आयुक्त, सीमा शुल्क का कार्यालय,
OFFICE OF THE COMMISSIONER OF CUSTOMS
न्यू कस्टम हाउस, बालाजी मंदिर के पास, न्यू कांडला-370210
NEW CUSTOMS HOUSE, NEAR BALAJI TEMPLE, NEW KANDLA-370210
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A	File No.	GEN/ADJ/ADC/1960/2025-Adjn
B	Order-in-Original No.	KDL/ADC/RKJ/19/2026-27
C	Passed by	Shri Rakesh Kumar Jain, Additional Commissioner of Customs, Custom House, Kandla.
D	Date of Order	15.10.2026
E	Date of Issue	15.10.2026
F	SCN F. No. & Date	GEN/ADJ/ADC/1960/2025-Adjn-O/o Commr-Cus-Kandla date 16.10.2025
G	Noticee / Party / Importer / Exporter	1. M/s Brilmindz (IEC-ABCFB2975N) (GSTIN -07ABCFB2975N1Z2), House No. 689, Shiv Kunj, Street No. 19, Sant Nagar, Burari, New Delhi-110084 *(brilmindz9@gmail.com)* *(logistics.omsai@gmail.com;)* 2. M/s Credence Shipping, Office No. 6, 2nd Floor. Plot No. 579, Building Anjani-3, ward-12C, Gandhidham, Kachchh, Gujarat-370201 *(Credenceship@gmail.com;)*

1. यह मूल आदेश संबन्धित को नि:शुल्क प्रदान किया जाता है।
This Order - in - Original is granted to the concerned free of charge.

2. यदि कोई व्यक्ति इस मूल आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 128 A के अंतर्गत प्रपत्र सीए- 1- 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 भवन रोड,
अहमदाबाद-380009

"THE COMMISSIONER OF CUSTOMS (APPEALS),
Having his office at 4th Floor, Hudco Building,
Ishwar Bhavan Road, Ahmedabad-380009."

3. उक्त अपील यह आदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए ।

Appeal shall be filed within sixty days 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 –

i. उक्त अपील की एक प्रति और
A copy of the appeal, and

ii. इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं°-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए ।
This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.

5. अपील ज्ञापन के साथ ड्यूटि/ ब्याज/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये ।

Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo.

6. अपील प्रस्तुत करते समय, सीमा शुल्क (अपील) नियम,1982 और सीमा शुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए ।

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

7. 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 (A) 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.

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Brief Facts of the Case:

M/s Brilmindz (IEC-ABCFB2975N) having GST Registration 07ABCFB2975N1Z2 located at House No. 689, Shiv Kunj, Street No. 19, Sant Nagar, Burari, New Delhi-110084 had filed 03 shipping bills [4770663, 4771066 & 4771397 all dated 11.10.2024] through their Custom Broker M/s. Credence Shipping for export of '*Ceramic Western Toilet Commode (69109000)*' to M/s Noor Al Marhaba Textile Trading LLC, United Arab Emirates (UAE). The details of the same are tabulated as under:

TABLE-I

Sr. No.	SB No. & Date	Description	No. of Pieces	Declared FOB (in Rs.)	Drawback Amount Involved (in Rs.)	RODTeP Amount Involved (in Rs.)	IGST paid (in Rs.)	Export Benefits Involved (in Rs.)
1	4770663 dtd. 11.10.2024	Ceramic Western Toilet Commode	330	49,11,210/-	68,757/-	44,201/-	8,88,505/-	10,01,463/-
2	4771066 dtd. 11.10.2024		325	48,36,420/-	67,710/-	43,528/-	8,75,043/-	9,86,281/-

3	4771397 dtd. 11.10.2024	335	49,86,000/-	69,804/-	44,874/-	9,01,967/-	10,16,645/-
TOTAL		990	1,47,33,630/-	2,06,271/-	1,32,603/-	26,65,515/-	30,04,389/-

2 . On the basis of NCTC Alert No. 414/Exp/2024-25 (received on 15.10.2024 through E-mail) whereby it was informed that the said export consignment of the exporter appeared to be risky for mis-declaration/overvaluation/IPR violation and requested for 100% examination of the consignment and to check the genuineness of the exporter and undue IGST/input credit refund. Accordingly, the above said goods were put on hold by the officers of Customs Kandla for examination.

3 . The examination of the goods, lying in Container No. GATU8513328, was carried out at M/s. Arvind V Joshi & Co., CFS, Gandhidham under panchnama dated 16.10.2024 in presence of Sh. Sameer Dubey, Authorised person of the exporter, M/s. Brilmindz (IEC-ABCFB2975N) as well as the F Card Holder from the Custom Broker, M/s Credence Shipping and Shri Anwar Kukkad, Govt. Empaneled Chartered Engineer (Valuer) for the purpose of valuation of the goods. During the examination, 990 commodes were found (tallying with number of PKG mentioned in their respective Shipping Bill and packing list) and out of 990 pieces, 35 pieces were found broken. On the examination spot, the Govt. Impaneled Valuer examined the goods and took photographs of the same for the purpose of valution.

4. On examination of the subject consignment, the declared value of the goods appeared to be on the higher side; the declared transaction value appeared liable for rejection under Rule 8 of the Custom Valuation Rules (CVR), 2007 and the said value is required to be re-determined by sequentially proceeding in terms of Rule 4 to 6 of the Customs Valuation Rules, 2007. In the instant case, the exporter is merchant exporter and hence, transaction value of the impugned goods under export could not be determined under Rule 4 & 5 of the Customs Valuation Rules, 2007. Therefore, Govt. Impaneled Chartered Engineer (Valuer) was appointed for the same.

5. <u>Re-determination of Valuation</u>

5.1 Accordingly, as per Rule 3(3) of the Customs Valuation (Determination of value of Export Goods) Rules, 2007, since the value of the impugned goods could not be determined under the provisions of Sub Rule (1), the value was to be re- determined by proceeding sequentially through Rule 4 to Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

5.2 As the export goods were not standard goods, the export data in Export Commodity Data Base (ECDB) could not be used for comparing price of the goods of like kind and quality as required under Rule 4 of CVR, 2007. Further, the subject goods were not identified specifically with any brand, mark, style and other specifications, the goods of like kind and quality exported cannot be identified to compare their transaction value with the declared value of the subject goods. Hence, value of the subject goods cannot be determined under the said Rule 4 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

5.3 The Exporter has neither produced any cost of production details, manufacturing or processing of export details and correct transport details nor produced cost design or brand or an amount towards profit etc. to derive computed value of the goods. In absence of complete cost data details, value cannot be determined as per Rule 5 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

5.4 As the provisions of Rule 4 & 5 ibid, are not applicable in the instant case, the value of the goods is required to be determined under the provisions of Rule 6 of the CVR 2007. Rule 6 of the said Rules reads as under: -

RULE 6. Residual Method *" – 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 the 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".*

As per the provisions of Rule 6 ibid, the assessable value of the goods is proposed to be re-determined under Rule 6 ibid, i.e. as per the residual method. Accordingly, Sh. Anwar Kukad, Government approved Valuer has submitted its valuation report vide Certificate of Inspection dated 17.10.2024. In his Inspection Certificate, Shri Anwar Kukad has assessed the fair value of Ceramic Western Toilet Commode at Rs 500 per piece for the 990 pieces (330 pieces under SB no. 4770663, 325 pieces under SB No. 4771066 and 335 pieces under SB No. 4771397) which comes at Rs 4,95,000/- commutatively.

6. The investigation revealed that the fair value Rs. 4,95,000/- assessed by the Government Approved Valuer in respect of above said goods viz. **'Ceramic Western Toilet Commode (69109000)'** is far less than the FOB value Rs. 1,47,33,630/- declared by the Noticee in three Shipping Bills (Rs.49,11,210/- SB No. 4770663, Rs. 48,36,420/- under SB No. 4771066 and Rs.49,86,000/- under SB No. 4771397).

7. The said export was being made with payment of IGST amounting to Rs. 26,65,515/- (Rs. 8,88,505/- in case of SB No. 4770663, Rs. 8,75,043/- in case of SB No. 4771066 and Rs. 9,01,967/- in case of SB No. 4771397). It appears that the exporter has overvalued the export goods in order to claim export benefits amounting to Rs 30,04,387/- (IGST of Rs 26,65,515/- Drawback of Rs 2,06,270/- and RoDTEP of Rs 1,32,602/-) against the three shipping bills mentioned above.

8 . It can thus be seen that the goods are mis-declared in terms of their value to avail undue export incentives and thereby the goods covered under Shipping bills no. 4770663, 4771066 and 477139 all dated 11.10.2024 are liable for confiscation under the provisions of Section 113 of the Customs Act, 1962. Accordingly, the goods have been seized vide seizure memo dated 21.10.2024 and supratnama have been given to Sh. Mahesh Kuksal, Manager, CFS AV Joshi Gandhidham vide supratnama dated 21.10.2024 .

9. Further during the investigation**,** Summons dated 22.10.2024, 07.11.2024 and 23.12.2024 was issued to the exporter M/s Brilmindz requiring their presence on 04.11.2024, 21.11.2024 and 30.12.2024 respectively in this office for submission of documents like copies of purchase invoices, E-Way Bills, payment proof for payment made to suppliers etc. and recording of statement in the matter. However, the exporter has not complied with the summons.

10. Further, since the exporter was not responding in respect of the ongoing investigation and had not appeared for statement after giving sufficient opportunity. Thereafter, Summons dated 23.12.2024 was issued to the Custom Broker, M/s Credence Shipping. Sh.

Sameer Dubey, partner of M/s Credence Shipping appeared on 30.12.2024 for tendering his statement on the matter. Sh. Sameer Dubey in his statement dated 31.12.2024 interalia stated that:

i. *M/s Credence does not have any formal agreement with the exporter i.e., M/s Brilmindz and that they received Invoice and packing list along with KYC documents from M/s Brilmindz through email: brilmindz9@gmail.com and logistics.omsai@gmail.com for processing of export shipment.*
ii. *Neither he nor anybody from M/s Credence Shipping had ever met or talked to the partners Sh. Rahul or Sh. Vimal Kumar of M/s Brilmindz.*
iii. *Shri. Sandeep Dubey is the authorized person of M/s Brilmindz who was in contact with them for processing of the export consignment. That M/s Credence Shipping does not have any authorization from M/s. Brilmindz that Sh. Sandeep Dubey is their authorized representative and Sh. Sandeep Dubey verbally informed them that he is authorized signatory of M/s Brilmindz.*
iv. *That neither M/s Credence Shipping asked for nor Sh. Sandeep Dubey submitted any authorization issued by M/s Brilmindz in his name. KYC documents of M/s Brilmindz were received by M/s Credence Shipping from the email id logistics.omsai@gmail.com of Sh. Sandeep Dubey only.*
v. *M/s Credence Shipping had verified IEC of M/s Brilmindz from ICEGATE, GSTIN from GST Portal. Further, the identity of M/s Brilmindz was checked through the names of partners as available in the GSTIN Portal and the address was also checked from the GST portal. Apart from GST portal, M/s Credence Shipping had not verified the identity of the client and functioning of the client at the declared address by using reliable sources.*
vi. *That M/s Credence Shipping does not have original copy of the authority letter and declaration dated 03.10.2024 whereby M/s Brilmindz has appointed M/s Credence Shipping as Customs Broker for customs clearance of the said export consignment. The said authority letter and declaration dated 03.10.2024 was received on email only.*

11. Further, from the statement of Sh. Sameer Dubey, partner of M/s Credence Shipping, summons dated 28.02.2025, 07.03.2025 & 19.03.2025 was issued to the Sh. Sandeep Dubey, so-called authorized person of exporter M/s Brilmindz through his email /watsapp no., as provided by Sh. Sameer Dubey. However, the summonses were not complied.

12. Summons dated 19.03.2025, were issued to Sh. Rahul & Shri Vimal (Partners of M/s Brilmindz) through email /watsapp no., as provided by Sh. Sameer Dubey Sandeep Dubey, so-called authorized person of exporter M/s Brilmindz. However, the summons were not complied.

13. To ascertain the verification of genuineness of the exporter, the letter dated 31.01.2025 was also written to the ADC (AE) Delhi North for verification of the registered premises of M/s Brilmindz, however no reply has been received even after reminder given vide email dated 18.02.2025 and 27.02.2025. Again, a letter to the Commissioner, CGST Delhi North written on 12.03.2025.

1 4 . The Competent Authority granted an extension for another 6 months for further investigation and the same was intimated to the exporter M/s. Brilmindz vide letter dated 11.04.2025.

15. A letter dated 01.05.2025 was written to Delhi Customs (Preventive) for conducting the search on the registered premises of the exporter M/s. Brilmindz .

16. Later on, the Jurisdictional CGST Commissionerate, Delhi vide letter dated 07.10.2025, informed that: -

i. Premise verification of the exporter was conducted on 06.10.2025. Principal place of

Business found non-traceable/non-existent. Further, the taxpayer was contacted on the registered mobile number but the same number was found not-reachable. Firm is already suspension (w.e.f. 12.03.2025).

i i . as per records on GSTIN Portal the last return was filed on 01.05.2025 for the month December-2024.

1 7 . From the above, it appears that the exporter has illegally claimed Drawback and RoDTEP by exporting goods at an inflated price based on invoices. The re-determined FOB value of the said goods covered under the above-mentioned Shipping Bill comes to Rs. 4,50,000/-, as against the declared FOB value of Rs. 1,47,33,630/-. By inflating the FOB value and mis-declaring the goods, the exporter was attempting to claim Drawback of Rs. 2,06,271/-, RODTeP of Rs. 1,32,603/- and IGST Rs. 26,65,515/-, whereas they were ineligible for the same, for the reasons as discussed in foregoing Paras.

18. Relevant Provisions of Law Applicable in this case:

(A) Customs Act, 1962:-

(1) Section 2(39): Defines *"Smuggling" which means any act or omission in relation to any goods which will render such goods liable to confiscation under Section 111 or Section 113 of the Customs Act, 1962.*

(2) Section 14. Valuation of goods:- *(1) For the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, the value of the imported goods and export goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, or as the case may be, for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf:*

Provided that such transaction value in the case of imported goods shall include, in addition to the price as aforesaid, any amount paid or payable for costs and services, including commissions and brokerage, engineering, design work, royalties and licence fees, costs of transportation to the place of importation, insurance, loading, unloading and handling charges to the extent and in the manner specified in the rules made in this behalf:

Provided further that the rules made in this behalf may provide for,-

(i) the circumstances in which the buyer and the seller shall be deemed to be related:

(ii) the manner of determination of value in respect of goods when there is no sale, or the buyer and the seller are related, or price is not the sole consideration for the sale or in any other case;

(iii) the manner of acceptance or rejection of value declared by the importer or exporter, as the case may be, where the proper officer has reason to doubt the truth or accuracy of such value, and determination of value for the purposes of this section:

Provided also that such price shall be calculated with reference to the rate of exchange as in force on the date on which a bill of entry is presented under section 46, or a shipping bill of export, as the case may be, is presented under section 50.

(2) Notwithstanding anything contained in sub-section (1), if the Board is satisfied that it is necessary or expedient so to do, it may, by notification in the Official Gazette, fix tariff values for any class of imported goods or export goods, having regard to the trend of value of such or like goods, and where any such tariff values are fixed, the duty shall be chargeable with reference to such tariff value.

Explanation. - For the purposes of this section-

(a) "rate of exchange" means the rate of exchange-

i. *determined by the Board, or*

(ii) ascertained in such manner as the Board may direct, for the conversion of Indian currency into foreign currency or foreign currency into Indian currency;

(b) "foreign currency" and "Indian currency" have the meanings respectively assigned to them in clause (m) and clause (q) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999).]

(3) Section 50 (2) of the Customs Act, 1962:

"The exporter of any goods, while presenting a shipping bill or bill of export, shall at the foot thereof make and subscribe to a declaration as to the truth of its contents"

(4) Section 50 (3) of the Customs Act, 1962:

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

(5) Section 110: Seizure of goods, documents and things-

(1) I*f the proper officer has reason to believe that any goods are liable confiscation under this Act, he may seize such goods:*

Provided that where it is not practicable to seize any such goods, the proper officer may serve on the owner of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer.

(6) Section 113: Confiscation of goods attempted to be improperly exported, etc. –

Section 113(i): *A*ny goods entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act:

(7) Section 113 (ia) of the Customs Act, 1962: - *Any goods entered for exportation under claim for drawback which do not correspond in any material particular with any information furnished by the exporter or manufacturer under this Act in relation to the fixation of the rate of drawback under section 75.*

(8) Section 113 (ja) of the Customs Act, 1962: *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 the time being in force;"*

(9) Section 114: Penalty for attempt to export goods improperly, etc.

Section 114(iii) of the Customs Act, 1962: *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, shall be liable, -

(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.

(10) ***Section 114AA of the Customs Act, 1962:*** *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 documents which is false or 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 of the value of goods.*

(11) Section 114AB. Penalty for obtaining instrument by fraud, etc.—*Where any person has obtained any instrument by fraud, collusion, willful misstatement or suppression of facts and such instrument has been utilised by such person or any other person for discharging duty, the person to whom the instrument was issued shall be liable for penalty not exceeding the face value of such instrument.*

(12) Section 114AC: Penalty for fraudulent utilization of input tax credit for claiming refund.- *Where any person has obtained any invoice by fraud, collusion, wilful misstatement or suppression of facts to utilise input tax credit on 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 on goods that are entered for exportation under claim of the refund of such duty or tax, such person shall be liable for penalty not exceeding five times the refund claimed. For the purposes 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 Services Tax Act, 2017 (120 of 2017).*

E*xplanation. —For the purposes of this section, the expression "instrument" shall have the same meaning as assigned to it in the Explanation 1 to section 28AAA.]*

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(B) Customs Valuation (Determination of value of Export Goods) Rules, 2007 (inserted vide Notification No. 95/2007-Customs N.T.) dated 13.09.07) w.e.f. 10.10.2007-

(1) Rule-3: Determination of the method of valuation.-

(1) Subject to rule 8, the value of export goods shall be the transaction value.

(2) The transaction value shall be accepted even where the buyer and seller are related, provided that the relationship has not influenced the price.

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

(2) Rule-4: Determination of export value by comparison.

(1) The value of the export goods shall be based on the transaction value of goods of like kind and quality exported at or about the same time to other buyers in the same destination country of importation or in its absence another destination country of importation adjusted in accordance with the provisions of sub-rule (2).

(2) In determining the value of export goods under sub-rule (1), the proper officer shall make such adjustments as appear to him reasonable, taking into consideration the relevant factors, including-

(i) difference in the dates of exportation,

(ii) difference in commercial levels and quantity levels,

(iii) difference in composition, quality and design between the goods to be assessed and the goods with which they are being compared,

(iv) difference in domestic freight and insurance charges depending on the place of exportation.

(3) Rule-5: Computed value method. - *If the value cannot be determined under rule 4, it shall be based on a computed value, which shall include the following:-*

(a) cost of production, manufacture or processing of export goods;

(b) charges, if any, for the design or brand;

(c) an amount towards profit.

(4) 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 rule provided that local market price of the export goods may not be the only basis for determining the value of export goods.*

(5) Rule-7: Declaration by the exporter.- *The exporter shall furnish a declaration relating to the value of export goods in the manner specified in this behalf.*

(6) Rule-8: Rejection of declared value.-*(1) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any export goods, he may ask the exporter of such goods to fumish 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 decisioh under sub-rule (1).

Explanation. - (1) For the removal of doubts, it is hereby declared that

(i) This rule by itself does not provide a method for determination of value, it a mechanism and procedure for rejection of declared value in cases where there is reasonable doubt that the declared value does not represent the determined transaction value; where the declared value is rejected, the value shall be by proceeding sequentially in accordance with rules 4 to 6. the

(ii) The truth declared value shall be accepted where the proper officer is satisfied about or accuracy of the declared value after the said enquiry in consultation with the exporter.

(iii) The proper officer shall have the powers to raise doubts' on the declared value based on certain reasons which may include -

(a) the significant variation in value at which goods of like kind and quality commercial at or about the same time in comparable quantities in a comparable transaction were assessed. and

(b) the significantly higher value compared to the market value of goods of like kind quality at the time of export. quantity,

(c) the misdeclaration of goods in parameters such as description, quality, year of manufacture or production.

(C) FOREIGN TRADE (DEVELOPMENTand REGULATIONS) ACT, 1992 & RULES MADE THEREUNDER

(1) Section 11 (1) of the Foreign Trade (Development and Regulations) Act, 1992:- *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) Rule - 11 of Foreign Trade (Regulations) Rules, 1993: Declaration as to Value and Quality of Imported Goods: *On the importation into, or exportation out of, any Customs port 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 stated exportation of goods, certify that the quality and specifications of the goods as 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.*

(3) Rule - 14 of Foreign Trade (Regulations) Rules, 1993:*Prohibition regarding making, signing of any declaration, statement or documents.-*

1. No person shall make, sign or use or cause to be made, signed or used any declaration, statement or document for the purposes of obtaining a licence or importing any goods knowing or having reason to believe that such declaration, statement or document is false in any material particular.

2. No person shall employ any corrupt or fraudulent practice for the purposes of obtaining any licence or importing or exporting any goods.

(D) Relevant paras of Notification No. 76/2021-Customs (N.T.) dated 23rd September, 2021 for RoDTEP and as amended:

2. Such duty credit shall be subject to the following conditions, namely:-

(4). that the duty credit allowed under the Scheme against export of goods notified in the Appendix shall be subject to realization of sale proceeds in respect of such goods in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999); failing which such duty credit shall be deemed to be ineligible;

(5) that the imports and exports are undertaken through the seaports, airports or through the inland container depots or through the land customs stations which allow the bill of entry and shipping bill or bill of export to presented and processed electronically on the customs automated system;

(6) that the exporter has realised the sale proceeds against export of goods made earlier by the said exporter where the period allowed for realization, including any extension of the said period by the Reserve Bank of India, has expired: Provided that duty credit shall be issued by Customs in excess of the ineligible amount of duty credit pertaining to the unrealised portion of sale proceeds against export of goods made earlier: Provided further that if the Principal Commissioner of Customs or Commissioner of Customs has reason to believe, on the basis of risk evaluation or on the basis of enquiry, that the claim of duty credit made by an exporter on export goods may not be bona fide, he may direct, for reasons to be recorded in writing, to allow duty credit after realization of sale proceeds of such exports;

19. M/s Brilmindz (IEC No. ABCFB2975N), GST Registration 07ABCFB2975N1Z2 having its registered office address located at House No. 689, Shiv Kunj, Street No. 19, Sant Nagar, Burari, New Delhi-110084 (hereinafter referred to as the "exporter") had filed Shipping bills no. 4770663, 4771066 and 477139 all dated 11.10.2024 through their Customs Broker, M/s Credence Shipping for export of Ceramic Western Toilet Commodes. The re-determined FOB value of the said goods covered under the above-mentioned Shipping Bill comes to Rs. 4,95,000/- as against the declared FOB value of Rs. 1,47,33,630/-. By inflating the FOB value, the exporter was attempting to claim Drawback of Rs. 2,06,271/-, RoDTEP of

Rs. 1,32,603/- and IGST Rs. 26,65,515/-.

20. Based on the Government approved Valuer's valuation report vide Certificate of Inspection dated 17.10.2024, it appears that the goods declared by the exporter in the Shipping bills no. 4770663, 4771066 and 477139 all dated 11.10.2024 have been mis-declared in terms of their value. During the investigation, it was found that the value of the items filed under the abovesaid Shipping Bills were inflated and hence needed to be re-determined under Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. It can thus be seen that the goods are mis-declared to avail undue export incentive and thereby rendering the goods liable for confiscation under section 113 (i), 113(ia) and 113 (ja) of the Customs Act, 1962.

21. The Exporter has violated the provisions of Rule 11 of the Foreign Trade (Regulations), 1993 in as much, as they did not make a correct declaration of value of goods in the Shipping Bill filed by them to the Customs authorities.

22. As the Exporter had not made declaration truthfully in the said Shipping Bills, they have violated the conditions of Section 50(2) of the Customs Act, 1962. Hence, it appears that there was a deliberate mis-declaration, mis-statement and suppression of facts regarding the actual value of the impugned goods, on the part of the Exporter with mala-fide intention to claim undue export benefits not legitimately payable to them. The exporter had declared the FOB value in the shipping bill as Rs. 1,47,33,630/- whereas the re-determined FOB value was Rs. 4,95,000/- only and hence higher Drawback, RoDTEP & other export incentives were claimed. Thus, it appeared that the said goods were attempted to be exported in violation of Section 50(2) of the Customs Act, 1962 read with Section 11(1) of Foreign Trade (Development &Regulation) Act 1992 & Rules 11 of Foreign Trade Rules 1993, as exporter had furnished wrong declaration to the Custom Authorities. Hence, the goods are liable for confiscation under section 113 of the Customs Act, 1962.

23. The description of the goods found were not in consonance with the Exporter's declaration with respect to value, as the Exporter had overvalued the goods on the basis of fake invoices. Hence, the declared value appeared to be rejected as per Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

24. Accordingly, as per Rule 3 (3) of the Customs Valuation (Determination of value of Export Goods) Rules, 2007, since the value of the impugned goods could not be determined under the provisions of Sub Rule (1), the value was to be re-determined by proceeding sequentially through Rule 4 to Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

25. As the export goods were not standard goods, the export data in Export Commodity Data Base (ECDB) could not be used for comparing price of the goods of like kind and quality as required under Rule 4 of CVR, 2007. Further, the goods of like kind and quality exported cannot be identified to compare their transaction value with the declared value of the subject goods. Hence, value of the subject goods could not be determined under the said Rule 4 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

26. The Noticee failed to produce any cost of production details, manufacturing or processing of export details and correct transport details nor produced cost design or brand or an amount towards profit etc, to derive computed value of the goods. In absence of complete cost data details, value could not be determined as per Rule 5 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

27. In view of the value of the impugned goods is, therefore, proposed to be re-determined under the residual Rule 6 of CVR (Export) Rules, 2007. This rule stipulates that 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. Therefore, in order to arrive at the correct value of the impugned goods, the same was required to be done on the basis of Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. Accordingly, the total value of the goods has been re-determined as Rs. 4,95,000/- as per the Government approved Valuer's valuation report vide Certificate of Inspection dated 17.10.2024.

28. It is cogent and clear that the exporter M/s Brilmindz (IEC No. ABCFB2975N) had mis-declared the impugned goods in terms of their value and attempted to defraud the Government by claiming undue higher amount of Drawback and other export benefits and thereby acted in a manner which rendered the said goods under Shipping bills no. 4770663, 4771066 and 477139 all dated 11.10.2024 liable for confiscation in terms of the provisions of Section 113(i), 113(ia) and 113 (ja) of the Customs Act, 1962.

29. It further appears that the exporter M/s Brilmindz (IEC No. ABCFB2975N) have rendered themselves liable to penalty in terms of Section 114(iii) of the Customs Act, 1962 on account of mis-declaration of value of the impugned goods. The exporter has knowingly & intentionally caused to sign & used the documents to provide the undue advantage to the exporter with malafide intent to avail undue/excess export benefits in form of Drawback, RoDTEP and other export benefits. Therefore, the exporter also liable for penalty u/s 114 AA of Customs Act, 1962 for this intentional mis-declaration. Further, as per the verification of genuineness of the exporter M/s Brilmindz, the exporter found non-existent, from the facts discussed above, it is certain that the exporter is fly by night operator, who had obtained GST and IEC merely to defraud the exchequer of undue export incentives. This establishes the fact that the exporter is a non-existent firm and currently not functioning at their place of business. Therefore, it appears that the exporter connived with their supplier to obtain an invoice by fraud and collusion to utilize input tax credit on the basis of such invoice for discharging tax on goods which have been entered for exportation under the Shipping Bill filed by them. Hence, the exporter M/s Brilmindz have rendered themselves liable to penalty in terms of Section 114AB and Section 114AC of the Customs Act, 1962.

30. Further, in terms of the Board Circular No: 171/03/2022-GST dated 06.07.2022, the clarification has been issued where the registered persons are found to be involved in issuing tax Invoices, without actual supply of goods or services or both in order to enable the recipients of such invoices to avail and utilize input tax credit fraudulently. The Board has laid down that if the recipient person has availed and utilized fraudulent ITC on the basis of the tax invoice, without receiving the goods or services or both in contravention of the provisions of Section 16(2) (b) of CGST Act, he shall be liable for the demand and recovery of the said Input Tax Credit along with the penal Action under the provisions of section 74 of the CGST Act along with applicable interest under the provisions of Section 50 of the said Act. Further, the GST Circular No. 31/05/2018-GST dated 09.02.2018 assigns the Central Tax officers (Principal Commissioner/ Commissioner of Central Tax, Additional/Joint Commissioner of Central Tax, Deputy/ Assistant Commissioner of Central Tax, Superintendent and Inspector of Central Tax) to function as the proper officers in relation to issue of show cause notices and orders under sections 73 and 74 of the CGST Act and section 20 of the IGST Act (read with sections 73 and 74 of the CGST Act), up to the monetary limits as mentioned in the said circulars. Thus, the proper officer as defined under section 2 (91) of the CGST Act 2017 and assigned functions vide Circular No. 31/05/2018-GST dated 09.02.2018 are to exercise powers under section 73 and 74 of the CGST Act 2017 and can issue notices and orders under the said Sections/Acts. Accordingly, this Notice shall be forwarded to concern Central GST Unit for initiation of suitable action

for IGST/ITC recovery and/or investigation (if any) at their end.

31. The Custom Broker (CB), M/s. Credence Shipping only relied on the information received by him through email and never bothered to verify, if the person in contact through email is the exporter only. The CB did not verify the correctness of identity of the exporter through independent data or information as the verification done by them through IEC Code and GSTIN is an open source information which even the officers of customs have access to and as such information being available with CBIC only, the said information cannot be said to be independent from the data, information already in possession with the Customs Department. The CB only had an email authorization dated 03.10.2024 vide which the exporter authorized them to carry out customs clearance related formalities in respect of the concerned import consignment which was received by him through email, they did not even have an original signed copy of the authorization from the importer. Therefore, they failed to establish that the authorization was signed by the exporter himself.

32. As the Custom Broker M/s Credence Shipping failed to ascertain the veracity and genuineness of the export firm M/s Brilmindz. The regulation 10 (n) of the CBLR, 2018 has mandated that the CB has to verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information. In the instant case, the CB did not present any evidence of verifying the genuineness of the exporter. The CB has thereby violated regulation 10(n) and 10(q) of the CBLR, 2018 and have rendered themselves liable for penalty under section 114(iii) and 114AA of the Customs Act, 1962.

33. Accordingly, a SCN dated 16.10.2025 was issued to M/s Brilmindz (IEC-ABCFB2975N) having GST Registration 07ABCFB2975N1Z2 located at House No. 689, Shiv Kunj, Street No. 19, Sant Nagar, Burari, New Delhi-110084 to show cause to the Additional Commissioner of Customs having his office situated at 1stFloor, New Customs House, Near Balaji Temple, Kandla as to why:

(i) The declared value of impugned export goods covered under Shipping bill nos. 4770663, 4771066 and 477139 all dated 11.10.2024 i.e., Rs. 1,47,33,630/- should not be rejected under Rule 8 and should not be re-determined same as Rs. 4,95,000/- under Rule 6 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

(ii) The said impugned export goods covered under the Shipping bill nos. 4770663, 4771066 and 477139 all dated 11.10.2024 having total declared FOB value of Rs. 1,47,33,630/- appears to be mis-declared in terms of value should not be confiscated under the provisions of Section 113(i), 113(ia) and 113 (ja) of the Customs Act, 1962.

(iii) The claimed drawback of Rs. 2,06,271/-, RoDTEP of Rs. 1,32,603/- & IGST of Rs. 26,65,515/- covered under Shipping bill nos. 4770663, 4771066 and 477139 all dated 11.10.2024 should not be rejected on account of mis-declared the value.

(iv) Penalty should not be imposed upon the exporter M/s Brilmindz (IEC-ABCFB2975N) under Section 114(iii) and 114AA of the Customs Act, 1962.

(v) Penalty should not be imposed upon the exporter M/s Brilmindz (IEC-ABCFB2975N) under Section 114AB of the Customs Act, 1962 on account for obtaining instrument by fraud etc.

(vi) Penalty should not be imposed upon the exporter M/s Brilmindz (IEC-ABCFB2975N) under Section 114AC of the Customs Act, 1962 on account of non-existent.

34. Further, M/s Credence Shipping, Office No.6, 2nd Floor, Plot No. 579, Building Anjani-3, Ward-12C, Gandhidham, Kachchh, Gujarat – 370201 were also hereby called upon to show cause to the Additional Commissioner of Customs, Custom House Kandla having office at Custom House Kandla, Near Balaji Temple, Kandla, Kachchh, Gujarat within 30 days of the receipt of this notice as to why:

(i) Penalty should not be imposed upon them under Section 114(iii) and 114AA of the Customs Act, 1962.

35. DEFENCE REPLY AND PERSONAL HEARING

35.1 As per the available records, M/s Brilmindz (IEC-ABCFB2975N) has not submitted their written submissions/defence reply or written counter-claim. The entity is physically non-existent. Hence case to be adjudicated **as ex-parte** against M/s Brilmindz (IEC-ABCFB2975N) based on available evidence.

However, The Noticee M/s Credence Shipping, Office No.6, 2nd Floor, Plot No. 579, Building Anjani-3, Ward-12C, Gandhidham, Kachchh, Gujarat – 370201 has submitted that they acted in good faith as a licensed intermediary. They argued that because they verified the IEC status and active GSTIN via open-source central portals, they fulfilled their operational duties. They claimed they should not be held liable for the internal financial overvaluation issues of the exporter.

35.2 Opportunities for personal hearing were given to both noticees vide this office letter dated 11.09.2026, 25.09.32026 and 01.10.2026 to represent the case and produce all such documents which they intend to rely upon in support of their defence. To which, M/s Credence Shipping, Office No.6, 2nd Floor, Plot No. 579, Building Anjani-3, Ward-12C, Gandhidham, Kachchh, Gujarat – 370201 through their letter dated 01.04.2026 submitted that "we do not wish to avail the opportunity of Personal Hearing". Further, their written submission dated 11.02.2026 in response to the SCN dated: 16.10.2025 may be considered and taken in to record and the allegation proposed in the SCN may kindly be dropped in toto and the proceedings initiated against them may please be disposed of accordingly in the interest of Natural Justice. Accordingly, the written submissions filed by M/s. Credence Shipping have been taken on record and considered in the present proceedings.

35.3 In view of the above, the matter is being decided on the basis of the Show Cause Notice, the RUDs, the evidence available on record and the written defence submissions filed by M/s. Credence Shipping. The allegations against M/s. Brilmindz and M/s. Credence Shipping, as well as the defence put forth by M/s. Credence Shipping, has been examined independently with reference to the relevant provisions of the Customs Act, 1962, the applicable rules and the evidence on record.

36 DISCUSSION AND FINDINGS

I have gone through the contents of the Show Cause Notice No. GEN/ADJ/ADC/1960/2025-Adjn-O/o Commr-Cus-Kandla dated 16.10.2025 along with the Relied upon Documents and the documents/evidences available on record and the submissions made by one of the Noticees M/s Credence Shipping, Office No.6, 2nd Floor, Plot No. 579, Building Anjani-3, Ward-12C, Gandhidham, Kachchh, Gujarat – 370201 vide letter dated 11.02.2026 and 01.04.2026. After going through the same, I am proceeding to decide this case. On going through the records of the case, the issues arising in the case of M/s Brilmindz (IEC-ABCFB2975N) for determination are as follows:

(i) The declared value of impugned export goods covered under Shipping bill nos. 4770663, 4771066 and 477139 all dated 11.10.2024 i.e., Rs. 1,47,33,630/- should not be rejected

under Rule 8 and should not be re-determined same as Rs. 4,95,000/- under Rule 6 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

(ii) The said impugned export goods covered under the Shipping bill nos. 4770663, 4771066 and 477139 all dated 11.10.2024 having total declared FOB value of Rs. 1,47,33,630/- appears to be mis-declared in terms of value should not be confiscated under the provisions of Section 113(i), 113(ia) and 113 (ja) of the Customs Act, 1962.

(iii) The claimed drawback of Rs. 2,06,271/-, RoDTEP of Rs. 1,32,603/- & IGST of Rs. 26,65,515/- covered under Shipping bill nos. 4770663, 4771066 and 477139 all dated 11.10.2024 should not be rejected on account of mis-declared the value.

(iv) Penalty should not be imposed upon the exporter M/s Brilmindz (IEC-ABCFB2975N) under Section 114(iii) and 114AA of the Customs Act, 1962.

(v) Penalty should not be imposed upon the exporter M/s Brilmindz (IEC-ABCFB2975N) under Section 114AB of the Customs Act, 1962 on account for obtaining instrument by fraud etc.

(vi) Penalty should not be imposed upon the exporter M/s Brilmindz (IEC-ABCFB2975N) under Section 114AC of the Customs Act, 1962 on account of non-existent.

Further in case of M/s Credence Shipping, I have to decide as follows:

(i) Penalty should not be imposed upon them under Section 114(iii) and 114AA of the Customs Act, 1962, having regard to its alleged role in the export transactions, the documents and authorisation relied upon by it, the verification undertaken by it and the submissions made in its defence.

36.1 I find that the Noticee i.e. M/s Brilmindz (IEC-ABCFB2975N) have failed to submit any written reply to the above referred show cause notice dated 16.10.2025, though it was specifically mentioned in the said show cause notice itself to submit such reply within 30 days of receipt of the same. It was also specifically mentioned in the show cause notice dated 16.10.2025 that if no reply to the notice was received from them within 30 days of receipt of the notice or if they failed to appear for the personal hearing on the date and time intimated to them, the case would be decided on the basis of available evidences and merits, without any further reference to them.

36.2 I further find that despite providing sufficient time for submission of documentary evidences and ample opportunities of personal hearing being provided to them, the main Noticees i.e. M/s Brilmindz (IEC-ABCFB2975N) failed to appear for the personal hearing on the date and time intimated to them. I also hold that adjudication proceedings, being a time sensitive process can't be kept pending for long, hence, under the circumstances and in light of the above facts, I am left with no option but to decide the Show Cause Notice on the basis of records/documentary evidences available on file.

37. I find that the facts, not in dispute, are as under:

37.1 M/s Brilmindz (IEC-ABCFB2975N) i.e. the exporter, has illegally claimed Drawback and RoDTEP by exporting goods at an inflated price based on invoices. The re-determined FOB value of the said goods covered under the above-mentioned Shipping Bill comes to Rs. 4,95,000/-, as against the declared FOB value of Rs. 1,47,33,630/-. By inflating the FOB value and mis-declaring the goods, the exporter was attempting to claim Drawback of Rs. 2,06,271/-, RODTeP of Rs. 1,32,603/- and IGST Rs. 26,65,515/-, whereas they were ineligible for the same.

37.2 The transaction value of export cargo can be evaluated under Section 14 of the Customs Act, 1962, read alongside the Customs Valuation Rules (CVR), 2007. Rule 8 gives the proper officer authority to question a value if there is reasonable doubt regarding its

truth or accuracy.

37.3 M/s Brilmindz (IEC-ABCFB2975N) declared unbranded, low-grade ceramic items at a value exceeding Rs. 14,800/- per piece. When challenged, they provided no cost sheets, manufacturer ledgers, or purchase vouchers.

37.4 Rule 4 (Comparison Method) cannot be applied because the unbranded goods lack specific marks or comparative transaction entries in the Export Commodity Data Base (ECDB).

37.5 Rule 5 (Computed Value Method) cannot be used due to a total lack of internal manufacturing cost sheets or operational financial sheets from M/s Brilmindz (IEC-ABCFB2975N).

37.6 Therefore, the valuation must be determined under **Rule 6 (Residual Method)** using reasonable domestic commercial standards. The Government Impaneled Valuer's report established a fair market price of **Rs. 500/- per piece**, assessing the cargo at a realistic total value of **Rs. 4,95,000/-**.

3 8 In **Om Prakash Bhatia v. Commissioner of Customs, Delhi (2003 (155) E.L.T. 423 SC)**, the Hon'ble Supreme Court ruled that if export goods are heavily overvalued to claim undue financial benefits, the stated transaction value lacks legal validity. The court noted that value must reflect actual market reality, and assets inflated to claim unearned state incentives do not qualify as genuine transaction values under Section 14. The declared value of Rs. 1,47,33,630/- is therefore **rejected**, and the correct export value is determined to be **Rs. 4,95,000/-**.

39. Confiscation under Section 113

Section 113(i) mandates the confiscation of export goods that do not match the value or material particulars declared on their entry documents. Sections 113(ia) and 113(ja) extend this confiscation to goods used to claim fraudulent drawback or duty remissions.

Because M/s Brilmindz (IEC-ABCFB2975N) used a non-existent firm to claim an inflated export valuation and secure unearned incentives, the goods are fully **liable for absolute confiscation**.

40. In **M/s Abhishek Exports vs. Commissioner of Customs, Cochin (2007 (208) E.L.T. 155 Tri.-Bang)**, the Tribunal confirmed that intentional value overvaluation directly triggers the confiscation provisions of Section 113. This ensures that the state can prevent the export of overvalued goods intended to illicitly draw down public funds.

41. Penal Liability ofM/s Brilmindz (IEC-ABCFB2975N)

M/s Brilmindz (IEC-ABCFB2975N) intentionally committed mis-declaration, engaged in a fraudulent transaction, and operated through a non-existent front to claim unearned public funds. This makes them liable for penalties across multiple sections:

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

Section 114(iii) of the Customs Act, 1962: *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, shall be liable,*

(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.

In the present case, M/s Brilmindz was the exporter and the Shipping Bills were filed. The declaration of the export value is attributable to the exporter. The substantial difference between the declared value and the value determined during examination, coupled with the failure of the exporter to produce supporting commercial records and the subsequent verification of the non-existent/non-traceable declared business premises, constitutes sufficient material to establish that the exporter was responsible for the incorrect declaration. The exporter has knowingly & intentionally caused to sign & used the documents to provide the undue advantage to the exporter with malafide intention and to avail undue/excess export benefits in form of Drawback, RoDTEP and other export benefits. I therefore hold M/s Brilmindz liable to penalty under Section 114(iii).

Section 114AA of the Customs Act, 1962: *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 documents which is false or 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 of the value of goods.*

The Shipping Bills contained a materially incorrect export value. The declared value was ₹1,47,33,630/- as against the determined value of ₹4,95,000/-. The magnitude of the discrepancy, the absence of supporting commercial records and the circumstances in which the export documents were presented establish the requisite knowledge and intention on the part of the exporter. I therefore hold that the ingredients of Section 114AA are attracted considering the factual and legal matrix of the case and gravity of the offence, I found fit to impose penalty under the Section 114AA, i.e twice of the declared value of the goods.

Section 114AB. Penalty for obtaining instrument by fraud, etc.—*Where any person has obtained any instrument by fraud, collusion, willful misstatement or suppression of facts and such instrument has been utilised by such person or any other person for discharging duty, the person to whom the instrument was issued shall be liable for penalty not exceeding the face value of such instrument.*

Explanation. —For the purposes of this section, the expression "instrument" shall have the same meaning as assigned to it in the Explanation 1 to section 28AAA.

As the section 114AB is related to instrument by fraud collusion, willful misstatement or suppression of facts and such instrument has been utilised. In the present case, the available record establishes the overvaluation and incorrect declaration of the export goods, which does not sufficiently establish statutory ingredients necessary for imposing separate penalties under Sections 114AB and it is therefore, I don't find any ingredient to impose penalty under Sections 114AB as this not a case of utilization of any such instruments.

Section 114AC: Penalty for fraudulent utilization of input tax credit for claiming refund.- *Where any person has obtained any invoice by fraud, collusion, wilful misstatement or suppression of facts to utilise input tax credit on 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 on goods that are entered for exportation under claim of the refund of such duty or tax, such person shall be liable for penalty not exceeding five times the refund claimed. For the purposes 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 Services Tax Act, 2017 (120 of 2017).*

As the exporter M/s Brilmindz, the exporter found non-existent, from the facts discussed above, it is certain that the exporter is fly by night operator, who had obtained GST and IEC merely to defraud the exchequer of undue export incentives. This establishes the fact that the exporter is a non-existent firm and currently not functioning at their place of business. Therefore, it is logically concluded that the exporter connived with their supplier to obtain an invoice by fraud and collusion to utilize input tax credit on the basis of such invoice for discharging tax on goods which have been entered for exportation under the Shipping Bill filed by them. Hence, the exporter M/s Brilmindz have rendered

themselves liable to penalty in terms of Section 114AC of the Customs Act, 1962 considering the factual and legal matrix of the case and gravity of the offence, I found fit to impose penalty under the Section 114AC, calculating five times of the fraudulent IGST refund Claim.

42. Penal Liability of M/s Credence Shipping, (Custom Broker):

Regulation 10(n) of the Customs Brokers Licensing Regulations, 2018, imposes a specific obligation upon a Customs Broker to verify the correctness of the Importer Exporter Code (IEC), Goods and Services Tax Identification Number (GSTIN), identity of the client, and functioning of the client at the declared address, using reliable, independent and authentic documents, data or information. This obligation is intended to ensure that customs clearance activities are undertaken on behalf of genuine and identifiable clients and that the services of a licensed Customs Broker are not misused for fraudulent export transactions.

In the present case, the evidence on record reveals serious deficiencies in the verification undertaken by M/s Credence Shipping in respect of M/s Brilmindz (IEC: ABCFB2975N). M/s Credence Shipping accepted scanned copies of documents received through unverified email furnished by a middleman, without establishing reliable and direct communication with the actual partners of the exporter. It neither met nor directly communicated with the said partners and failed to establish, through reliable, independent and authentic verification, that the exporter was genuine and functioning at its declared business address. Its reliance upon information available on open-source portals, without adequately establishing the identity and actual functioning of the client in the manner required under Regulation 10(n), was insufficient to discharge the prescribed obligation. These circumstances, when considered cumulatively, demonstrate that the verification exercise undertaken by M/s Credence Shipping was inadequate and fell short of the standard of diligence expected of a licensed Customs Broker. The absence of a formal contract with the actual partners, though not independently conclusive, further assumes relevance when considered alongside the other deficiencies established on record.

A Customs Broker occupies an important position in the customs clearance mechanism and is expected to exercise due diligence while accepting and processing documents on behalf of exporters. The prescribed verification obligation cannot be reduced to a mere formality or discharged by mechanically accepting documents transmitted through an intermediary. In the present case, the failure of M/s Credence Shipping to establish the genuineness of its client and verify its functioning at the declared address created an opportunity for its services to be utilised in the impugned export transactions without adequate safeguards. Such conduct cannot be viewed as a mere procedural lapse when examined in the context of the discrepancies and other evidence relating to the attempted fraudulent exports.

The judgment of the Hon'ble Delhi High Court in *Kunal Travels (Cargo) v. Commissioner of Customs*, reported in 2017 (354) E.L.T. 447 (Del.), is relevant to the examination of the responsibilities of a Customs Broker and the limits of its liability. The facts and evidence of the present case, however, must be assessed independently. Here, the failure to undertake the prescribed verification is required to be considered together with the documentary evidence and other material establishing the role of M/s Credence Shipping in the impugned transactions. A licensed Customs Broker cannot avoid scrutiny of its own conduct merely by contending that the documents were supplied by an intermediary or that the declarations were made in the name of the exporter.

M/s Credence Shipping facilitated clearance of the three Shipping Bills dated 11.10.2024 without independently verifying the exporter's genuineness. The Jurisdictional CGST, North

Delhi, verification found M/s Brilmindz's declared premises non-existent/non-traceable. These facts, coupled with the substantial difference between the declared FOB value of ₹1,47,33,630/- and the assessed value of ₹4,95,000/-, raise serious doubts regarding the genuineness of the export transactions and the role of M/s Credence Shipping. The failure of M/s Credence Shipping to verify the exporter's status and the authority of the person supplying documents raises doubts as to whether its role extended beyond routine customs clearance. The substantial overvaluation of the goods and the claims of drawback, RoDTEP and IGST refund aggregating to approximately ₹26.65 lakh indicate the apparent objective of obtaining inadmissible export benefits. It appears that the acts and omissions of M/s Credence Shipping facilitated the processing of Shipping Bills containing disputed value declarations. Its role, including any knowing involvement and financial or commercial benefit derived, requires examination on the basis of evidence on record to determine its liability under Sections 114(iii) and 114AA of the Customs Act, 1962, read with the applicable provisions of the Customs Brokers Licensing Regulations, 2018.

In view of the foregoing findings, I pass the following order.

ORDER

1. M/s Brilmindz (IEC-ABCFB2975N).

1. I **reject** the declared FOB value of **Rs. 1,47,33,630/-** declared in Shipping Bill Nos. 4770663, 4771066, and 4771397 all dated 11.10.2024 under Rule 8 of the Customs Valuation (Determination of value of Export Goods) Rules, 2007 . I **re-determine** the cumulative value at **Rs. 4,95,000/-** under Rule 6 as discussed above.

2. I order **to confiscation** of the 990 pieces of Ceramic Western Toilet Commodes pursuant to Sections 113(i), 113(ia), and 113(ja) of the Customs Act, 1962 declared in Shipping Bill Nos. 4770663, 4771066, and 4771397 all dated 11.10.2024.

3. I **disallow and reject** all claims for Drawback of Rs. 2,06,271/-, RoDTEP of Rs. 1,32,603/-, and IGST refunds of Rs. 26,65,515/-, on account of mis-declaration of the value and reasons discussed above.

4. I impose a penalty of **Rs. 1,47,33,630/-** under **Section 114(iii)** of the Customs Act, 1962, since the subject goods have been held liable for confiscation as discussed above

5. I impose a penalty of **Rs. 2,94,,67,260/-** under **Section 114AA** for false and fraudulent documentation considering the factual and legal matrix of the case and gravity of the offense.

6. I impose a penalty of **Rs. 1,33,27,575/-** under **Section 114AC** for obtaining fraudulent invoices to claim the IGST refund." i.e calculated at 5 times the fraudulent IGST refund claim, reasons discussed as above.

2. M/s Credence Shipping:

1. I impose a penalty of **Rs. 1,47,33,630/-** under **Section 114(iii)** of the Custom Act, 1962 considering the factual and legal matrix of the case, gravity of the offense and role/involvement of noticee.

2. I impose a penalty of **Rs. 2,94,,67,260/-** under **Section 114AA** of the Custom Act, 1962, considering the factual and legal matrix of the case, gravity of the offense and role/involvement of noticee..

Digitally signed by
Rakesh Kumar Jain
Date: 15-10-2026
18:29:09

Rakesh Kumar Jain
Additional Commissioner
Custom House, Kandla

DIN:

Copy submitted to:

i. The Principal Commissioner/Commissioner of Central GST Delhi North Commissionerate, 1st Floor, C R Building, I P Estate, New Delhi-110109 CGST authority concerned, for information and necessary action as deemed appropriate under the provisions of the CGST Act, 2017
ii. The Deputy/Assistant Commissioner (SIIB/RRA/TRC) for necessary action.
iii. The Superintendent (EDI) for uploading on the official website portal.