



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

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

चौथी मंज़िल 4th Floor, हडको भवन HUDCO Bhawan, ईश्वर भुवन रोड़ Ishwar Bhuvan Road
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DIN - 20250971MN000000ADB5

क	फ़ाइल संख्या FILE NO.	S/49-78/CUS/MUN/2025-26
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-181-25-26
ग	पारितकर्ता PASSED BY	Shri AMIT GUPTA Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	11.09.2025
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original No. MCH/ADC/AKM/355/2024-25 dated 28.03.2025
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	11.09.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Sea Shore Logistics Plot No. 13B, Block-B, Sector 125, Light Engineering zone, In front of Mitap APSEZ, Mundra, Kutch-370421



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/- (रुपए दो सौ मात्र) या रु. 1000/- (रुपए 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 :
	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ
	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016
	2 nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	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-
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -
(क)	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 रूपए.
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;
(ख)	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 रूपए
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;
(ग)	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 रूपए.
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees
(घ)	यदि 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।
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.
6.	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.
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-
	(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or
	(b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.

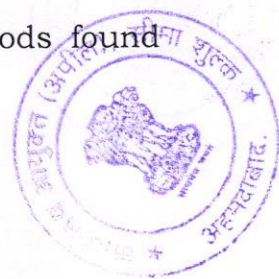


ORDER-IN-APPEAL

The present appeal has been filed by M/s. Sea Shore Logistics Plot No. 13B, Block-B, Sector 125, Light Engineering zone, In front of Mitap APSEZ, Mundra, Kutch-370421 (hereinafter referred to as the 'appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original No. MCH/ADC/AKM/355/2024-25 dated 28.03.2025 (hereinafter referred to as 'the impugned order') passed by the Additional Commissioner of Customs, Custom House, Mundra (hereinafter referred to as the 'adjudicating authority').

2. Facts of the case, in brief, are that an Intelligence gathered by Directorate of Revenue Intelligence (DRI) indicated that M/s. Extreme Electronics Pvt. Ltd. ,49, Gali No. 3, Block H, Laxmi Nagar, New Delhi (IEC No. AADCE7228G) are engaged in import of Printed Circuit Board (PCB) by way of mis-declaring the nature, description, value etc. through SEZ warehouse Unit M/s. Sea Shore Logistics, Mundra, Kutch, Gujarat i.e. appellant . The Intelligence further suggested that consignment of goods declared as "Printed Circuit Board" covered under Import General Manifest No. 2318712 dated 08.08.2022 for which total 41 Warehouse Bills of Entry were filed on behalf of the Importer M/s. Extreme Electronics Pvt. Ltd. were mis-declared with respect to description, quantity, value and other material particulars and also there was concealment in the subject consignment. The import consignments were imported through 07 Containers covered under 41 Warehouse Bills of Entry from Hong Kong as detailed in the impugned order.

2.1 On examination of the goods pertaining to the above mentioned 41 Bills of Entry at M/s. Sea Shore Logistics, Mundra, Kutch, Gujarat under Panchnama dated 22.08.2022 and 24.08.2022 , the details of goods found during examination of are given as under:-



Sr. No.	Container No.	Date of Examination Panchnama	No. of PCBs declared in the Bills of Entry	No. of PCBs actually found during examination	Difference (Excess/Short)
1	MSCU3364300	22.08.2022	43753	46362	+2609
2	EMCU3918722		39437	66722	+27285
3	EGHU3160828		47003	21959	-25044
4	EISU3924836		41396	22286	-19110
5	ABGU3205407		40778	33027	-7751
6	EMCU3785805	24.08.2022	43402	50263	+6861
7	HJCU2370202		40482	35906	-4576
Total			296251	276525	-19726

During the examination proceedings, it was noticed that Maximum number of the goods were old and used Also, a number of the packets and sheets were having the marking as 'rejected' and/or also containing cross (X) marks as the sign of rejected. It was also noticed that many packets were having slips containing date/year of manufacturing year as 2009, 2010, 2013 etc. The PCBs were having marking of M/s. Genus and M/s. Philips. During examination representative samples randomly were also drawn from the goods.

2.2. Though the subject goods appeared to be very old and used, the importer had declared assessable value of the subject consignments totaling to Rs. 184,25,76,231/- for all the 41 Bills of Entry as mentioned above filed by the importer for clearance of the said Consignments through Mundra SEZ Warehouse Unit M/s Sea Shore Logistics, Adani Ports and Special Economic Zone, Mundra (Mundra SEZ). Thus, in order to ascertain the approximate value of the subject consignment, valuation of the same was done through Chartered Engineer and Govt approved Valuer M/s. B. G. Bhatt & Co., Ahmedabad who had submitted his report bearing No. BB/H-24-25/22/PCB/MUNDRA/EEPL dated 08 10.2022 and reported the estimated C & F value of the consignment as Rs. 18.67 Crores, only Thus, there appeared gross mis-declaration of subject consignments with respect to the nature/description and value of the goods. The imported goods appeared to be old and used. As noticed, some them were rejected and not usable. However, the importer mis-declared the value of the goods highly exaggerated with malafide intention of routing illicit money through import/export route.

2.3. It appeared that the subject goods imported in the name of M/s. Extreme Electronics Pvt. Ltd., covered under aforementioned Bills of Entry had been mis-declared with respect to quantity, value and other material particulars. The

goods were old and used and also, the packets and sheets containing the marking 'rejected' and/or 'cross' and having slips containing date/year of manufacturing as 2009, 2010, 2013. Also, there was difference in number of pieces declared and actual number of pieces found during the examination. In total, the actual quantity was found to be short by 19726 pieces in comparison to declared quantity. Thus, there was reason to believe that the entire goods i.e. 296251 pcs of declared description 'Printed Circuit Boards' (actual quantity found 276525 pcs) covered under present consignment having declared assessable Rs. 184,25,76,231/- (C & F value Rs. 18.67 Crore as per Govt approved Valuer) appeared liable to confiscation under Section 111(m) of Customs Act, 1962.

2.4. Further, these aforesaid old and used goods including the packets and sheets contained the marking 'rejected and/or 'cross' and had slips containing date/year of manufacturing as 2009, 2010, 2013. These appeared to fall under the category of e-waste which are prohibited items and hence appeared liable to confiscation under Section 111(d) of Customs Act, 1962. Accordingly, the subject goods imported vide aforementioned 41 Bills of Entry in 07 containers mentioned in Table above and lying at M/s. Sea Shore Logistics, Mundra SEZ, were placed under seizure vide Seizure Memo dated 11.01.2023 under the provisions of Section 110(1) of the Customs Act, 1962.

2.5 During investigation, a search was conducted at the declared premises of M/s. Extreme Electronics Pvt Ltd., 49, Gali No. 3, H Block, Laxmi Nagar, New Delhi-110092 under panchnama dated 20.09.2022. During search various documents such as invoice, packing list etc. related to the subject consignments were recovered and resumed by the officers of DRI.

2.6 The imported Printed Circuit Boards were having marking of M/s. Genus and M/s. Philips. The DRI vide letters dated 26.08.2022 requested both the companies to visit the office of DRI for necessary inspection of the goods. However, no response was received from M/s. Philips (India) to the letter dated 26.08.2022. Further, the authorized representative of M/s. Genus Electrotech Limited had visited the office of DRI Gandhidham and carried out the inspection of the representative samples and submitted their inspection report vide letter dated 01.09.2022. M/s. Genus Electrotech Limited submitted that they never had any transactions with M/s. Extreme Electronics and the PCBs which they had inspected do not belong to their company.

2.7 During the course of investigation, in order to collect the evidence/corroborative evidence, statement of persons who were directly/indirectly involved in importation/clearance of goods, were recorded by the DRI under the provisions of Section 108 of the Customs Act, 1962. The facts of statements of such persons have been mentioned in the Show Cause Notice and the records of statements thereof have been attached to Show Cause Notice as RUDs. For sake of brevity contents of statements of such persons are not produced hereunder. The details of the persons whose statements were recorded are as under: -

2.7.1 Statements of Shri Abhishek Garg, Director of M/s. Extreme Electronics Pvt Ltd were recorded on 08.10.2022/09.10.2022 under Section 108 of the Customs Act, 1962.

2.7.2 Statement of Shri Ashok Kishanchand Binwawara authorized person of M/s. Aegon Shipping (India) Pvt. ltd., was recorded on 18.07 2022 under Section 108 of the Customs Act, 1962 on 18.07.2023

2.7.3 Statement of Shri Kanhaiya Jagdish Kasera, Managing Director of Custom Broker Company M/s. Cargo Concept Bombay Pvt. Ltd., was recorded on 01.08.2023 under Section 108 of the Customs Act, 1962.

2.7.4 Further, various Summons dated 29.09 2022, 10.07 2023, 05.08.2023 to appellant were issued by the DRI during investigation of the case, however no reply was received from them They remained in continuous business and warehousing, however, they had not cooperated with the investigation of the present case. Even, appellant M/s. Sea Shore Logistics has not bothered to response to the Summons issued by DRI .However, an email dated 07.08.2023 was received from appellant wherein they have submitted their inability to present before the investigating officer and had sought three week time for tendering their statement. The attitude of appellant appeared non-cooperative to the investigation of the present case.

2.8 On completion of investigation, Show Cause Notice No. GEN/ADJ/ADC/1642/2023-Adj dtd. 18.08.2023 was issued to M/s. Extreme Electronics Pvt. Ltd , appellant and other noticees wherein it was proposed as under :-

- i. Total quantity 276525 Pcs. of declared goods as mentioned in Table-1 above having declared value of Rs. 184,25,76,231/-, found mis-declared in respect of description/nature, value and quantity thereof, should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962.
- ii. The assessable value of the goods of the import consignment as mentioned in Table 2, above, should not be re-determined under Rule 5 of the CVR, 2007, as Rs.18.67 Crore (C&F) only.
- iii. The rejected PCBs having declared value of Rs 9,21,28,811.5/- and having approx. actual value of Rs 93.35 Lakhs (as per report of Chartered Engineer) should not be held liable for confiscation under Sec 111(d) of the Customs Act 1962.

2.9 Further, the following persons as appearing in Column 2 of the following Table, individually and separately were called upon to show cause in writing as to why penalty should not be imposed on each of them individually under below mentioned penal provisions, separately, of the Customs Act, 1962 as appearing at Column 3 to 6 of the Table below:-

S. No.	Name	Penal provisions under Customs Act, 1962			
		(3)	(4)	(5)	(6)
1	M/s. Extreme Electronics Pvt. Ltd.,	112(a)	112(b)	114AA	117
2	Shri Abhishek Garg (Director of Extreme Electronics Pvt. Ltd. and beneficial owner)	112(a)	112(b)	114AA	117
3	Shri Sajjan Gupta (Joint beneficial owner)	112(a)	112(b)	114AA	
4	M/s. Sea Shore Logistics,	112(a)	112(b)	114AA	117
5	M/s. Cargo Concept Bombay Pvt. Ltd., Office No. 11-12, Ground Floor, Sadguru Empire Near Rasapir, Circle, Adani Port, Mundra	112(a)	112(b)	114AA	

2.5 The adjudicating authority vide the impugned order adjudicated the above Show Cause Notice wherein he ordered as under:

- i. He rejected the declared value of the goods i.e. Rs. 184,25,76,231/- and re-determined the same as Rs. 18.67 Crore (C&F) under Rule 5 of the CVR, 2007.
- ii. He ordered to confiscate the total quantity 276525 Pcs. of declared goods as mentioned in impugned order under Section 111(m) of the Customs Act, 1962. He also ordered to confiscate the rejected PCBs having approx. actual value of Rs 93.35 Lakhs (as per report of Chartered Engineer) under Section 111(d) of Customs Act 1962. However, he gave an option to the importer to redeem the confiscated goods on payment of redemption fine of Rs. 2,00,00,000/- (Rupees Two Crore Only) under Section 125 of Customs Act, 1962 for re-export purpose as the Importer has expressed his willingness to re-export the goods. The re-export had to be made within 120 days from the date of receipt of the order.
- iii. He imposed penalty of Rs. 50,00,000/- (Rupees Fifty Lakhs Only) upon the Importer M/s. Extreme Electronics Pvt. Ltd. under Section 112(a)(iii) of the Customs Act, 1962.
- iv. He imposed penalty of Rs. 25,00,000/- (Rupees Twenty Five Lakhs only) upon Shri Abhishek Garg (Director of Extreme Electronics Pvt. Ltd. and beneficial owner) under Section 112(a)(iii) of the Customs Act, 1962.
- v. He imposed penalty of Rs. 25,00,000/- (Rupees Twenty Five Lakhs only) upon Shri Sajjan Gupta (Joint beneficial owner) under Section 112(a)(iii) of the Customs Act, 1962.
- vi. He imposed penalty of Rs. 10,00,000/- (Rupees Ten Lakhs Only) upon appellant i.e. M/s. Sea Shore Logistics under Section 112(b)(iii) of the Customs Act, 1962
- vii. He impose penalty of Rs. 10,00,000/- (Rupees Ten Lakhs Only) upon M/s. Cargo Concept Bombay Pvt. Ltd. under Section 112(a)(iii) of the Customs Act, 1962.
- viii. He did not impose penalty on M/s. Extreme Electronics Pvt Ltd, Shri Abhishek Garg, Shri Sajjan Gupta and M/s. Cargo Concept Bombay Pvt. Ltd. under Section 112(b) of the Customs Act, 1962.



- ix. He did not impose penalty on M/s. Sea Shore Logistics under Section 112(a) of the Customs Act, 1962.
- x. He imposed penalty of Rs. 25,00,000/- (Rupees Twenty Five Lakhs only) upon the Importer M/s. Extreme Electronics Pvt. Ltd. under Section 114AA of the Customs Act, 1962.
- xi. He imposed penalty of Rs. 20,00,000/- (Rupees Twenty Lakhs Only) upon Shri Abhishek Garg (Director of Extreme Electronics Pvt. Ltd. and beneficial owner) under Section 114AA of the Customs Act, 1962
- xii. He imposed penalty of Rs. 20,00,000/- (Rupees Twenty Lakhs Only) upon Shri Sajjan Gupta (Joint beneficial owner) under Section 114AA of the Customs Act, 1962
- xiii. He did not impose penalty on M/s. Sea Shore Logistics under Section 114AA of the Customs Act, 1962
- xiv. He imposed penalty of Rs. 10,00,000/- (Rupees Ten Lakhs Only) upon M/s. Cargo Concept Bombay Pvt. Ltd. under Section 114AA of the Customs Act, 1962
- xv. He did not impose penalty on M/s. Extreme Electronics Pvt. Ltd., Shri Abhishek Garg and M/s. Sea Shore Logistics under Section 117 of the Customs Act, 1962.

SUBMISSIONS OF THE APPELLANT:

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

- The appellant has been penalized by the Adjudicating Authority for lack of monitoring and supervision under the agreement entered by the appellant with M/s Stashbarn Enterprises, as the agreement was made for complete management, marketing and operations of the warehouse at a fixed monthly fee of USD 10,000/- for a period of three years under which appellant allowed Stashbarn Enterprises to operate and maintain the



facility at Mundra Port (Gujarat) under the overall supervision and monitoring of the appellant.

- However section 112(b)(iii) of the Customs Act, 1962 provides for the penalty to any person who knows or has reason to believe that goods are liable to confiscation under section 111 of the Customs Act, 1962; and not for the lack of monitoring and supervision under the Agreement entered between the two parties under Indian Contract Act 1872, outside the Customs Act, 1962. Thus, the learned Adjudicating Authority has erred in invoking the section 112(b)(iii) of the Customs Act, 1962 while relying on the terms of Agreement entered between the two parties under Indian Contract Act 1872. The section 112(b)(iii) of the Customs Act, 1962 can be invoked only when any person knows or has reason to believe that goods are liable to confiscation under section 111 of the Customs Act, 1962, and not for the terms of Agreement which was entered for marketing and operations at the premises under Indian Contract Act 1872
- Further, reliance may be placed on the case of M/s. A.V. Global Corporation Pvt. Ltd. V/s Commissioner of Customs. New Delhi (Import & General) case of CUSTOMS APPEAL NO. 50181 of 2016 CESTAT, New Delhi. The judgment in A.V Global Corporation P Ltd. case has established that custodians without guilty knowledge cannot be penalized merely because goods were misdeclared.
- As there is no evidence on the record that the appellant has the knowledge or reason to believe that goods are liable to confiscation under section 111 of the Customs Act, 1962. On the contrary, the Learned Adjudicating Authority has put on the record that the appellant has cooperated in the investigation, did not receive any monetary benefit from the importer rather the investigation is on weak footing on this fact due to lack of any evidence, the appellant has received only the agreed fee amount from M/s Stashbarn Enterprise as per the management agreement. Thus, there is no evidence on the record to prove mens rea of the appellant that goods are liable to confiscation under section 111 of the Customs Act, 1962. In view of aforementioned provisions, the penalty imposed by the learned Adjudicating Authority under section 112(b)(iii) of the Customs Act, 1962, is liable to be quashed and set aside.



PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 09.07.2025 following the principles of natural justice wherein Shri Deepak Mittal, Proprietor, appeared for the hearing in virtual mode and he re-iterated the submission made at the time of filing the appeal.

DISCUSSION AND FINDINGS:

5. I have carefully gone through the case records, impugned order and the defense put forth by the appellant in their appeal.

5.1 On going through the material on record, I find that following issue is required to be decided in the present appeal which is as follows:

(i) Whether the penalty of Rs. 10,00,000/- (Rupees Ten Lakhs Only) imposed upon the appellant under Section 112(b)(iii) of the Customs Act, 1962 by the adjudicating authority in the impugned order, is legal and proper, in the facts and circumstance of the case.

5.2 The adjudicating authority has observed from the agreement copy produced by the appellant in their defence submission dtd. 29.08.2023 that M/s Sea Shore Logistics i.e the appellant and M/s Stashbarn Enterprises entered into Management agreement. The said agreement was made on 24/10/2020 and came into effect from 01.11.2020 as per Article 4 (41) of the said agreement. The agreement was made for complete management, marketing and operations of the warehouse at a fixed monthly rental of USD 10,000/- for a period of three years. As per the said agreement, the appellant allowed M/s. Stashbarn Enterprises to operate and maintain the facility at Mundra Port (Gujarat) under the overall supervision and monitoring of the appellant. However, as per the appellant submission, the said agreement stands terminated from 01/04/2023.

5.3 The adjudicating authority has agreed with the investigation which has found that Shri Sajjan Gupta in connivance with Shri Abhishek Garg, Director of M/s. Extreme Electronics Pvt Ltd arranged the import of the declared goods as 'Printed Circuit Board' and mis-declared the value of the goods as

Rs. 184,25,76,231/- whereas actual value of the said goods come to Rs. 18.67 Crores (C&F). Further, approx. 5% of the subject goods were rejected. They have arranged the said import through Mundra SEZ warehouse Unit, M/s. Sea Shore Logistics. Such acts and omissions resulted in contravention of the provisions of Customs Act, 1962 and rules made there under and thus, made the goods liable for confiscation under Section 111 of the Customs Act, 1962.

5.4 It is observed from the impugned order that the adjudicating authority has found no evidence available on records which indicate that Shri Deepak Mittal, Proprietor of M/s. Sea Shore Logistics i.e appellant has manipulated or forged any import document pertaining to the shipment of M/s. Extreme Electronics Pvt Ltd. He has also observed that there is no evidence available on records regarding gain of any monetary benefit for the present shipment by the appellant. He has observed that only Shri Kanhaiya Kasera, of M/s. Cargo Concept in his statement had stated that on personal request of Shri Deepak Mittal through telephonic communication, he arranged Delivery Orders for the impugned shipments, however, no documentary evidence has been adduced or produced by Shri Kanhaiya Kasera or investigating agency in support of this claim. In view of the same, the said claim has been found to be on weak footing by the adjudicating authority due to lack of any evidences.

5.5 From the statement dtd. 18.07.2023 of Shri Ashok Kishanchand Binwawara (authorised person of M/s. Aegon Shipping (India) Pvt Ltd.), it is evident that authorised person of Customs Broker M/s. Cargo Concept Bombay Pvt Ltd. approached them for delivery of Import consignments on behalf of M/s. Extreme Electronics Pvt Ltd. The said fact that M/s. Cargo Concept Bombay Pvt Ltd. had taken responsibility to take delivery and clearance of the shipments, is also not refuted by themselves. From the statement of Shri Ashok Kishanchand Binwawara, it is also revealed that payment to them was made by M/s. Cargo Concept Bombay Pvt Ltd. It is observed that Shri Ashok Kishanchand Binwawara had not mentioned the name of Shri Deepak Mittal i.e appellant regarding payment/communication for dealing the present shipment or direction to take/given delivery orders to M/s Cargo Concept Bombay Pvt Ltd. On the basis of the investigation report, the adjudicating authority has noted that from the Importer's end no one had mentioned the name of Shri Deepak Mittal i.e appellant.



5.6 The investigation report in the present case has alleged that quantity was found short than the declared quantity, however, the appellant had not informed that concerned authority about the said fact. A warehousing unit is not supposed to inform about the short quantity in a particular shipment without prior information/knowledge. I find that no evidence has been brought on record to show that the appellant was aware of the short quantity. Even if there was a mis-declaration regarding the quantity of goods, it could only be confirmed after an examination of the goods. Hence, the adjudicating authority has rightly rejected the above allegation.

5.7 It is observed that the adjudicating authority has imposed penalty on the appellant under Section 112(b) (iii) of the Customs Act, 1962 on the ground that monitoring/supervision work was under their control and his employee Shri Shailesh was appointed by him for this task, however, they failed to discharge their duty. The legal provisions of Section 112(b)(iii) of the Customs Act, 1962 areas under :-

" 112. Penalty for improper importation of goods, etc.

Any person,-

(a) ----

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111, shall be liable-----

(i) ----

(ii) ----

(iii) in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty [not exceeding the difference between the declared value and the value thereof or five thousand rupees], whichever is the greater;"



On going through the above penal provisions, it is seen that the mens rea is required to be established for imposing penalty under this section. However, as

discussed in the above paras the adjudicating authority has already acknowledged that there was no evidence available on record against the appellant. The Hon'ble Supreme Court has consistently held that mens rea is an essential ingredient for imposing penalties, particularly when the provisions involve elements of deliberate evasion or fraudulent intent. In *Cosmic Dye Chemical Vs Collector of Central Excise, Bombay* [1995 (75) ELT 721 (SC)], the Supreme Court emphasized the necessity of mens rea for imposing penalties under fiscal statutes. Similarly, in *UOI Vs Rajasthan Spinning and Weaving Mills* [2009 (238) ELT 3(SC)], the Supreme Court reiterated that for penalties linked to "fraud, collusion, wilful misstatement, suppression of facts or contravention... with intent to evade payment of duty," mens rea is indispensable. Therefore, in absence of mens rea, the penalty imposed on the appellant under Section 112(b)(iii) of the Customs Act, 1962 is legally not sustainable.

6. In view of the above findings, I set aside the penalty of Rs. 10,00,000/- imposed on the appellant under Section 112(b)(iii) of the Customs Act, 1962 in the impugned order and allow the appeal of the appellant.



(AMIT GUPTA)

Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-78/CUS/MUN/2025-26

Date: 11.09.2025

By Speed post /E-Mail

To,

M/s. Sea Shore Logistics

Plot No. 13B, Block-B, Sector 125, Light Engineering zone,

In front of Mitap APSEZ, Mundra, Kutch-370421

(Email:-deepakmittal178@hotmail.com)

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.