85112090, which have high possibility of mis-declaration in terms of quality, quantity of goods, mis-classification, concealment and overvaluation to avail undue IGST refund claim.

3. Based on the receipt of specific Alert No. 94/EXP/2024-25 dated 09.05.2024, issued by DGARM, Mumbai, against the subject consignment, instructions vide letter dated 10.05.2024 were given by this office to the Custodian Concerned 'M/s GSEC Ltd. ACC, Ahmedabad, to place the impugned cargo covered under both the Shipping Bills on hold.

4. Examination of the subject goods was carried out in presence of the representative of the Customs Broker, authorized by the exporter for clearance of the subject goods. Further, expert opinion was sought and examination was carried out by the technical expert Shri Atanu Kundu, Chartered Engineer empanelled vide Public Notice No. 11/2023 dated 13.04.2023, issued by Additional Commissioner, Ahmedabad Customs Commissionerate. The Chartered Engineer vide its' report No. AK/18/24-25 dated 16.05.2024 has submitted as follows:

- a. The consignment is declared as "Electric & Electronic Item parts of Ship Engine. Item Code: T01062-000P; Serial No. 20051013-4111 SC PC digital Automation unit" under HSN 85119990 (QTY-10 packages) packed each in wooden box size 32x23x9 inches having Net Wt. 14.500 kgs (Gross weight -16.90 kgs) as per Export Invoice cum Packing list nos. BXP- 44 & 45 dtd. 30.04.2024 lying in the shed of Air Cargo Complex, Ahmedabad for export to Dubai, UAE.*
- b. The described goods are neither an electrical nor electronic unit. It is just a new powder coated metal box with lid looked like a junction or connecting box as it is having some of the provision (slots, Cuts, connecting plastic holder) for mounting components but no electrical or electronic component such as Printed circuit board (PCB), Integrated circuit (IC), electrical switches and wearing, power supply unit, indicators etc. are installed on it. There are some plastic oval shaped plates which are strapped inside the box but not mounted with any parts or components.*
- c. The item code, serial no., name of manufacturer & address of manufacturer, name of the device etc. are not engraved or pasted anywhere on the box.*
- d. While weighing the box, it is noticed that Net & Gross weight comes to 06 kgs. & 15 kgs instead of declared as 14.50 kgs. & 16.90 kgs. respectively as mentioned in Export Invoice cum Packing list No. Exp-45 dtd.30.04.2024. Thereby, the Net weight of the whole consignment 42.5 kgs (8.5 kgs X 5) is missing. The wrong declaration has been registered.*
- e. It is to be noted that the Exporter has declared the same serial no. for both the consignments as well as each box but it cannot be the same as serial number of any item is its' individual identity. It is also not acceptable.*

- f. The goods waiting for export are simply powder coated metal boxes, which do not fall under the head of classification (HSN) 85119990. The HSN of the consignment is wrongly declared. All the 10 boxes are examined and the above-mentioned discrepancies are established in each box. These boxes may not have any link with any marine engine being electric and electronic parts.*
- g. The exporter has declared value of the consignment for USD 40550 (INR 33,49430/-) as FOB price in their Shipping Bill no., 9721018 dated 08.05.2024 whereas assessable value shows in Tax invoice Rs.33,70,025/- (USD 40,799).*
- h. The CHA on behalf of the exporter has produced two purchase bills in support of their valuation and copies of the said bills are attached herewith for reference. The exporter has procured said goods from M/s Bharat Green Ship Recycling LLP, Plot No 63, SR.Y, Alang, Bhavnagar, Gujarat vide Tax Invoice No T1/86 & T1/82 dated 28.04.2024, wherein the description of goods mentioned were same and the value of 05 quantity shown Rs.32,50,000/- at the rate of Rs.6,50,000/- each before appalling the IGST. This Tax invoice of M/s Bharat Green Ship Recycling LLP, Plot No 63, S.R.Y, Alang, Bhavnagar does not show any transportation details along with LR No. & E-way bill no. which are mandatory in GST formation.*
- i. On looking into purchase invoice as well as Sale Tax invoice of the exporter, it can be revealed that the export invoice has been prepared with enhancement of only 3.69% in FOB Price which is considered to be profit margin. Whereas, on looking into consignment, it is revealed that the goods in question seems to be fraud and material value of this each box may be around Rs. 2000-3000/- as fair market maximum price. So, the cost of 10 boxes may be around Rs. 20,000/- to 30,000/- only.*
- j. The goods i.e, Metal boxes made for export are generalized in nature and do not have any special characteristic. The invoices raised by the M/s Bharat Green Ship Recycling LLP, Plot No 63, S.R.Y, Alang, Bhavnagar addressed to the exporter is not carrying digital signature of the authorized signatory. Thereby authenticity of these can be verified only through bank transactions of the exporter.*

k. Therefore, the exporter has declared the goods & value of the Consignment for USD 40550 (INR 3349430/-) as FOB price in their Shipping Bill no., 9721018 dated 08.05.2024 & Shipping Bill no. 9744172 dated 09.05.2024 seems to be fraudulent in nature.

5. It appears with the physical examination of the subject cargo covered under both the Shipping Bills '9721018 dated 08.05.2024 & 9744172 dated 09.05.2024 and with the submission of the certificate made by the empanelled Chartered Engineer 'Shri Atanu Kundu that:

- i. There appears mis-declaration in item description 'Electric & Electronic Items Part of Ship Engine item code T01062-000', whereas, the subject goods are neither an electrical nor electronic unit. It is just a new powder coated metal box with lid looked like a junction or connecting box as it is having some of the provision (slots, cuts, connecting plastic holder) for mounting components but no electrical or electronic components as Printed Circuit Board (PCB), Integrated Circuit (IC), electrical switches and wearing, power supply unit and indicators etc. Therefore, the subject goods can only be declared as Metal Box, as it is generalized in nature and it does not have any special characteristics for being categorized as 'Electric & Electronic Items Part of Ship Engine'.
- ii. Keeping in view of the properties of the subject goods, it appears not to be categorized as 'Electric & Electronic Items Part of Ship Engine', therefore, the classification of the subject goods under HSN 85119990 seems improper, rather it could have simply been declared as metallic box and the same could have been classified under the respective Chapter head according to its' metallic properties.
- iii. There is the difference between the declared gross weight and net weight than that of found gross weight and net weight upon weighment & measurement of the subject goods, the details of the same is as follows:

Table-II

S1. No.	Shipping Bill No. & date	Invoice No. & date	Gross weight & net weight (declared)	Gross weight & net weight (found)	Difference in net weight (in Kgs.)
01	9721018 dated 08.05.2024	Exp-45 dated 30.04.2024	84.5 Kgs. & 72.50 Kgs.	75 Kgs. & 30 Kgs.	42.5 Kgs.
02	9744172 dated 09.05.2024	Exp-44 dated 30.04.2024	84.5 Kgs. & 72.50 Kgs.	75 Kgs. & 30 Kgs.	42.5 Kgs.

- iv. The exporter has declared the same serial no. '20051013-4111' for both the consignments as well as each box, whereas the serial number of any item is its' individual identity, which cannot be repeated once and again.
- v. There appears mis-declaration in description as the goods are declared as parts of ship spares, whereas, it does not have any link with any marine engines being electric and electronic parts.
- vi. With the purchase invoice and Sale Tax invoice, it appears that the export invoice is prepared with enhancement of slight profit margin, whereas, upon looking into the subject goods and its' characteristics, as opined by technical expert vide its' report No. AK/18/24-25 dated 16.05.2024 appears to be fraud and material value of such metallic box may be around Rs. 2,000/- to Rs. 3,000/- only as fair market price. Therefore, the cost of all the ten (10) boxes covered under both the Shipping Bills stands at Rs. 20,000/- to 30,000/- only against the declared FOB of Rs. 66,98,860/-.

6. As the goods covered under both the said Shipping Bills appeared mis-declared by the exporter. The goods appeared liable to be confiscated under Section 113 of the Customs Act 1962. The mis-declared goods covered under 'Shipping Bill No. 9721018 dated 08.05.2024 & 9744172 dated 09.05.2024' were placed under seizure vide the Seizure Memo dated 11.06.2024 on the reasonable belief that the said goods appeared liable for confiscation under Section 113 of the Customs Act, 1962 due to the reason that the Export of the said items was attempted in violation of extant provisions of Customs Act 1962 and the same was handed over to the custodian 'M/s GSEC Ltd., ACC, Ahmedabad' for safe custody and to produce the said goods whenever called and not to deliver or deal with it without prior permission of Customs.

7. A communication vide letter dated 12.06.2024, was made to the Jurisdiction DC/AC, CGST, Ghaziabad, with request to verify the genuineness of IGST refunds claimed on payment of tax vide the shipping bills by exporter 'M/s Global Enterprises (IEC-AHRPF8143P)', Sanjay Nagar, Shop No. 123, Sector No. 23 Ghaziabad Uttar Pradesh 201 001 and it was also requested to verify its' supply chain as well. Further, communication was issued to the Jurisdictional ADC/JC. CGST

Ghaziabad, vide letter dated 08.10.2024, 19.10.2024 & 01.11.2024 respectively, with request to submit the verification report in this regard, however, no reply has been received so far.

8. Summons under section 108 of the Customs Act 1962 (52 of 1962) dated 08.10.2024 & 21.10.2024, were issued to the exporter 'M/s Global Enterprise", at their office address as registered in the IEC (AHRPF8143P) " Sanjay Nagar, Shop No. 123, Sector No. 23 Ghaziabad Uttar Pradesh 201 001", with instruction to produce necessary documents viz. financial transaction with the supplier for the live shipment, BRC of the previous shipment, and any other documents, they wish to submit in support of their claim. However, the exporter did not appear in person for producing the requisite documents submitted any documents.

9. Further, summons issued to the exporter returned to "Air Cargo Complex Ahmedabad" with remarks "insufficient address". Thereafter, another summons in this regard at the address being shown at Aadhar Card "Mohd. Inus, Chappar Wali Masjid ke pass, mabood nagar shahjamal, koil, Aligarh, Uttar Pradesh 202 001", of the exporter, was issued on 01.11.2024, with instruction to give evidence/produce documents in their possession. However, the said exporter did not submit any documents.

10. Contravention of the statutory provisions: -

10.1 Section 50 of the Customs Act 1962 & Rule 11 of the Foreign Trade (Regulation) Rules, 1993, mandates the exporter to state the value, quality and description of such goods to the best of his knowledge and belief and to certify that the quality and specification of the goods as stated in the given documents, are in accordance with the terms of the export contract entered into with the buyer or consignee in pursuance of which the goods are being exported and shall subscribe a declaration of the truth of such statement at the foot of such Bill of Entry or Shipping Bill or any other documents. In the instant case, exporter appeared mis-declaring the item description as 'Electric & Electronic Items Part of Ship Engine item code T01062-000', whereas, the subject goods are neither an electrical nor electronic unit. It appeared a new powder coated metal box with lid looked like a junction or connecting box, as it is having some of the provision (slots, cuts, connecting plastic holder) for mounting components but no electrical or electronic components as Printed Circuit Board (PCB), Integrated Circuit (IC), electrical switches and wearing,

power supply unit and indicators etc. Therefore, the subject goods appear that it should have been declared as Metal Box, as it is generalized in nature and it does not appear to have any special characteristics for being categorized as 'Electric & Electronic Items Part of Ship Engine'.

10.2 It appeared evident that the exporter has grossly mis-declared the weight of 42.5/- Kgs., in each Shipping Bill, accumulating to total difference in weight of 85 Kgs of both the shipping bills. Exporter appeared responsible and mandated to comply with the accuracy and truthful of declaration as prescribed under Section 50 of Customs Act 1962 and Rule 11 of the Foreign Trade (Regulation) Rules, 1993. Exporter appeared responsible regarding the gross mis-declaration in weight, as he was owner of the subject goods and he must be having the idea of the weight of his commodity meant to be exported, which appeared a basic thing for export. The exporter appeared to have failed to provide accuracy and completeness of information in the check list of Shipping Bill, its' invoice and in its' respective packing list.

10.3 In the era of trust based Self-Assessment, section 17 read with Section 50 of Customs Act 1962, mandates the exporter to correctly declare classification, description of the goods. so as to reduce the dwell time and to facilitate the compliant traders. In the instant case, the exporter appeared to have not only failed to declare correct description of the goods and quantity, but appeared to have also failed to classify the subject cargo under correct HSN of Customs Tariff Act 1975. Since the subject goods appeared not to be categorized as 'Electric & Electronic Items Part of Ship Engine', therefore, the classification of the subject goods under HSN 85119990 appeared improper, rather it appeared that it should have been declared as metallic box and the same appeared to have been classified under the respective Chapter head according to its' metallic properties.

10.4 Since the subject goods 'as certified by the empanelled Government Chartered Engineer' is neither an electrical nor electronic unit. It is just a new powder coated metal box with lid looked like a junction or connecting box as it is having some of the provision (slots, cuts, connecting plastic holder) for mounting components but no electrical or electronic components as Printed Circuit Board (PCB), Integrated Circuit (IC), therefore, the subject goods, being merely a metal box, appeared to be

classified under chapter heading “7326”, with description ‘Other articles of iron or steel’.

11. Valuation of Goods: -

11.1 The subject seized goods appeared to be mis-declared in quantity, declaration and classification, hence it appeared that the value declared by the exporter against the subject shipment is doubtful and it does not appear as representing true transaction value prescribed under Rule-3 of Customs Valuation (Determination of Value of Export Goods) Rules 2007 in as much as the exporter, as it appeared by adopting this modus of mis-declaring the description, quantity, appeared to have mis-declared the true value of the goods being exported and hence, it appeared that the declared value is therefore, liable for rejection under Rule 8 of CVR, 2007. Under Rule 8 of CVR, 2007, where there are reasons to doubt the truth and accuracy of the value declared in relation to goods being exported then such value shall be rejected and the value will be re-determined in accordance with the provisions of the Rules. It appeared that the exporter had attempted to export the goods improperly by mis-declaring with incorrect description, classification, quantity and value thereof while filing the subject Shipping Bills. Therefore, it appeared that the value declared in shipping bill appeared liable to be rejected in terms of Rule 8 of CVR, 2007. As per rule 8 of CVR, 2007, “where the declared value is rejected, the value shall be determined by proceeding sequentially in accordance with Rules 4 to 6”. Accordingly, the Rules were considered sequentially as follows:

- a) **Application of Rule 6 of CVR, 2007 (Residual method):** Since no comparable data is feasible with respect to the description of goods submitted by the Chartered engineer certificate in subject matter and no data on cost of production or materials, manufacturing and processing cost, profit and general expenses, cost of transport insurance and handling is on record, therefore, methods adopted from other established valuation methods, like market values, industry standards, or other relevant data appears to be resorted. Therefore, technical expertise was sought in the subject matter wherein vide Chartered engineer report ‘AK/18/24-25 dated 16.05.2024’ submitted that the goods in question seems to be grossly mis-declared and material value of each box may be merely around Rs. 2000-3000/- per piece as fair market maximum price and that the cost of all the 10 boxes/pieces concludes/stands at

around Rs. 20,000/- to 30,000/- only. Based on certificate issued by Government empanelled Chartered Engineer, it appeared that the assessable value of the subject goods covered under S/B No. 9721018 dated 08.05.2024 & S/B No. 9744172 dated 09.05.2024 may be arrived at Rs. 30,000/- only.

b) **Rule 8 (Rejection of declared value):** The subject goods covered under both the shipping bills as mentioned at Table-I, appeared mis-declared, mis-classified, less in quantity against the declaration made in invoice and in its' respective packing list, its' valuation. Further, exporter was granted sufficient number of opportunities to provide requisite documents in support of their claim or stand, however, the exporter did not comply and did not submit any documents. In view of the said discrepancy there is reason to believe that the exporter failed to provide accuracy and completeness of information in the check list of Shipping Bill, its' invoice and in its' respective packing list w.r.t. the subject goods. Therefore, it appeared that the exporter has knowingly overvalued the subject cargo so as to claim undue IGST refund, against which, the exporter has not submitted documentary evidence to offer in support of their claim to substantiate their declaration.

11.2 Rules prescribed under Customs Valuation (Determination of Value of Export Goods) Rules, 2007, were adopted sequentially and the value of the subject goods covered under both the shipping bills as mentioned at Table-I, appears to arrive at Rs. 20,000/- to 30,000/- only against the value 'Rs.68,98,860/-, as declared by the exporter. However, the exporter appeared not be able to produce any documentary evidence in support of their claim. Thereby it appeared that the subject goods are grossly overvalued and as detailed in para 11.2, the value of the subject consignment appeared to be determined at Rs. 30,000/- for both the shipments.

12. In view of the above facts and records available with this office, as submitted at the time of export, it appeared that the Exporter had failed to declare correct description, quantity, classification, and its' valuation as well, which was attempted to export subject goods vide Shipping Bills i) 9721018 dated 08.05.2024 & ii) 9744172 dated 09.05.2024. It appeared that the Exporter had resorted to mis-declaration, mis-classification and overvaluation so as to claim undue

higher IGST refund. Thus, it appeared that by contravening the provisions of the Section 50 of the Customs Act, 1962, the exporter for the acts and omission on their part appeared to have rendered the goods liable for confiscation under Section 113 (d), 113 (i) & 113 (ja) and initiation for penal action under Section 114(iii), 114AA & 114AC of Customs Act 1962.

13. Legal Provisions:

13.1. The relevant provisions of law pertaining to export of goods in general, the policy & rules relating to exports, the liability of the goods to confiscation and the persons concerned to penalty for illegal exportation under provisions of Customs Act, 1962 and the other laws for the time being in force are summarized as follows:

- i. *Section 2(18) defines the term exports and it reads as under:*
“export”, with its grammatical variations and cognate expressions, means taking out of India to a place outside India;
- ii. *Section 2(19) defines the term export goods and it reads as under:*
“export goods”, means any goods which are to be taken out of India to a place outside India;
- iii. *Section 2(39) defines the term smuggling and it reads as under:*
“Smuggling” in relation to any goods, means any act of omission or commission which render such goods liable to confiscation under Section 111 or Section 113 of the Customs Act, 1962”.
- iv. *Section 2 (40) Value in relation to any goods:*
“Value” in relation to any goods, means the value thereof determined in accordance with the provisions of Sub-section (1) or sub-section (2) of Section 14

13.2 Section 50- Entry of goods for exportation:

- 1) The exporter of any goods shall make entry thereof by presenting electronically on the customs automated system to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill and in the case of goods to be exported by land, a bill of export in such of and manner as maybe prescribed: Provided that the Principal Commissioner of Customs or Commissioner of Customs may, in cases where it is not feasible to make entry by presenting electronically on

the customs automated system, allow an entry to be presented in any other manner.

- 2) The exporter of any goods, while presenting a shipping bill or bill of export shall make and subscribe to a declaration as to the truth of its contents.
- 3) The exporter who presents a shipping bill or bill of export under this section shall ensure the following, namely: -
 - a) the accuracy and completeness of the information given therein;
 - b) the authenticity and validity of any document supporting it; and
 - c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

13.3 Section 113. Confiscation of goods attempted to be improperly exported, etc.:

The following export goods shall be liable to confiscation:

- a) 113 (d) any goods attempted to be exported or brought within the limits of any customs area for the purpose of being exported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force; 113 (i) Any goods, entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this act or in the case of baggage with the declaration made under Section 77;
- b) 113 (ja) Any goods entered for exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the provisions of this Act or any other law for time being in force;

13.4 Section 114. Penalty for attempt to export goods improperly, etc.:

Any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing liable, to do any act or omission would render such goods liable to confiscation under section 113 or abets the doing or omission of such an act shall be liable;

- i. In the case of goods, in respect of which, any prohibition is in force under this Act or any other law for the time being in force to a penalty not exceeding three times the value of the goods,

as declared by the exporter or the value as determined under this Act, whichever is the greater;

- ii. In the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten percent of the duty sought to be evaded or five thousand rupees, whichever is higher: Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent of the penalty so determined;
- iii. In the case of any other goods, to a penalty not exceeding the value of the goods, as declared by the exporter or the value as determined under this Act, whichever is the greater.

An attempt ordinarily means an intent combined with an act falling short of the things intended. It is an effort of endeavor to accomplish of a crime, amounting to more than mere preparation or planning for it, which if not prevented, would have resulted in the full consummation of the act attempted.

13.5 Section 114AA. Penalty for use of false and incorrect material:

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.

13.6 Section 114AC: Penalty for fraudulent utilization of Input Tax Credit for claiming refund;

Where any person has obtained any invoice by fraud, collusion, willful misstatement or suppression of facts to utilize input tax credit on the basis of such invoice for discharging any duty or tax on goods that are entered for exportation under claim of refund of such duty or tax, such person shall be liable for penalty not exceeding five times the refund claimed,

Explanation: For the purpose of this section, the expression "input tax credit" shall have the same meaning as assigned to it in clause

(63) of section 2 of the Central Goods and Service Tax Act 2017 (12 of 2017).

13.7 Customs Valuation (Determination of Value of Export Goods) Rules, 2007:

Rule 3. If the value cannot be determined under the provision of sub-rule (1) and sub-rule (2), the value shall be determined by proceeding sequentially through rules 4 to 6. Rule 6. Residual method:

1. Subject to the provisions of rule 3, where the value of the export goods cannot be determined under the provisions of rules 4 and 5, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules provided that local market price of the export goods may not be the only basis for determining the value of export goods.

Rule 8. Rejection of declared value:

1. When the proper officer has reason to doubt the truth or accuracy of value declared in the relation to any export goods, he may ask the exporter 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 such exporter, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, the transaction value shall be deemed to have not been determined in accordance with sub-rule (1) of rule 3.
2. At the request of an exporter, the proper officer shall intimate the exporter in writing the ground for doubting the truth or accuracy of the value declared in relation to the export goods by such exporter and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (1).

13.8 **SECTION 125. Option to pay fine in lieu of confiscation.**

- 1) Whenever confiscation of any goods is authorized by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods or, where such owner is not

known, the person from whose possession or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit: Provided that where the proceedings are deemed to be concluded under the proviso to sub-section (2) of section 28 or under clause (i) of sub-section (6) of that section in respect of the goods which are not prohibited or restricted, the provisions of this section shall not apply:

Provided further that without prejudice to the provisions of the proviso to sub-section (2) of section 115, such fine shall not exceed the market price of the goods confiscated, less in the case of imported goods the duty chargeable thereon.

- 2) Where any fine in lieu of confiscation of goods is imposed under sub-section (1), the owner of such goods or the person referred to in sub-section (1), shall, in addition, be liable to any duty and charges payable in respect of such goods.
- 3) Where the fine imposed under sub-section (1) is not paid within a period of one hundred and twenty days from the date of option given thereunder, such option shall become void, unless an appeal against such order is pending.

Explanation: For removal of doubts, it is hereby declared that in cases where an order under sub-section (1) has been passed before the date** on which the Finance Bill, 2018 receives the assent of the President and no appeal is pending against such order as on that date, the option under said sub-section may be exercised within a period of one hundred and twenty days from the date on which such assent is received.

13.9 The provisions of The Foreign Trade (Development and Regulation) Amended Act, 2010 (No. 25 of 2010) and Rules framed thereunder, which are applicable to the instant case, are as under: Section 11 of the Foreign Trade (Development and Regulation) Act, 1992:

Contravention of provisions of this Act, rules, orders and export and import policy.

- 1) No export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and the export and import policy for the time being in force.

- 2) Where any contravention of any provision of this Act or any rules or orders made thereunder or the export and import policy has been, is being, or is attempted to be, made, the goods together with any package, covering or receptacle and any conveyances shall, subject to such requirements and conditions as may be prescribed, be liable to confiscation by the Adjudicating Authority.
- 3) The goods or the conveyance confiscated under sub-section (5) may be released by the Adjudicating Authority, in such manner and subject to such conditions as may be prescribed, on payment by the person concerned of the redemption charges equivalent to the market value of the goods or conveyance, as the case may be.

13.13 Rule 11 of the Foreign Trade (Regulation) Rules, 1993:

Declaration as to value and quality of imported goods. -

On the importation into, or exportation out of, any customs ports of any goods, whether liable to duty or not, the owner of such goods shall in the Bill of Entry or the Shipping Bill or any other documents prescribed under the Customs Act, 1962 (52 of 1962), state the value, quality and description of such goods to the best of his knowledge and belief and in case of exportation of goods, certify that the quality and specification of the goods as stated in those documents, are in accordance with the terms of the export contract entered into with the buyer or consignee in pursuance of which the goods are being exported and shall subscribe a declaration of the truth of such statement at the foot of such Bill of Entry or Shipping Bill or any other documents.

14. Accordingly, a Show Cause Notice dated 06.12.2024 was issued to M/s Global Enterprises (IEC-AHRPF8143P), Sanjay Nagar, Shop No. 123, Sector No. 23 Ghaziabad Uttar Pradesh 201001, as to why:

- i. Goods intended for export vide Shipping Bill No. 9721018 dated 08.05.2024 & 9744172 dated 09.05.2024, having declared FOB value of Rs 68,98,860/-, should not be held liable for confiscation under Section 113 (d), (i) & 113 (ja) of the Customs Act, 1962.
- ii. The value as declared by the exporter in the Shipping Bill No. 9721018 dated 08.05.2024 & 9744172 dated 09.05.2024, as Rs. 68,98,860/- should not be rejected and the assessable value of the

goods, as proposed at para 11.2. should not be determined at Rs. 30,000/- in terms of provisions of Section 14 of the Customs Act, 1962 read with the provisions of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

- iii. Penalty should not be imposed on exporter M/s Global Enterprises (IEC-AHRPF8143P), Sanjay Nagar, Shop No. 123, Sector No. 23 Ghaziabad Uttar Pradesh 201 001, under section 114 (iii) of the Customs Act, 1962.
- iv. Penalty should not be imposed on exporter M/s Global Enterprises (IEC-AHRPF8143P), Sanjay Nagar, Shop No. 123, Sector No. 23 Ghaziabad Uttar Pradesh 201 001, under section 114AA of the Customs Act, 1962.
- v. Penalty should not be imposed on exporter M/s Global Enterprises (IEC-AHRPF8143P), Sanjay Nagar, Shop No. 123, Sector No. 23 Ghaziabad Uttar Pradesh 201 001, under section 114AC of the Customs Act, 1962.

DEFENCE: -

15. The noticee/exporter was given time of 30 days after issuance and receipt of show cause notice. Before that also during investigation summons were issued under Section 108 of the Customs Act, 1962 giving opportunity to the exporter to present his defence. However, till date neither the exporter appeared for examination before the investigating officers along with supporting documents nor filed any defence reply to the show cause notice.

PERSONAL HEARING:

16. Personal hearings in this case have been granted to the said exporter on 29.01.2025, 25.02.2025 and 17.06.2025, even placed the same on Notice Board of the Air Cargo Complex, but no one has appeared for hearing. It appears that enough opportunities were provided to the said exporter initially to produce documentary evidences or give statement under Section 108 of the Customs Act, 1962 and thereafter to file deference reply to the show cause notice. However, neither the exporter nor their authorised representative appeared for hearing on scheduled date nor have made any request for adjournment of hearing. The provision of principles of natural justice have been complied with, thus, I am left with no option but to decide the case as per available records as the show cause notice cannot be kept undecided just because of non-attendance of the noticee.

DISCUSSION AND FINDINGS

17. I have carefully considered the facts on record viz. show cause notice and the Valuation Report given by the empaneled Chartered Engineer upon physical examination of the goods attempted to be exported under the subject two shipping bills. It is found that the exporter has neither replied to the Summons or the Show Cause Notice issued to them nor appeared for personal hearing fixed on various dates to represent their case. It is fact on record that sufficient and adequate opportunities were provided to them to represent their case effectively, but it appears that the exporter is not interested in contesting charges framed against them vide present show cause notice. Under these circumstances, there is no other option except to conclude adjudication proceeding of the case relied upon the materials available and placed on record.

17.1 In this connection, I find that Hon'ble Supreme Court, High Courts and Tribunals, in several judgments/decision, have held that ex-parte decision will not amount to violation of principles of Natural Justice, when sufficient opportunities for personal hearing have been given for defending the case.

(1) The Hon'ble Supreme court in the case of **F.N. ROY Versus COLLECTOR OF CUSTOMS, CALCUTTA AND OTHERS reported in 1983 E.L.T. 1296 (S.C.)**, has observed as under:

"Natural justice Opportunity of personal hearing not availed of—Effect — Confiscation order cannot be held mala fide if passed without hearing.

- If the petitioner was given an opportunity of being heard before the confiscation order but did not avail of, it was not open for him to contend subsequently that he was not given an opportunity of personal hearing before an order was passed. [para 28]

(Emphasis Supplied)"

(2) The **Hon'ble Supreme Court in the matter of JETHMAL Versus UNION OF INDIA reported in 1999 (110) E.L.T. 379 (S.C.)**, has observed as under;

"7. Our attention was also drawn to a recent decision of this Court in A.K. Kripak v. Union of India - 1969 (2) SCC 340, where some of the rules of natural justice were formulated in Paragraph 20 of the judgment. One of these is the well known principle of audi alteram partem and it was argued that an ex parte

hearing without notice violated this rule. In our opinion this rule can have no application to the facts of this case where the appellant was asked not only to send a written reply but to inform the Collector whether he wished to be heard in person or through a representative. If no reply was given or no intimation was sent to the Collector that a personal hearing was desired, the Collector would be justified in thinking that the persons notified did not desire to appear before him when the case was to be considered and could not be blamed if he were to proceed on the material before him on the basis of the allegations in the show cause notice. Clearly he could not compel appearance before him and giving a further notice in a case like this that the matter would be dealt with on a certain day would be an ideal formality. "

(3) Hon'ble High Court of Calcutta in the case of **KUMAR JAGDISH CH. SINHA vs. COLLECTOR OF CENTRAL EXCISE, CALCUTTA reported in 2000 (124) E.L.T. 118 (Cal.) in Civil Rule No. 128 (W) of 1961, deciding on 13-9-1963**, has observed that;

"Natural justice - Show cause notice - Hearing - Demand - Principles of natural justice not violated when, before making the levy under Rule 9 of Central Excise Rules, 1944; the assessee was issued a show cause notice, his reply considered, and he was also given a personal hearing in support of his reply - Section 33 of Central Excises & Salt Act, 1944. - It has been established both in England and in India [vide N.P.T. Co. v. N.S. T. Co. (1957) S. C.R. 98 (106)], that there is no universal code of natural justice and that the nature of hearing required would depend, inter alia, upon the provisions of the statute and the rules made there under which govern the constitution of a particular body. It has also been established that where the relevant statute is silent, what is required is a minimal level of hearing, namely, that the statutory authority must 'act in good faith and fairly listen to both sides' [Board of Education v. Rice, (1911) A.C. 179] and, "deal with the question referred to them without bias, and give to each of the parties the opportunity of adequately presenting the case" [Local Govt. Board v. Arlidge, (1915) A.C. 120 (132)]. [para 16]
(Emphasis supplied)

(4) Hon'ble High Court of Delhi in the case of **SAKETH INDIA LIMITED vs. UNION OF INDIA reported in 2002 (143) E.L.T. 274 (Del.)**, has observed that:

"Natural justice - Ex parte order by DGFT - EXIM Policy - Proper opportunity given to appellant to reply to show cause notice issued by Addl. DGFT and to make oral submissions, if any, but opportunity not availed by appellant - Principles of

natural justice not violated by Additional DGFT in passing ex parte order - Para 2.8(c) of Export Import Policy 1992-97 - Section 5 of Foreign Trade (Development and Regulation) Act, 1992.

(Emphasis Supplied)"

(5) The Hon'ble CESTAT, Mumbai in the case of GOPINATH CHEM TECH. LTD vs. COMMISSIONER OF CENTRAL EXCISE, AHMEDABAD-II reported in 2004 (171) E.L.T. 412 (Tri. - Mumbai), has observed that;

"Natural justice - Personal hearing fixed by lower authorities but not attended by appellant and reasons for not attending also not explained - Appellant cannot now demand another hearing - Principles of natural justice not violated. [para 5]

(Emphasis Supplied)"

17.2 From the above, it is explicit that all the honest efforts were made by the department in present proceedings of the impugned show cause notice; fair opportunities were given to the exporter to file their defence submission as well as to produce documents in support to their claim. Apart from all, sufficient opportunities were also given to the exporter to remain present in personal hearing and defend the case. I avoid the duplication of discussions since already mentioned above at relevant para of "Defence Submission" and "Personal Hearing". Thus, criteria of principles of natural justice have been followed during the adjudicating process. Further, the exporter was put to notice while giving final opportunity for personal hearing that if they failed to appear on the next date of hearing then the matter would be decided ex parte. Therefore, the adjudication proceedings have taken due care that all principle of natural justice have been followed.

18. I find from the show cause notice that the said exporter had filed 2 shipping bills i) 9721018 dated 08.05.2024 & ii) 9744172 dated 09.05.2024 at Air Cargo Complex, Ahmedabad, through authorized Customs Broker, M/s C. P. Logistics, for export of the commodities declared item description as 'Electric & Electronic Items Part of Ship Engine Item code T01062-000', classifying the same under 'HSN-85112090', to the port of destination 'Dubai-DXB'. Based on the receipt of specific Alert No. 94/EXP/2024-25 dated 09.05.2024, issued by DGARM, Mumbai, against the subject consignment, instructions vide letter dated 10.05.2024 were given to the Custodian M/s GSEC Ltd. ACC, Ahmedabad, to place the impugned cargo covered under both the Shipping Bills on hold. Upon examination of the subject goods in

presence of the representative of the Customs Broker, authorized by the exporter for clearance of the subject goods and upon seeking expert opinion by the technical expert Shri Atanu Kundu, Chartered Engineer empanelled vide Public Notice No. 11/2023 dated 13.04.2023, issued by Additional Commissioner, Ahmedabad Customs Commissionerate, it was learnt that item description 'Electric & Electronic Items Part of Ship Engine item code T01062-000', was mis-declared in the shipping bills as the subject goods are neither an electrical nor electronic unit. It is just a new powder coated metal box with lid which looked like a junction or connecting box as it is having some of the provision (slots, cuts, connecting plastic holder) for mounting components but no electrical or electronic components as Printed Circuit Board (PCB), Integrated Circuit (IC), electrical switches and wearing, power supply unit and indicators etc. The subject goods can only be declared as Metal Box, as it is generalized in nature and it does not have any special characteristics for being categorized as 'Electric & Electronic Items Part of Ship Engine'. The classification of the goods declared under HSN 85119990 is also improper, rather it could have simply been declared as metallic box and the same could have been classified under the respective Chapter head according to its' metallic properties. Since the subject goods as certified by the empanelled Government Chartered Engineer is neither an electrical nor electronic unit. It is just a new powder coated metal box with lid looked like a junction or connecting box as it is having some of the provision (slots, cuts, connecting plastic holder) for mounting components but no electrical or electronic components as Printed Circuit Board (PCB), Integrated Circuit (IC), therefore, the subject goods, being merely a metal box, appeared to be classified with description 'Other articles of iron or steel' under CTH 76. Upon looking into the subject goods and its' characteristics, as opined by technical expert vide its' report No. AK/18/24-25 dated 16.05.2024 there appears to be fraud in the description of the goods, serial number, weight and its material value of such metallic box, which would be around Rs. 2,000/- to Rs. 3,000/- each box, only as fair market price as opined by the Chartered Engineer. Therefore, the cost of all the ten (10) boxes covered under both the Shipping Bills stands at Rs. 20,000/- to 30,000/- only against the declared FOB of Rs. 66,98,860/-. There is a clear case of fraud being played by the exporter with the Revenue for pocketing the export incentives by declaring the higher value of the goods and actually exporting mis-declared goods in place of declared goods. ***The intention became eminently clear that the exporter had no intention to export***

the goods, but only intention was to avail the export incentives by showing higher value and getting IGST refund at higher rate.

Therefore, the goods attempted to be exported under the two shipping bills are liable to be confiscated under Section 113 of the Customs Act 1962. The mis-declared goods covered under 'Shipping Bill No. 9721018 dated 08.05.2024 & 9744172 dated 09.05.2024' were placed under seizure vide the Seizure Memo dated 11.06.2024 on the reasonable belief that the said goods appeared liable for confiscation under Section 113 of the Customs Act, 1962. Since there is no defence of the exporter available on record, the exporter has kept silence which means they do not want to counter the allegations in the show cause notice and silence is always believed as acceptance of the facts.

19. I find that the CHA, on behalf of the exporter M/s. Global Enterprises, has submitted two purchase invoices in support of the export consignment. On scrutiny of these invoices, bearing numbers TI/82 and TI/86, both dated 28.04.2024, I observe that M/s. Global Enterprises has allegedly purchased the goods from M/s. Bharat Green Ship Recycling LLP, located at Plot No. 63, S.R.Y., Alang, Bhavnagar, Gujarat, for a total consideration of Rs. 65,00,000/- . However, a closer examination of these invoices reveals that they do not mention any details regarding transportation of the goods, nor do they contain any reference to the mandatory E-Way Bills. Considering the value of the goods, which is Rs. 65,00,000/-, well above the threshold limit of Rs. 50,000/- prescribed under GST laws for the generation of E-Way Bills, the absence of such critical compliance documents raises serious doubts about the authenticity of the transactions. In view of the above, I find that these invoices lack legitimacy and appear to have been produced merely as a façade to project the transaction as genuine, thereby attempting to mislead the department. Furthermore, the Chartered Engineer, in his inspection report, has categorically confirmed that the goods were mis-declared in terms of their description and composition. This further reinforces the conclusion that the invoices submitted by the exporter are not genuine and have been deliberately fabricated to misguide the authorities.

20. Since the Chartered Engineer has examined the goods and on examination, he found that the goods were different than to the declared goods in the shipping bill. Further, he has also confirmed that the value of the goods was also exorbitantly high as declared in the shipping bills. Therefore, the value declared by the exporter against the subject shipment is doubtful and it does not represent true transaction value as

prescribed under Rule-3 of Customs Valuation (Determination of Value of Export Goods) Rules 2007. I find that the exporter, intentionally mis declared the goods and shown them overvalued, just to get the undue benefit of IGST Refund on being exportation of mis declared goods. The modus adopted by the exporter was clever and pre-meditated. By adopting the modus of mis-declaring the description and value of goods, the exporter/noticee purposely mis-declared the true value of the goods being exported. Therefore, the declared value is liable for rejection under Rule 8 of CVR, 2007. Under Rule 8 of CVR, 2007, where there are reasons to doubt the truth and accuracy of the value declared in relation to goods being exported then such value shall be rejected and the value will be re-determined in accordance with the provisions of the Rules. As per rule 8 of CVR, 2007, "where the declared value is rejected, the value shall be determined by proceeding sequentially in accordance with Rules 4 to 6". According to Rule 6 of CVR, 2007 (Residual method): Since no comparable data is feasible with respect to the description of goods submitted by the Chartered engineer certificate in subject matter and no data on cost of production or materials, manufacturing and processing cost, profit and general expenses, cost of transport insurance and handling is on record, therefore, methods adopted from other established valuation methods, like market values, industry standards, or other relevant data appears to be resorted. After considering all relevant data, value of the goods re-determined by the technical expert vide his report bearing no. AK/18/24-25 dated 16.05.2024 wherein he confirmed that the actual value of goods was around Rs. 2000/- to 3000/- per piece as per fair market maximum price and accordingly, the cost of all the 10 boxes/pieces concludes/stands at around Rs. 20,000/- to 30,000/- only. Based on certificate issued by Government empanelled Chartered Engineer, the transaction value of the subject goods covered under S/B No. 9721018 dated 08.05.2024 & S/B No. 9744172 dated 09.05.2024, I confirm the re-determined value as Rs. 30,000/- only for both the shipping bills in place of Rs. 66,98,860/-.

21. From the report of the CGST, Ghaziabad, and the conduct of the exporter during the course of adjudication proceedings, it is clear that the exporter, M/s. Global Enterprises, is a non-existent entity. I find that in spite of issuance of several communications, including the Show Cause Notice, letters, and multiple opportunities for personal hearing, the exporter failed to appear or submit any defense reply, which demonstrates a deliberate attempt to evade the proceedings and

avoid accountability. Furthermore, as per the verification report submitted by CGST, Ghaziabad vide their letter dated 19.03.2025, it has been categorically stated that during a physical verification conducted on 19.11.2024 at the registered premises of the exporter located at Shop No. 123, Sector 23, Sanjay Nagar, Ghanta Ghar, Ghaziabad, Uttar Pradesh, 201001, was found to be non-existent. The department has also provided a detailed visit note in support of their findings and has blocked ineligible Input Tax Credit amounting to Rs. 12,07,739/-. These facts conclusively establish that the so-called exporter was a fictitious or non-functional entity, seemingly floated for the sole purpose of executing fraudulent exports involving mis-declaration of goods and overvaluation, just to avail the benefits of schemes of Government viz. IGST Refund on export, Duty Drawback etc. The clear intention behind such acts appears to be to illegitimately avail export-related incentives, particularly refund of IGST, without the actual existence of any genuine business operations or export activities. I note that the entire arrangement appears to be a well-orchestrated scheme to defraud the government exchequer.

22. I find accordingly that the noticee has knowingly mis-declared the exported goods with intent to claim the IGST benefits. Thus, I find that M/s. Global Enterprise has violated the provisions of Section 50 (2) of the Customs Act, 1962 and Rule 11 of the Foreign Trade (Regulation) Rules, 1993. All these acts on their part have rendered the exported goods liable to **confiscated absolutely** under Section 113 (d), 113 (i) & 113 (ja) of the Customs Act, 1962. ***I therefore hold in unequivocal terms that the goods covered under Shipping Bill No. 9721018 dated 08.05.2024 & 9744172 dated 09.05.2024 having declared FOB value of Rs.68,98,860/- would be liable to absolute confiscation under Section*** 113 (d), 113 (i) & 113 (ja) of the Customs Act, 1962. **Also**, I am therefore, not inclined to use my discretion to give an option to redeem the seized goods on payment of redemption fine, as envisaged under Section 125 of the Act.

23. The Show Cause Notice also proposes penalty on the Noticee under Section 114(iii) and 114AA of the Customs Act 1962. Section 114 deals with cases related to penalty for attempt to export goods improperly. The Penalty under Section 114(iii) can be imposed on any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act. In the present case, M/s Global Enterprise has deliberately mis-declared the description of the goods, mis-stated and suppressed the true value of the export goods in order to defraud the Government Exchequer by claiming ineligible IGST refund. Thus, M/s. Global Enterprise has attempted to export the goods in contravention of provision of Section

113 (d), 113(i) & 113(ja) of the Customs Act, 1962. As the goods were attempted to be exported in contravention of the provisions of Section 113 of the Customs Act, 1962, I find that penalty under Section 114 (iii) of the Customs Act, 1962 is imposable on M/s. Global Enterprise. Further, as per Section 114AA of the Customs Act, 1962, if a person knowingly makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false incorrect in any material particular, in the transaction of any business for the purpose of this Act, shall be liable to a penalty not exceeding five times the value of the goods. As discussed in the foregoing paras, it is evident that despite knowing the actual facts of the exported goods, the noticee had knowingly and intentionally made, signed or used the declaration, statements and/or documents and presented them to the Customs Authorities which were found incorrect in as much as the value of the exported goods were grossly mis-declared and fake purchase invoice was submitted to the Department. I therefore find and hold that for this act on the part of M/s. Global Enterprise, they are liable for penalty in terms of the provisions of Section 114AA of the Customs Act, 1962.

23.1 Further, I rely on the decision of Principal Bench, New Delhi in case of **Principal Commissioner of Customs, New Delhi (import) Vs. Global Technologies & Research (2023)4 Centax 123 (Tri. Delhi)** wherein it has been held that “*Since the importer had made false declarations in the Bill of Entry, penalty was also correctly imposed under Section 114AA by the original authority*”.

24. The Show Cause Notice also proposes imposition of penalty on M/s Global Enterprises under Section 114AC of the Customs Act, 1962. Section 114AC of the Customs Act, 1962 provides that where any person has obtained any invoice by fraud, collusion, willful misstatement or suppression of facts to utilise input tax credit on the basis of such invoice for discharging any duty or tax on goods that are entered for exportation under claim of refund of such duty or tax, such person shall be liable for penalty not exceeding five times the refund claimed. In this case, it is evident that the said exporter has shown procurement of the goods from M/s Bharat Green Ship Recycling LLP, Alang, Bhavnagar, Gujarat vide Tax Invoice No T1/86 & T1/82 dated 28.04.2024. On perusal of the said invoices, I observe that the supplier has not mentioned any details regarding transportation of the goods, nor do the invoices contain any reference to the mandatory E-Way Bills. Considering the value of the goods, which is Rs. 65,00,000/-, well above the threshold limit of Rs. 50,000/- prescribed under GST laws for the generation of E-Way Bills, the absence of such critical compliance documents raises serious doubts about the authenticity of the transactions. I find that these invoices lack legitimacy and appear to have been produced merely as a façade to project the transaction as genuine, thereby

attempting to mislead the department in order to claim the IGST refund. Hence, it is established that the exporter intended to claim refund of IGST on the basis of tax details shown in the said invoices, which were fraudulently obtained. In view of the above findings, I hold the exporter liable for penalty under Section 114AC of the Customs Act, 1962.

25. In view of the above discussion and findings, I pass the following order: -

O R D E R

- i. I order for absolute confiscation of Goods covered under Shipping Bill No. 9721018 dated 08.05.2024 & 9744172 dated 09.05.2024 having declared FOB value of Rs.68,98,860/- under Section 113 (d), (i) & 113 (ja) of the Customs Act, 1962;
- ii. I hereby reject the declared value of goods i.e. Rs. 68,98,860/-, attempted to be exported vide Shipping Bill No. 9721018 dated 08.05.2024 & 9744172 dated 09.05.2024. Further, I confirm the value of goods covered under Shipping Bill No. 9721018 dated 08.05.2024 & 9744172 dated 09.05.2024, to the tune of Rs. 30,000/- (Rupees Thirty Thousand only), as re-determined under Section 14 of the Customs Act, 1962 read with the provisions of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007;
- iii. I impose penalty of Rs. 68,98,860/- (Rupees Sixty-Eight Lakh Ninety-Eight Thousand Eight Hundred & Sixty only) under Section 114(iii) of the Customs Act, 1962 upon M/s Global Enterprises (IEC-AHRPF8143P), Sanjay Nagar, Shop No. 123, Sector No. 23 Ghaziabad Uttar Pradesh 201 001;
- iv. I impose penalty of Rs. 3,44,94,300/- (Rupees Three Crore Forty Four Lakh Ninety Four Thousand Three Hundred only) under Section 114AA of the Customs Act, 1962 upon M/s Global Enterprises (IEC-AHRPF8143P), Sanjay Nagar, Shop No. 123, Sector No. 23 Ghaziabad Uttar Pradesh 201 001;
- v. I impose penalty of Rs. 94,36,070/- (Rupees Ninety Four Lakh Thirty Six Thousand and Seventy Only) under Section 114AC of the Customs Act, 1962 upon M/s Global Enterprises (IEC-

AHRPF8143P), Sanjay Nagar, Shop No. 123, Sector No. 23 Ghaziabad Uttar Pradesh 201 001.

26. This order is issued without prejudice to any other action that may be taken under the provisions of the Customs Act, 1962 and rules/regulations framed thereunder or any other law for the time being in force in the Republic of India.

27. The SCN No. ACC/SHED/MISC/768/2024-ACC-AHMD-CUS-COMMRTE dated 06.12.2024 is disposed of in above terms.

(Lokesh Damor)
Additional Commissioner,
Air Cargo Complex, Ahmedabad

F. No. VIII/26-03/ACC/Adj./Global/2025-26 Dated:22.07.2025
DIN No. 20250771MN000083078A

To

M/s Global Enterprises (IEC-AHRPF8143P),
Sanjay Nagar, Shop No. 123, Sector No. 23,
Ghaziabad, Uttar Pradesh-201 001

Copy to:

1. The Dy./Asst. Commissioner, System, HQ, Ahmedabad;
2. The Dy./Asst. Commissioner, Review Cell, HQ, Ahmedabad;
3. The Dy./Asst. Commissioner, Air Cargo Complex, Ahmedabad;
4. Guard file.