

	<p>प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, मुन्द्रा  <b>OFFICE OF THE PRINCIPAL COMMISSIONER,  CUSTOM HOUSE, MUNDRA</b>  Port User Building (PUB), Mundra (Gujarat – 370421)  ई-मेल / E-Mail: group5-mundra@gov.in</p>	
<b>A</b>	फा. सं./ <b>FILE NO.</b>	CUS/APR/MISC/2706/2024-Group 5-6
<b>B</b>	मूल आदेश सं. <b>ORDER-IN-ORIGINAL NO.</b>	MCH/ADC/ZDC/136/2025-26
<b>C</b>	द्वारा पारित किया गया <b>PASSED BY</b>	Dipak Zala ADDITIONAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE, MUNDRA.
<b>D</b>	आदेश की तिथि <b>DATE OF ORDER</b>	18-07-2025
<b>E</b>	जारी करने की तिथि <b>DATE OF ISSUE</b>	18-07-2025
<b>F</b>	कारण बताओ नोटिस सं. एवं तिथि <b>SCN NUMBER &amp; DATE</b>	CUS/APR/MISC/2706/2024-Gr 5-6 dated 20.07.2024
<b>G</b>	नोटिसी/पार्टी / आयातक <b>NOTICEE/ PARTY/ IMPORTER</b>	M/s. Supersonic Turners Pvt. Ltd., F.393(A), Road 1. No. V.K.I, Jaipur, Rajasthan-302017
<b>H</b>	डिन सं. <b>DIN NUMBER</b>	<b>20250771MO0000222042</b>

1. यह अपील आदेश संबंधित को निःशुल्क प्रदान किया जाता है।

This Order - in - Original is granted to the concerned free of charge.

2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 129A(1) के अंतर्गत प्रपत्र सीए3-में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

Any person aggrieved by this Order - in - Original may file an appeal under Section 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

**“सीमा शुल्क आयुक्त) अपील(, चौथी मंजिल, हुडको बिल्डिंग, ईश्वर भुवन रोड, नवरंगपुरा, अहमदाबाद 380009”**

**“The Commissioner of Customs (Appeals), Mundra, 4<sup>TH</sup> Floor, Hudco Building, Ishwar Bhuvan Road, Navrangpura, Ahmedabad-380009.”**

3. उक्त अपील यह आदेश भेजने की दिनांक से तीन माह के भीतर दाखिल की जानी चाहिए।

Appeal shall be filed within three months from the date of communication of this order.

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5 -/रुपए का टिकट लगा होना चाहिए और इसके

साथ निम्नलिखित अवश्य संलग्न किया जाए -

Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must accompanied by –

5. उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मदसं- 6 के तहत निर्धारित 0.50 पैसे की एक न्यायालय शुल्क स्टाम्प वहन करना चाहिए।

The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paise only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.

6. अपील ज्ञापन के साथ ड्यूटी/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।  
Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.
7. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और सीमा शुल्क अधिनियम, 1962 के सभी मामलों में पालन किया जाना चाहिए।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and the Customs Act, 1962 should be adhered to in all respects.

8. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (Appeals) के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।

An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

### **Brief Facts of the case**

M/s Supersonic Turners Pvt. Ltd. (IEC No. 1399002392) having address at F.393 (A), Road LNO. 9F-2 V.K.I, Jaipur, Rajasthan-302017 (hereinafter referred as "the importer") had filed the Bill of Entry No. 7208656 dated 25.06.2012 for Re-import of **"Turned Bearing Races 9IM-BBI-0346"** under Tariff item 84829900 of first schedule of the Customs Tariff, 1975 by availing benefit of Sr. 1 of Notification No 158/95 dated 14.11.1995, as amended and submitted RE Bond No. 2000358867 dated 10.09.2012 for amount of Rs. 14,11,850/- & BG of Rs. 3,52,962.50/-

**2.** The importer claimed benefit provided at serial no. 1 of Notification 158/95- Cus dated 14.11.1995. The serial no. 1 of the said notification provides exemption to the goods manufactured in India and parts of such goods whether of Indian or foreign manufacture and re-imported for (a) repairs; or (b) reconditioning, when such re- importation takes place within 3 years from the date of exportation and such goods are re-exported within six months of the date of re-importation or such extended period not exceeding a further period of six months as the Commissioner of Customs may allow. The relevant excerpts are as below:

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S. No.	Description of goods	Conditions
(1)	(2)	(3)
1.	Goods manufactured in India and parts of such goods whether of Indian or foreign manufacture and re-imported into India for repairs or for reconditioning.	<p>1. Such re-importation takes place within 3 years from the date of exportation;</p> <p>Provided that such re-importation takes place within 10 years from the date of exportation in case of Nepal and Bhutan;</p> <p>2. Goods are re-exported within six months of the date of re-importation or such extended period not exceeding a further period of six months as the Commissioner of Customs may allow;</p> <p>3. The Assistant Commissioner of Customs or Deputy Commissioner of Customs is satisfied as regards identity of the goods;</p> <p>4. The importers at the time of importation executes a bond undertaking to-</p> <p>a. export the goods after repairs or reconditioning within the period as stipulated;</p> <p>(b) pay, on demand, in the event of his failure to comply with any of the aforesaid conditions, an amount equal to the difference between the duty levied at the time of re-import and the duty leviable on such goods at the time of importation but for the exemption contained herein.</p>
2.	Goods manufactured in India and reimported for (a) reprocessing; or (b) refining; or (c) re-marking; or (d) subject to any process similar to the processes referred to in clauses (a) to (c) above.	<p>1. Such re-importation takes place within one year from the date of exportation.</p> <p>2. Goods are re-exported within six months of the date of re-importation or such extended period not exceeding a further period of six months as the Commissioner of Customs may allow;</p> <p>3. The Assistant Commissioner of Customs or Deputy Commissioner of Customs, is satisfied as regards identity of the goods.</p> <p>4. The importer executes a bond to the effect -</p> <p>(a) that such reprocessing, refining or remaking or similar processes shall be carried out in any factory under Central Excise control following the procedure laid down under rule 173MM of the Central Excise Rules, 1944 or in a Customs bond provisions of section 65 of the Customs Act, 1962 (52 of 1962);</p> <p>(b) that he shall maintain a due account of the use of the said re-imported goods received in the premises specified in item (a) above and shall produce the said accounts duly certified by the officer of Central Excise or Customs, as the case may be, in charge of the factory or the bonded premises to the</p>

	<p>effect that the goods tendered for re-import are reprocessed, refined or remade or subjected to any process, as the case may be, from the said re-imported goods;</p> <p>b. that in case any waste or scrap arising during such operations and the importer agrees to destroy the same before the officer of Central Excise or Customs, as the case may be, or to pay on such waste or scrap the appropriate duties of customs as if such waste or scrap is imported;</p> <p>c. that he shall pay, on demand, in the event of his failure to comply with any of the aforesaid conditions, an amount equal to the difference between the duty leviable on such goods at the time of importation but for the exemption contained herein.</p> <p>Provided that in case of reprocessing, refining or remaking or similar process, if any loss of imported goods is noticed during such operations, the quantity of such loss shall be exempted from the whole of the duties of customs (basic customs duty and additional customs duty, etc.) subject to the satisfaction of the Assistant Commissioner of Customs or Deputy Commissioner of Customs that such loss has occurred during such operations.</p>
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**3.** It appears that the said re-imported goods were manufactured in India and were re-imported for re-working, and therefore the same were covered under Sr. No. 1 of Notification No. 158/1995-Cus. However, as per conditions for availing benefit of Sr. No. 1 of Notification No. 158/1995-Cus., such re-importation should have taken place within 1 year from the date of exportation.

**4.** Further, as per Sr. No. 1 of Notification No. 158/95-Cus., the whole of the duty of Customs specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and the whole of the additional duty leviable under section 3 of the said Customs Tariff Act, is exempted subject to the condition that Goods are re-exported within six months of the date of re-importation or such extended period not exceeding a further period of six months as the Commissioner of Customs may allow. It has been observed during the course of audit from the EDI Systems and available records that the said importer had neither applied for extension of the period for re-export, nor has such extension of period for re-export been allowed to them. However, even after expiry of one year from the import of the said goods, the said importer had not submitted proof of re-exportation of the said goods to the satisfaction of the Deputy / Assistant Commissioner of Customs, as required under the conditions of Notification No. 158/95-Cus.

**5.** Therefore, consultative clarification letters F. No. CUS/APR/MISC/2706/2024-Gr 5-6 dated: 19.03.2024 and 18.06.2024 have been issued to the said importer informing that the re-export bond was still pending for closure, requesting to submit all the documents pertaining to re-

export of the goods within prescribed time limit, failing which action under the provisions of the Customs Act, 1962 would be initiated. However, as per the available records, the said importer has not submitted the required documents and therefore the aforesaid Bonds have not been closed.

**6.** As per the provisions of Section 143 of the Customs Act, 1962, the said imported goods were allowed clearance by proper officer on execution of bond by the importer wherein the importer bounded themselves to discharge liability in certain manner, which they have failed to do so in as much as the re-imported goods covered under S. No. 1 of Notification No. 158/1995-Cus. have not been re-imported within time limit prescribed under said Notification and the said importer has also not submitted documentary evidence pertaining to re-export of the subject goods within prescribed time limit. Thus, the said importer appears to have not complied with the conditions of the said Notification, and undertaking given in the Re-export Bond.

**7.** Thus, it appears that the said importer is liable to pay duty forgone of **Rs 14,11,849/-**, (**Rupees Fourteen Lakh Eleven Thousand Eight Hundred Forty-Nine Only**), on the said imported goods along with interest at the applicable rate on the imported goods in terms of conditions of the said Notification and conditions of the bond executed by the importer read with Section 143 of the Customs Act, 1962. The duty Calculation are as under: -

Table-II

Sr. No.	Bill of Entry no. and Date	Item No.	Description	CTH	Assessable Value	BCD @7.5%	CVD @12%	Customs Cess @3%	Spl. Addl duty 4%	Total duty recoverable
1	7208656 dated 25.06.2012	1	TURNED BEARING RACES RE-IMPORT	84829900	903073	67730.475	116496.42	5527	43713	233467
		2	TURNED BEARING RACES		451537	33865.275	58248.273	2763	21857	116734
		3	TURNED BEARING RACES		2527118	189533.85	325998.22	15466	122325	653323
		4	TURNED BEARING		1579448	118458.60	203748.79	9666	76453	408326
Total					54,61,176					14,11,849

#### **LEGAL PROVISIONS IN RESPECT OF IMPORTED GOODS:**

8. The relevant provisions of the Customs Act, 1962 and the rules made there under are as follows: -

**(A) Section 143. Power to allow import or export on execution of bonds in certain cases. -**

- i. Where this Act or any other law requires anything to be done before a person can import or export any goods or clear any goods from the control of officers of customs and the 1 [Assistant Commissioner of Customs or Deputy Commissioner of Customs] is satisfied that having regard to the circumstances of the case, such thing cannot be done before such import, export or clearance without detriment to that person, the 1 [Assistant Commissioner of Customs or Deputy Commissioner of Customs] may, notwithstanding anything contained in this Act or such other law, grant leave for such import, export or clearance on the person executing a bond in such amount, with such surety or security and subject to such conditions as the 1 [Assistant Commissioner of Customs or Deputy Commissioner of Customs] approves, for the doing of that thing within such time after the import, export or clearance as may be specified in the bond.
- ii. If the thing is done within the time specified in the bond, the 1 [Assistant Commissioner of Customs or Deputy Commissioner of Customs] shall cancel the bond as discharged in full and shall, on demand, deliver it, so cancelled, to the person who has executed or who is entitled to receive it; and in such a case that person shall not be liable to any penalty provided in this Act or, as the case may be, in such other law for the contravention of the provisions thereof relating to the doing of that thing.
- iii. ***If the thing is not done within the time specified in the bond, the 1 Assistant Commissioner of Customs or Deputy Commissioner of Customs shall, without prejudice to any other action that may be taken under this Act or any other law for the time being in force, be entitled to proceed upon the bond in accordance with law.***

B. **SECTION 17. Assessment of duty.** — (1) An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty if any, leviable on such goods.

C. **Section 46(4)** The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, [and such other documents relating to the imported goods as may be prescribed].

**Section 46(4A)** The importer who presents a bill of entry 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.]”

9. In the present case, it appears that the said importer has failed to discharge the conditions laid down under Notification No. 158/1995-Cus. dated 14.11.1995 inasmuch as they claimed the benefit of Sr. No. 1 of Notification No. 158/1995-Cus. have not been re-imported within time limit prescribed under said Notification; and the said importer has also not submitted documentary evidence pertaining to re-export of the said re-imported goods within prescribed time limit. Thus, the said importer appears to have not complied with the conditions of the said Notification, and undertaking given in the Re-export Bond. Thus, the said importer appears to have wrongly claimed and availed the benefit of the above-mentioned notification and therefore contravened the above said provisions with an intent to evade payment of Customs Duty leviable and payable on the import of subject goods. It appears that the said importer had contravened the provisions of sub-section (4) and (4A) of Section 46 of the Customs Act, 1962 inasmuch as while filing Bill of Entry, they had to ensure the accuracy and completeness of the information given therein for assessment of Customs duty. Therefore, the said importer appears liable to pay the Customs duty amounting of **Rs 14,11,849/- , (Rupees Fourteen Lakh Eleven Thousand Eight Hundred Forty-Nine Only)** in respect of the said imported goods along with interest at the applicable rate, in terms of the condition of Re-export Bond executed by the importer and Section 143 of the Customs Act, 1962 and also the Re-export Bond furnished by the importer is required to be enforced / appropriated for such recovery.
10. Whereas, as per clause (o) of Section 111 of the Customs Act, 1962, any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under the Customs Act, 1962 or any other law for the time being in force, in respect of which the condition is not observed, shall be liable to confiscation. As the exemption under Notification No. 158/1995-Cus. was granted to the said re-imported goods subject to the condition of their re-exportation within prescribed time limit, whereas the said condition has not been observed, therefore, the aforesaid goods appear liable for confiscation under Section 111(o) of the Customs Act, 1962. Therefore, the said re-imported goods totally valued at **Rs. 52,99,605/- (Rupees Fifty-Two Lakh Ninety-Nine Thousand Six Hundred Five Only)**, appear liable for confiscation under Section 111(o) of the Customs Act, 1962.
11. The aforesaid acts of omission and commission on the part of the said importer appear to have rendered them liable to penalty as provided under Section 112(a) / 114A of the Customs Act, 1962.

**12.** Therefore, SCN No. CUS/APR/MISC/2706/2024-Gr 5-6 dated

20.07.2024 was issued to M/s Supersonic Turners Pvt. Ltd. (IEC No. 1399002392) having address at F.393(A), Road LNO. 9F-2 V.K.I, Jaipur, Rajasthan-302017 to show cause to the Addl. Commissioner of Customs, having office at PUB Building, Customs House, Mundra as to why: -

- i. The exemption under Notification No. 158/1995-Cus dated 14.11.1995, claimed and availed in respect of Bill of Entry No. 7208656 dated 25.06.2012 should not be denied;
- ii. The imported goods of declared Assessable value of **Rs. 54,61,176/- (Rupees Fifty-Four Lakh Sixty-One Thousand One Hundred Seventy Six Only)**, should not be held liable for confiscation under Section 111(o) of the Customs Act, 1962 read with conditions of Bond executed in terms of Section 143 of the Customs Act, 1962 read with Sr. No. 1 of Notification No. 158/1995-Cus dated 14.11.1995 as amended / applicable and why redemption fine should not be imposed in lieu of confiscation under Section 125 of the Customs Act, 1962;
- iii. Duty forgone amount of **Rs 14,11,849/-, (Rupees Fourteen Lakh Eleven Thousand Eight Hundred Forty-Nine Only)** along with applicable interest (from the date of clearance of goods to the date of payment of duty) should not be demanded and recovered in terms of conditions of Bond executed under section 143 of the Customs Act, 1962 read with Sr. No. 1 of Notification No. 158/1995-Cus. dated 14.11.1995, as amended / applicable from them.
- iv. Penalty should not be imposed on the importer under Section 112(a)/114A of the Customs Act, 1962 for the acts of omission and commission.
- v. Re-export Bond furnished by the importer should not be enforced in terms of Section 143(3) of the Customs Act, 1962 and Bank Guarantee for recovery of the duty, interest, penalty and Redemption Fine leviable on the importer, if any.

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**RECORD OF PERSONAL HEARING**

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13. The personal hearing dates scheduled on 30.06.2025, 10.07.2025 and 17.07.2025 were informed to the importer in pursuit of following the principal of natural justice. However, no one appeared for personal hearing, neither any submission on the in the matter was received from them. Therefore, the case has been taken up for finalization based on the documents available on the records.

**DISCUSSION & FINDING**

**14.** I have carefully gone through the case records and applicable provisions of Law. I proceed to decide the case on the basis of facts and documentary evidences available on records. The main issues before me are to decide whether-

- i. The exemption under Notification No. 158/1995-Cus dated 14.11.1995, claimed and availed in respect of Bill of Entry No. 7208656 dated



- 25.06.2012 should not be denied;
- ii. The imported goods of declared Assessable value of **Rs. 54,61,176/- (Rupees Fifty-Four Lakh Sixty-One Thousand One Hundred Seventy Six Only)**, should not be held liable for confiscation under Section 111(o) of the Customs Act, 1962 read with conditions of Bond executed in terms of Section 143 of the Customs Act, 1962 read with Sr. No. 1 of Notification No. 158/1995-Cus dated 14.11.1995 as amended / applicable and why redemption fine should not be imposed in lieu of confiscation under Section 125 of the Customs Act, 1962;
  - iii. Duty forgone amount of **Rs 14,11,849/-, (Rupees Fourteen Lakh Eleven Thousand Eight Hundred Forty-Nine Only)** along with applicable interest (from the date of clearance of goods to the date of payment of duty) should not be demanded and recovered in terms of conditions of Bond executed under section 143 of the Customs Act, 1962 read with Sr. No. 1 of Notification No. 158/1995-Cus. dated 14.11.1995, as amended / applicable from them.
  - iv. Penalty should not be imposed on the importer under Section 112(a)/114A of the Customs Act, 1962 for the acts of omission and commission.
  - v. Re-export Bond furnished by the importer should not be enforced in terms of Section 143(3) of the Customs Act, 1962 and Bank Guarantee for recovery of the duty, interest, penalty and Redemption Fine leviable on the importer, if any.

**15.** I find that the importer M/s Supersonic Turners Pvt. Ltd. (IEC No. 1399002392) having address at F.393(A), Road LNO. 9F-2 V.K.I, Jaipur, Rajasthan-302017 had filed the Bill of Entry No. 7208656 dated 25.06.2012 for Re-import of **“Turned Bearing Races 9IM-BBI-0346”** under Tariff item 84829900 of first schedule of the Customs Tariff, 1975 by availing benefit of Sr. 1 of Notification No 158/95 dated 14.11.1995, as amended and submitted RE Bond No. 2000358867 dated 10.09.2012 for amount of Rs. 14,11,850/- & BG of Rs. 3,52,962.50/-.

**16.** I find that as per Sr. No. 1 of Notification No. 158/95-Cus., the whole of the duty of Customs specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and the whole of the additional duty leviable under section 3 of the said Customs Tariff Act, is exempted subject to the condition that Goods are re-exported within six months of the date of re-importation or such extended period not exceeding a further period of six months as the Commissioner of Customs may allow. It has been observed during the course of audit from the EDI Systems and available records that the said importer had neither applied for extension of the period for re-export, nor such extension of period for re-export has been allowed to them. However, even after expiry of one year from the import of the said goods, the said importer had not submitted proof of re-exportation of the said goods to the satisfaction of the Deputy / Assistant Commissioner of Customs, as required under the conditions of Notification No. 158/95-Cus.

**16.1.** I find that as per the provisions of Section 143 of the Customs Act,

1962, the said imported goods were allowed clearance by proper officer on execution of bond by the importer wherein the importer bounded themselves to discharge liability in certain manner, which they have failed to do so in as much as the re-imported goods covered under S. No. 1 of Notification No. 158/1995-Cus. have not been re-imported within time limit prescribed under said Notification and the said importer has also not submitted documentary evidence pertaining to re-export of the subject goods within prescribed time limit. Thus, I find that the importer have not complied with the conditions of the said Notification, and undertaking given in the Re-export Bond.

**16.2.** I find that the said importer is liable to pay duty forgone of **Rs 14,11,849/- (Rupees Fourteen Lakh Eleven Thousand Eight Hundred Forty-Nine Only)** as determined in Table-II, on the said imported goods along with interest at the applicable rate on the imported goods in terms of conditions of the said Notification and conditions of the bond executed by the importer read with Section 143 of the Customs Act, 1962.

**LEGAL PROVISIONS IN RESPECT OF IMPORTED GOODS:**

**16.3.** The relevant provisions of the Customs Act, 1962 and the rules made there under are as follows: -

**a. Section 143. Power to allow import or export on execution of bonds in certain cases. -**

1. Where this Act or any other law requires anything to be done before a person can import or export any goods or clear any goods from the control of officers of customs and the 1 [Assistant Commissioner of Customs or Deputy Commissioner of Customs] is satisfied that having regard to the circumstances of the case, such thing cannot be done before such import, export or clearance without detriment to that person, the 1 [Assistant Commissioner of Customs or Deputy Commissioner of Customs] may, notwithstanding anything contained in this Act or such other law, grant leave for such import, export or clearance on the person executing a bond in such amount, with such surety or security and subject to such conditions as the 1 [Assistant Commissioner of Customs or Deputy Commissioner of Customs] approves, for the doing of that thing within such time after the import, export or clearance as may be specified in the bond.
2. If the thing is done within the time specified in the bond, the 1 [Assistant Commissioner of Customs or Deputy Commissioner of Customs] shall cancel the bond as discharged in full and shall, on demand, deliver it, so cancelled, to the person who has executed or who is entitled to receive it; and in such a case that person shall not be liable to any penalty provided in this Act or, as the case may be, in such other law for the contravention of the provisions thereof relating to the doing of that thing.
3. ***If the thing is not done within the time specified in the bond, the 1 Assistant Commissioner of Customs or Deputy Commissioner of Customs shall, without prejudice to any other action that may be taken under this Act or any other law for***

***the time being in force, be entitled to proceed upon the bond in accordance with law.***

- C. **Section 46(4)** The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, [and such other documents relating to the imported goods as may be prescribed].
- B. **SECTION 17. Assessment of duty.** — (1) An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty if any, leviable on such goods.

**Section 46(4A)** The importer who presents a bill of entry shall ensure the following, namely :—

- ii. the accuracy and completeness of the information given therein;
  - iii. 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.]”

**16.4.** I find that, the said importer has failed to discharge the conditions laid down under Notification No. 158/1995-Cus. dated 14.11.1995 in as much as they claimed the benefit of Sr. No. 1 of Notification No. 158/1995-Cus. have not been re-exported within time limit prescribed under said Notification; and the said importer has also not submitted documentary evidence pertaining to re-export of the said re-imported goods within prescribed time limit. Thus, the said importer have not complied with the conditions of the said Notification, and undertaking given in the Re-export Bond. Thus, I find that the said importer have wrongly claimed and availed the benefit of the above-mentioned notification and therefore contravened the above said provisions with an intent to evade payment of Customs Duty leviable and payable on the import of subject goods. I find that that the said importer had contravened the provisions of sub-section (4) and (4A) of Section 46 of the Customs Act, 1962 inasmuch as while filing Bill of Entry, they had to ensure the accuracy and completeness of the information given therein for assessment of Customs duty. Therefore, the said importer is liable to pay the Customs duty amounting of **Rs 14,11,849/- , (Rupees Fourteen Lakh Eleven Thousand Eight Hundred Forty-Nine Only)** in respect of the said imported goods along with interest at the applicable rate, in terms of the condition of Re-export Bond executed by the importer and Section 143 of the Customs Act, 1962 and also the Re-export Bond furnished by the importer is required to be enforced / appropriated for such recovery.

**16.5.** I find that as per clause (o) of Section 111 of the Customs Act, 1962,

any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under the Customs Act, 1962 or any other law for the time being in force, in respect of which the condition is not observed, shall be liable to confiscation. As the exemption under Notification No. 158/1995-Cus. was granted to the said re-imported goods subject to the condition of their re-exportation within prescribed time limit, whereas the said condition has not been observed, therefore, the aforesaid goods are liable for confiscation under Section 111(o) of the Customs Act, 1962. Therefore, the said re-imported goods totally valued at **Rs. 52,99,605/- (Rupees Fifty-Two Lakh Ninety-Nine Thousand Six Hundred Five Only)** are liable for confiscation under Section 111(o) of the Customs Act, 1962.

**16.6.** I find that, the aforesaid acts of omission and commission on the part of the said importer have rendered them liable to penalty as provided under Section 112(a)(ii) of the Customs Act, 1962.

**16.7.** Section 111. Confiscation of improperly imported goods, etc. –

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

*(a) --*

*--*

*(o) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer;*

Section 112. Penalty for improper importation of goods, etc. –

*Any person, -*

- a. *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 111, or abets the doing or omission of such an act, or*
- 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. *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 the value of the goods or five thousand rupees, 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 per cent. 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;*

**17.** From the above, it is evident that M/s. Supersonic Turners Pvt. Ltd. has not followed the procedure of the Notification No. 158/1995-Cus. dated 14.11.1995, subject goods are liable for confiscation under section 111 (o) of the Customs Act, 1962. The importer is also liable for penalty under section 112 (a) (ii) of the Customs Act, 1962.

**18.** In view of the foregoing discussion and findings, I pass the following order:

**ORDER**

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- i. I order to reject the exemption under Notification No. 158/1995-Cus dated 14.11.1995, claimed and availed in respect of Bill of Entry No. 7208656 dated 25.06.2012.
- ii. I order to demand and recovered Duty forgone amount of **Rs. 14,11,849 (Rupees Fourteen Lakh Eleven Thousand Eight Hundred Forty-Nine Only)** along with applicable interest in terms of Bond executed under Section 143 of the Customs Act, 1962.
- iii. I order for confiscation of the goods having declared value of **Rs. 54,61,176/-** under Section 111(o) of the Customs Act, 1962 read with conditions of Bond executed in terms of section 143 of the Customs Act, 1962. I impose a Redemption Fine of **Rs. 500000 /- (Rs. Five Lakhs Only)** under section 125 of the Customs Act, 1962.
- iv. I order to impose penalty of **Rs. 140000/- (Rs. One Lakh Forty Thousand only)** under Section 112(a)(ii) of Customs Act, 1962.
- v. I order to enforce the Re-export Bond furnished by the importer under Section 143(3) of the Customs Act, 1962 and I also Order to Encash the Bank Guarantee submitted by the importer for recovery of the duty, interest, penalty and Redemption Fine.

**19.** This order is issued without prejudice to any other action which may be contemplated against the importer or any other person under 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.

**( DIPAK ZALA)**

Additional Commissioner of Customs  
Custom House, Mundra

To,  
M/s. Supersonic Turners Pvt. Ltd.,  
F.393 (A), Road I. No. V.K.I,  
Jaipur, Rajasthan-302017

Copy to:

1. The Dy. Commissioner of Customs, Review Section, CH, Mundra

2. The Dy. Commissioner of Customs, TRC Section, CH, Mundra
3. The Dy. Commissioner of Customs, EDI Section, CH, Mundra
4. Guard file