



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

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

चौथी मंज़िल 4th Floor, हडको भवन HUDCO Bhawan, ईश्वर भुवन रोड़ Ishwar Bhuvan Road  
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DIN - 20260171MN000081820E

क	फ़ाइल संख्या FILE NO.	S/49-233/CUS/MUN/2024-25
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	MUN-CUSTM-000-APP-631-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	01.01.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	MCH/ADC/AK/133/2024-25 dated 04.09.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	01.01.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Kailash Metals 60-A/2, Shed no Auto-2 GIDC, Nr Fire brigade Odhav, Ahmedabad-382415



1	यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है।
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते हैं।
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क)	बैगेज के रूप में आयातित कोई माल.
(a)	any goods exported
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो.
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट, 1870 के मद सं.6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए.
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/- (रुपए दो सौ मात्र) या रु. 1000/- (रुपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां. यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रूपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु. 200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु. 1000/-
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the

	amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.
4.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :
	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ
	<b>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</b>
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016
	2 <sup>nd</sup> Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -
(क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हज़ार रूपए.
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;
(ख)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हज़ार रूपए
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;
(ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हज़ार रूपए.
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10% अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के 10% अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा।
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.
6.	उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील :- अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-
	(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or
	(b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.

**ORDER-IN-APPEAL**

Appeal has been filed by M/s Kailash Metals, 60-A/2, Shed no Auto-2, GIDC, Nr Fire brigade, Odhav, Ahmedabad-382415, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original no. MCH/ADC/AK/133/2024-25 dated 04.09.2024 (hereinafter referred to as 'the impugned order') by the Additional Commissioner, Customs, Mundra.

2. Facts of the case, in brief, are that intelligence was developed on the basis of data analysis to the effect that some importers are importing J3 Coil in guise of Stainless Steel Coil/ Strip Grade N-1 at Mundra Port to circumvent the requirement of BIS Certification in as much as vide circular issued vide F. No S-20011/14/2021-Tech dated 20th October 2023, BIS NOC/Clarification has been made mandatory for import of J3 Coils. Accordingly, consignment covered under BE No. 2418613 dated 04.03.2024 filed by the appellant for import of Cold Rolled Stainless Coil N-1 at Mundra Port through their Customs Broker was kept on hold for examination and further inquiry. Examination of the consignment covered under BE No. 2418613 dated 04.03.2024 was conducted in the presence of authorised representative of Customs Broker and CFS on 13.03.2024. During examination of the cargo, PMI Gun test was conducted on the coil and the metal composition of the coils was found approximately at par with the Mill Test Certificate (MTC) accompanied with the Bill of Entry, which indicated the coils are of N-1 Grade.

2.1 In terms of Steel and Steel Products (Quality Control) Order, 2020 and Steel and Steel Products (Quality Control) Order, 2024, for import of Low Nickel Austenitic Stainless- Steel Sheet and Strip for Utensils and Kitchen Appliances under HSN-72193590, Indian Standard IS 15997:2012 has been made applicable. Further, BIS certificate has been made mandatory for import of Steel and Steel article vide circular dated 20.10.2023 issued by the Ministry of Steel. The Quality Control Order mandates that all the steel products imported into the country must be having BIS licence/certification and accompanied with Mill Test Certificate (MTC) and be marked with ISI and BIS license number.

2.2 On scrutiny of the documents uploaded in E-Sanchit and submitted

by the CB during examination, it was noticed the consignment was imported under cover of the MTC No. QT20240123019 dated 23.01.2024 and QT202410123083 dated 23.01.2024 said to be issued by the manufacturer, M/s Fujian Dingxin Technology Co. Ltd., Longzhu Village, Warmu, Fu'an Fujian, China which is also BIS license holder for certification Mark License No. CML-4100040758 for IS 15997:2012. Further, it was also noticed that Shri Rakesh Kumar Labh, Flat No. 4 B-4, Balaji Apartment, 641/2, Deoli, New Delhi-110062 is the authorised Indian representative of the manufacturer for BIS matters. Therefore, to check the authenticity of the MTCs accompanied with the above consignments, the MTCs were forwarded vide email dated 13.03.2024 to Shri Rakesh Kumar Labh, authorised Indian representative for BIS matters to get these MTCs verified from the manufacturer. In response, Shri Rakesh Kumar Labh vide email dated 22.03.2024 received from email id qualityrakesh@gmail.com has clarified that the MTCs for the consignment imported by M/s Kailash Metal were not issued by them. The extract of the clarification received is as under:

*"the documents of Kailash\_2418613 (BE filed by the importer) is not issued by our company"*

2.3 Here, it is pertinent to mention that the Government of India has imposed mandatory certification on certain products for which many qualities control orders are being issued. The products which are covered under quality control order shall conform to the Indian Standard which makes mandatory to have BIS licence/compulsory registration to import a product in India. So, BIS licence is mandatory for the products which are covered under quality control order issued by Government of India. Foreign Manufacturers Certification Scheme (FMCS) is one such arrangement that the Bureau of Indian Standards has been running since 2000 to grant a licence issued by Foreign Manufacturers Certification Department (FMCD) at BIS headquarters in New Delhi, to the manufacturer located outside India for the use of the BIS "Standard mark" on a product which shall conform to the relevant Indian Standard(s).

2.4 Furthermore, as per Section 15(1) of the Bureau of Indian Standards Act, 2016 (BIS, 2016), no person shall manufacture, import, distribute, sell, hire, lease, store, or exhibit for sale any goods, articles, processes, systems, or services notified under the BIS mandatory certification scheme without a Standard Mark,

except under a valid license. Furthermore, even with a license, applying a Standard Mark is prohibited unless the goods or services conform to the relevant standards or prescribed essential requirements.

2.5 In the present case, M/s Fujian Dingxin Technology Co. Ltd., Longzhu Village, Warmu, Fu'an Fujian, China is the BIS license holder for certification Mark License No. CML-4100040758 for IS 15997:2012. The importer has used MTC said to be issued by the said manufacturer and BIS license holder showing the license no. CML-4100040758 for IS 15997:2012 for import of the consignment of Cold Rolled Stainless Steel Coil/Grade-N-1. The imported goods fall under mandatory BIS compliance scheme and are allowed to be imported only along with valid MTCs. However, on verification from the manufacturer, through its authorised Indian representative for BIS matters, it is noticed that the MTCs accompanied with the consignment imported vide BE No. 2418613 dated 04.03.2024, were not issued by the BIS holder. Thus, it appeared that the said goods are imported without mandatory MTCs issued by the BIS holder in violation and contrary to condition imposed vide BIS, 2016 and Quality Control Order issued by the Government of India, rendering the said goods as 'prohibited' for import into India.

2.6 The appellant, in his statement recorded during the investigation has agreed with the fact that on the basis of verification provided by manufacturer and BIS holder, M/s Fujian Dingxin Technology Co. Ltd., Mill test Certificate No. QT20240123019 dated 23.01.2024 and QT20240123083 dated 23.01.2024, which have been used for import consignment of BE No. 2418613 dated 04.03.2024 were not valid documents which make the imported goods as prohibited. The authorised representative of the Seller, M/s Joy Reap Metal PTE Ltd. Singapore, in her statement recorded during the investigation has also agreed with the fact that on the basis of verification provided by manufacturer and BIS holder, M/s Fujian Dingxin Technology Co. Ltd., Mill test Certificate No. QT20240123019 dated 23.01.2024 and QT20240123083 dated 23.01.2024, which have been used for import consignment of BE No. 2418613 dated 04.03.2024 were not valid documents which make the imported goods as prohibited.

2.7 The appellant, vide letter dated 15.04.2024, has requested to allow them to re-export the goods imported vide BE No. 2418613 dated 04.03.2024. Further, M/s Kailash Metals has also submitted that they do not wish to have

Show Cause Notice and Personal Hearing and requested to decide the matter on merit.

2.8 Consequently, the Adjudicating Authority passed the order as under:

- i. He ordered that the Mill Test Certificates used for the import consignment of BE No. 2418613 dated 04.03.2024 be considered as fake on the basis of verification received from the manufacturer and BIS holder through its authorised representative in India.
- ii. He ordered that the imported goods vide BE No. 2418613 dated 04.03.2024 be considered prohibited as it has been attempted to import without valid mandatory MTC and hence in violation and contrary to condition imposed vide BIS, 2016 and Quality Control Order issued by the Government of India and the provisions of Foreign Trade Policy of Government of India.
- iii. He ordered confiscation of the imported goods viz. Cold Rolled Stainless Steel Coil/Grade-N-1 having declared weight of 49.80 MTs and declared value of Rs. 58,91,290/- under Section 111(d) & 111(m) of the Customs Act, 1962. However, he gave an option to the Importer to re-deem the goods under provisions of Section 125 of Customs Act, 1962 for limited purpose of re-export to the same supplier on payment of Redemption Fine of Rs. 6,00,000/- (Rs. Six lakhs Only). If the Redemption fine imposed is not paid within a period of one hundred and twenty days from the date of receipt of the order, the option to re-deem the goods for re-export shall become void, unless an appeal against such order is pending.
- iv. He ordered to impose a penalty of Rs. 2,50,000/- (Rs. Two lakh Fifty Thousand Only) on the Importer under Section 112(a)(i) of Customs Act, 1962.
- v. He ordered to impose a penalty of Rs. 1,00,000/- (Rs. One Lakh Only) on the seller M/s Joy Reap Metal Pte Ltd, Singapore under Section 117 of Customs Act, 1962 to be recovered from their Indian subsidiary, M/s Joy Reap Metal India Pvt Ltd., Mumbai.



*[Handwritten signature]*

- vi. The goods imported vide Bill of Entry No. 2418613 dated 04.03.2024 are to be re-exported to the same supplier only after payment of Redemption Fine and Penalty and any other applicable charges

**SUBMISSIONS OF THE APPELLANT:**

3. Being aggrieved with the impugned order, the Appellant has filed the present appeal against the order passed by the Additional Commissioner, Customs, Mundra. The Grounds of Appeal are not reproduced in detail for sake of brevity, as the copy of the same is available with the Appellant as well Respondent. However, the same have been examined and the brief is as under:

3.1 The appellant contends that the Additional Commissioner erred in finding that they deliberately produced fake mill test certificates (MTCs) in conjunction with the supplier. The appellant maintains they had no knowledge the MTCs were fraudulent, as the supplier, M/s Joy Reap Metal PTE Ltd., admitted that they themselves received the fake certificates from a third-party vendor, M/s HK Easton International Co. Ltd.. Furthermore, the appellant argues that because the commercial invoice prices matched the market rate for the specified goods, there was no reason to suspect any discrepancy in the documentation.

3.2 A primary legal argument raised is that the imposition of a redemption fine and penalty is not sustainable under the Customs Act when goods are being re-exported. Citing various precedents from the Supreme Court and the Tribunal, such as M/s Padia Sales Corporation and M/s Siemens Ltd., the appellant asserts that Section 125 is only applicable when an importer intends to redeem goods for home consumption. Since the consignment in question was allowed for re-export, the appellant argues that the legal position clearly exempts them from these financial liabilities.

3.3 The appellant further argues that penalty under Section 112(a)(i) requires the presence of mens rea or conscious knowledge of an illegal act, which is absent in this case. Relying on the landmark Hindustan Steel Limited case, the appellant states that penalties should not be imposed for bona fide beliefs or technical irregularities. Since the record indicates the appellant was a bona fide buyer and the responsibility for authentic documentation rested with the



Singaporean supplier, the appellant claims they committed no act or omission that would justify confiscation or personal penalty.

**PERSONAL HEARING:**

4. Personal hearing was granted to the Appellant on 09.09.2025, following the principles of natural justice wherein Shri Parth P Rachchh, Advocate, appeared for the hearing and re-iterated the submissions made at the time of filing the appeal.

**DISCUSSION AND FINDINGS:**

5. I have carefully gone through the case records, impugned order passed by the Additional Commissioner, Customs, Mundra and the defense put forth by the Appellant in their appeal.

5.1 On going through the material on record, I find that the following issues need to be addressed:

- (i) Whether the Appellant had mens rea or knowledge of the non-authentic MTCs.
- (ii) Whether the imposition of a substantial Redemption Fine and Penalty is justified when the goods are being re-exported.

5.2 I have conducted a comprehensive review of the case records, the statements recorded under Section 108 of the Customs Act, and the detailed appeal memorandum. The factual foundation of this case rests on the authenticity of the Mill Test Certificates (MTCs) bearing numbers QT20240123019 and QT202410123083. The investigation conclusively established, via direct verification with the manufacturer's authorized representative, that these documents were not genuine. Under the Foreign Trade Policy read with the Steel and Steel Products (Quality Control) Order (QCO) issued by the Ministry of Steel, the import of Stainless Steel Coils is strictly regulated. Such goods are "prohibited" for import unless they conform to the relevant BIS standards and are accompanied by a valid test certificate issued by a licensed mill. The submission of a document that is later found to be non-

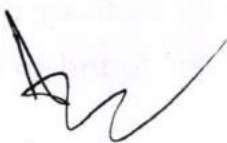


genuine, regardless of who forged it, technically renders the goods non-compliant with these mandatory quality control provisions. While the department is correct in noting that the certificates were not genuine, the investigation itself provides the solution to the question of intent.

5.3 The overseas supplier, M/s. Joy Reap Metal PTE Ltd., Singapore, has formally admitted that the non-authentic certificates were a result of a mistake within their sourcing channel. This admission is a pivotal piece of evidence that exonerates the Appellant of any fraudulent intent. In international trade, an importer is reasonably expected to rely on the documents provided by the exporter. Conducting a forensic or independent verification of an overseas manufacturer's certificate for every single consignment is practically impossible for a medium-scale importer.

5.4 Consequently, the goods clearly attract the provisions of Section 111(d) of the Customs Act, 1962, which deals with goods imported contrary to any prohibition imposed by law. Furthermore, since the documents submitted at the time of assessment did not correspond with the actual material particulars, the goods are also liable for confiscation under Section 111(m) for misdeclaration. I find that the Adjudicating Authority has correctly applied the law in holding the goods liable for confiscation. Furthermore, recognizing that the goods cannot be legally cleared for home consumption in India due to the absence of valid BIS certification, the Authority rightly exercised its discretion under Section 125 of the Act to allow the goods to be redeemed for the limited purpose of re-export. This approach balances the enforcement of quality standards with trade facilitation by allowing the return of non-compliant cargo. This part of the Impugned Order is legally sound and is hereby upheld.

5.5 The Appellant has strongly challenged the quantum of the Redemption Fine, set at Rs. 6,00,000/-. Section 125 of the Customs Act, 1962, confers discretionary power upon the adjudicating officer to impose a fine in lieu of confiscation. The proviso to Section 125 stipulates that the fine shall not exceed the market price of the goods less the duty chargeable. While this sets the statutory ceiling, the actual quantum of the fine is a matter of judicial discretion, which must be exercised reasonably and proportionately, taking into



account the specific facts of the case, the gravity of the offense, and the potential profit margin involved.

5.6 Furthermore, we must examine the economic logic of a Redemption Fine under Section 125 of the Customs Act. The fundamental rationale behind imposing a redemption fine is to neutralize the illicit profit that an importer might derive from importing prohibited goods. The fine is intended to act as a deterrent by wiping out the "margin of profit." However, the situation is materially different when goods are re-exported. In a re-export scenario, the goods do not enter the domestic commerce of India. The importer does not sell the goods in the local market and, therefore, derives no profit whatsoever. On the contrary, the importer is burdened with substantial financial liabilities, including double freight (import and re-export), insurance costs, port handling charges, and demurrage/detention charges. Applying a heavy redemption fine of Rs. 6,00,000/- in a scenario where there is zero profit margin is fundamentally at odds with the statutory purpose of Section 125.

5.7 I find significant force in the Appellant's reliance on the judgment of the Hon'ble Supreme Court in Siemens Ltd. Vs. Collector of Customs [1999 (113) E.L.T. 776 (S.C.)]. In that case, the Apex Court clearly held that where goods are allowed to be re-exported, the concept of recovering a "margin of profit" is rendered nugatory. Consequently, the imposition of a redemption fine in such cases is often unjustified or, at most, should be nominal. In M/s. Goyal Trading Co. vs. CC [2023 (10) TMI 294-CESTAT Mumbai], the Tribunal observed that when goods are not cleared for home consumption, penalties should not be harsh. The goal of the Customs Act is to protect the domestic economy and revenue; if the goods are sent back, the threat to the economy is neutralized. Similarly, the Tribunal in Padia Sales Corporation Vs. Collector of Customs [1992 (61) E.L.T. 90] emphasized that penalties and fines in re-export cases should not be punitive to the extent of the value of goods but should be reasonable, acknowledging that the importer is already penalized by the costs of re-exportation.

5.8 A crucial aspect of this case is the origin of the non-genuine documents. The investigation has clearly established—supported by the supplier's own admission—that the fake MTCs originated from a third-party

trader (M/s. HK Easton) and were passed on to the Appellant by the supplier (M/s. Joy Reap Metal PTE Ltd.). There is no evidence on record to suggest that the Appellant forged the documents or was even aware of their inauthenticity. The Appellant acted on the basis of commercial trust reposed in their supplier. This distinguishes the present case from one involving deliberate fraud or active collusion by the importer. The Appellant is, for all intents and purposes, a victim of a supply chain lapse rather than the architect of a fraud.

5.9 Considering the totality of the circumstances—specifically that the goods are being re-exported (resulting in zero profit), that the Appellant acted on documents provided by the supplier (bonafide belief), and that the supplier has admitted their fault—I find that a Redemption Fine of Rs. 6,00,000/- is excessive, harsh, and disproportionate. It would amount to penalizing the Appellant twice: once through the logistical costs of re-export and again through a heavy fine. However, the sanctity of import declarations and documents must be maintained, and a complete waiver might send an incorrect signal regarding the importer's responsibility to verify their supply sources. Therefore, a fine is warranted, but it should be nominal to mark the technical violation rather than punitive. I deem a Redemption Fine of Rs. 50,000/- (Rupees Fifty Thousand Only) to be sufficient and appropriate to meet the ends of justice.

5.10 The Adjudicating Authority imposed a penalty of Rs. 2,50,000/- on the Appellant under Section 112(a)(i) of the Customs Act, 1962. This section provides for penalties for any act or omission that renders goods liable for confiscation. The imposition of a penalty is quasi-criminal in nature. While strict proof of mens rea may not always be required for civil liability under the Customs Act, it is a settled principle of law that the severity of the penalty must correspond to the degree of culpability and the intent of the noticee. The Appellant has rightly cited the judgments in Commissioner of Customs Vs. Trinetra Impex Pvt. Ltd. and Hindustan Steel Ltd. Vs. State of Orissa to argue that a penalty should not be imposed merely because it is lawful to do so; there must be evidence of a deliberate breach or conscious disregard of the law. In the present case, the "act" that rendered the goods liable for confiscation was the filing of the Bill of Entry with invalid MTCs. However, the "intent" to defraud the Revenue or violate the prohibition was manifestly missing. The Appellant filed the documents believing them to be genuine. The supplier's explicit admission on record serves as strong exculpatory evidence, proving that the Appellant was kept in the dark regarding

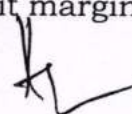
the true origin of the MTCs. In this case, the Appellant was as much a victim of the supplier's error as the department was, and they cannot be held to a standard of "absolute knowledge" of a document's authenticity when they had no part in its creation.

5.11 While Section 112 penalty can technically be imposed for civil violations, the quantum must reflect the role played by the individual. Since the Appellant was not the originator of the fraud, did not stand to gain illicitly from the transaction (as the goods are being returned), and has cooperated fully with the investigation by opting for re-export immediately, treating them on par with a deliberate smuggler is unjust. The penalty of Rs. 2.5 Lakhs is disproportionate to the Appellant's actual role, which was essentially a failure of due diligence in verifying a third-party document rather than an intent to evade the law. Accordingly, to balance the need for enforcing the responsibility of importers to ensure the correctness of their declarations with the principles of equity and natural justice, I hold that the penalty should be reduced to a token amount. This acknowledges the technical breach of filing incorrect documents while recognizing the absence of moral turpitude. I, therefore, reduce the penalty imposed on the Appellant to Rs. 50,000/- (Rupees Fifty Thousand Only).

5.12 I also take note of the "consequential hardships" suffered by the Appellant. The consignment has been lying at the port for several months. The cumulative costs of port demurrage and container detention can often equal or exceed the very value of the goods. Forcing an importer to pay an additional Rs. 8,50,000/- (Fine + Penalty) in such a distressed situation is excessively punitive and lacks the balance required in administrative law. Justice and equity demand a "token" imposition that marks the technical breach of BIS regulations without crippling the importer financially for a supplier-side error.

In light of the detailed discussion above and following the settled judicial precedents of the Hon'ble Supreme Court and various Tribunals, I pass the following order:

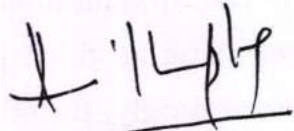
- (i) The appeal is partially allowed, recognizing the Appellant's lack of mens rea and the non-availability of any profit margin.



- (ii) The Redemption Fine is reduced from Rs. 6,00,000/- to a token amount of Rs. 50,000/- (Rupees Fifty Thousand Only).
- (iii) The Penalty under Section 112(a)(i) is reduced from Rs. 2,50,000/- to a token amount of Rs. 50,000/- (Rupees Fifty Thousand Only).
- (iv) The Appellant is permitted to re-export the goods to the original supplier upon payment of the reduced fine and penalty, along with any other applicable statutory charges.

7. The appeal filed by M/s. Kailash Metal is partially allowed as above.

सत्यापित/ATTESTED  
अधीक्षक/SUPREINTENDENT  
सीमा शुल्क (अपील्स), अहमदाबाद.  
CUSTOMS (APPEALS), AHMEDABAD

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

F. No. S/49-233/CUS/MUN/2024-25

Date: 01.01.2026

By Speed post /E-Mail

To,  
M/s. Kailash Metal,  
60-A/2, Shed No. Auto-2,  
GIDC, Nr. Fire Brigade,  
Odhav, Ahmedabad-382415.



Copy to:

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