



सत्यमेव जयते

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 - 20260371MN0000777DD8

क	फ़ाइल संख्या FILE NO.	S/49-463/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-940-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	31.03.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. MCH/ADC/AKM/261/2024-25 dated 20.01.2025
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	31.03.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Ara Scrap Recyclers LLP Plot No. 09, Shrey Industrial Estate Daskroi, Ahmedabad-382435



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, केंद्रीय 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 हजार रूपए.
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;
(ख)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हजार रूपए
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;
(ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हजार रूपए.
	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
	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।
	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. Ara Scrap Recyclers LLP, Plot No. 09, Shrey Industrial Estate, Daskroi, Ahmedabad-382435, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original nos. MCH/ADC/AKM/261/2024-25 dated 20.01.2025 (hereinafter referred to as 'the impugned order') issued by the Additional Commissioner, Customs, Mundra (hereinafter referred to as 'the adjudicating authority').

2. Facts of the case, in brief, are that the appellant filed the Bill of Entry No. 6897966 dated 26.11.2024 for import of Metal Scrap at Mundra Port through their CHA M/s Shakti Forwarders Pvt Ltd. Details of Bill of Entry is as under:

Table-I

Sr. No.	Bill of entry No. and Date	Description of goods	Quantity (MTS)	Value of goods in Rs.	Duty (in Rs.)
1	6897966 dt. 26.11.2024	Aluminum Scrap Tense as per ISRI	55.594	99,64,391/-	21,16,935/-
		Aluminum Scrap Tally as per ISRI	3.04	3,89,708/-	82,794/-
		Heavy Melting Scrap for Melting Purpose	141.71	50,79,878/-	9,14,378/-
		Copper Barley as per ISRI	2.59	17,92,632/-	3,80,845/-
		Cast Iron Scrap for Melting Purpose Shredded Stainless Steel Melting Scrap Grade-304	40.415 29.853	15,17,745/- 31,97,682/-	2,73,194/- 5,75,583/-
		Shredded Stainless Steel Melting Scrap Grade-316	64.727	1,35,34,901/-	24,36,282/-
			<b>Total Rs.</b>	<b>3,54,76,937/-</b>	<b>67,80,010/-</b>



2.1 The examination of the goods imported vide Bill of Entry 6897966 dt. 26.11.2024 were conducted by Docks Officer and the empanelled Chartered Engineer Sh Tushar Zankat. During the course of examination of the goods imported vide above said Bill of Entry, the goods were found to be some quantity of Electronics Waste, Battery Scrap and New Galvanized Nuts & Bolts in addition to declared goods. Inspection report dated 24.12.2024 has been

submitted by the empanelled Chartered Engineer on 26.12.2024 and the relevant contents of the said inspection report dated 18.12.2024 are as follows:

i. The cargo consists of metallic scraps, E-wastes, battery scrap and new galvanized nuts & bolts.

ii. Among these, metallic scrap such aluminium, copper and heavy melting scrap are extracted from the discarded engines, DG sets, compressor, motors, cylinders, iron beam cuttings, heat exchangers, automotive parts, radiators, pumps and several machinery parts.

iii. E-wastes were extracted from discarded computer parts, electrical panel, refrigerators and several electrical appliances.

iv. As per our thorough inspection, we have identified heavily and extensively used Batteries as non-serviceable and scrapable Items.

v. Hence the above-mentioned items cannot be used for any commercial purpose other than scrapping since they did not have any useful life.

2.2 Thereafter, the Chartered Engineer has submitted detailed inspection report CE/TZ/MUN/DEC-070/2024-25 dated 24.12.2024. In this regard, it is clear that the total quantity of un-declared cargo mentioned at Sr. 8 i.e BATTERY SCRAP (Approx 31.07% of total weight of consignment) is 105.006 MTS, having the value 147008.40 USD (Rs. 1,25,47,167/-) as determined by CE. For the import of lead scrap or used lead-acid batteries (ULAB) in India, there is need to obtain an import permit from the Ministry of Environment, Forest and Climate Change (MoEF&CC). The MoEF&CC is the designated authority for issuing licenses to import, export, process, recycle, or reuse hazardous wastes. Further, as per DGFT notification 54/2015-2020 dated 09.02.2022, import of battery lead scrap is restricted. Thus, it appears that the appellant has failed to obtain required licence from MoEF&CC, hence the goods became prohibited and the same was not declared in the said Bill of Entry. Therefore, the said goods appeared liable for absolute confiscation under Section 111(d) and 111(1) of the Customs Act 1962.

2.3 Further, the total quantity of un-declared cargo mentioned at Sr. 9 of Table-II i.e E WASTE (Approx 0.04% of total weight of consignment) is 0.15 MTS, having assessable value 45 USD (Rs. 3,841/-). Further, the import of Electronic waste (Old and damage) has been completely prohibited as per the Hazardous and Other Wastes (Management and Transboundary Movement)

Rules, 2016, as amended. Government had banned import of e-waste in the country by listing e-waste in the Schedule VI (Basel No. A1180) of the said Rules. Accordingly, Electronic waste (Old and damage) having weight of approx. 0.15 MTS, has become prohibited in nature. The appellant has attempted to import prohibited goods i.e. Electronic waste (Old and damage) to the tune of 0.15 MTS. Hence, it appears that since mis declaration has been found on examination and prohibited goods are found to the tune of 0.15 MTS. which was not declared in the said Bill of Entry, Electronic waste (Old and damage) appear to be liable for absolute confiscation under Section 111(d) & 111 (1) of the Customs Act, 1962.

2.4 Further, the total quantity of un-declared cargo mentioned at Sr. 10 of Table-II of impugned order i.e GALVANISED NUTS & BOLTS (Approx 4.38% of total weight of consignment) is 14.808 MTS, having the value 13327.20 USD (Rs. 11,37,477/-) as determined by CE. The import of NUTS & BOLTS is classifiable under CTH 73181500 and is prohibited, however, import is free if CIF value is Rs. 129/- or above per Kg and subject to Policy condition no. 2 and 3 of Chapter 73 as per DGFT Notification No. 55/2023 dated 03.01.2024. Hence, it appeared that since mis declaration has been found on examination and prohibited goods are found to the tune of 14.808 MTS. which was not declared in the said Bill of Entry, GALVANISED NUTS & BOLTS appeared to be liable for absolute confiscation under Section 111(d) & 111(1) of the Customs Act, 1962.

2.5 Consequently, the imported goods at Sr. No. 2 i.e Aluminium Scrap Tally (CTH: 76020010), Sr. No. 3 i.e Heavy Melting Scrap (CTH: 72044900), Sr. 4 i.e Copper Barley Scrap (CTH:74040012), Sr. 5 i.e Cast Iron Scrap (CTH:7204100), Sr. 6 i.e Shredded Stainless Steel Melting Scrap (CTH:72042190) and Sr. 7 i.e Shredded Stainless Steel Melting Scrap (CTH:72042190) of Table-I were found to be mis-declared at the time of examination of the goods in terms of quantity and value, and therefore, the whole consignment consisting of Aluminium Scrap Tense (Approx. 16.45%), Aluminium Scrap Tally (Approx.0.9%), HMS Scrap (Approx. 6.43%), Copper Barley Scrap (Approx. 0.77%), Cast Iron Scrap (Approx. 11.96%), Shredded Stainless Steel Melting Scrap 304 (Approx. 8.83%), Shredded Stainless Steel Melting Scrap 316 (Approx. 19.15%), Battery Scrap (Approx. 31.07%), Electronic waste (Approx. 0.04%), GALVANISED NUTS & BOLTS (Approx.



4.38%) appeared to be liable for confiscation under Section 111(m) of the Customs Act, 1962.

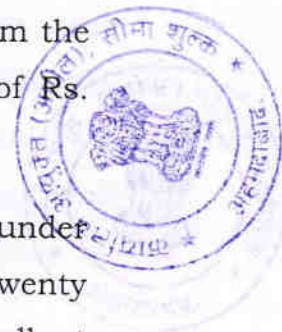
2.6 In terms of Rule 12 of the said CVR, 2007, value declared by an appellant can be rejected in certain circumstances. Explanation (1) to the said Rule 12 ibid lists out certain reasons based upon which the proper officer has the powers to raise doubts on the accuracy of the declared value. Mis-declaration of the description of the goods is one such reason. In the impugned imports, the description of the goods has been mis-declared inasmuch as that the "Aluminium Scrap Tense (Approx. 16.45%), Aluminium Scrap Tally (Approx.0.9%), HMS Scrap (Approx. 6.43%), Copper Barley Scrap (Approx. 0.77%), Cast Iron Scrap (Approx. 11.96%), Shredded Stainless Steel Melting Scrap 304 (Approx. 8.83%), Shredded Stainless Steel Melting Scrap 316 (Approx. 19.15%), Battery Scrap (Approx. 31.07%), Electronic waste (Approx. 0.04%), GALVANISED NUTS & BOLTS (Approx. 4.38%)". It, therefore, appears that the declared value of Rs. 3,54,76,937/- is liable to be rejected under the provisions of Rule 12 of the CVR, 2007 and liable to be re-determined by proceeding sequentially through Rules 4 to 9.

2.7 In the view of the above, the assessable value of the impugned goods Rs. 3,54,76,937/- declared in the BE No. 6897966 dated 26.11.2024 is liable to be rejected under Rule 12 of CVR, 2007 and assessable value of the impugned goods is to be re-determined as Rs. 4,60,00,053/ under Rule 9 ibid, i.e. as per the residual method on the basis of report submitted by the empanelled CE. In view of the above, it appeared that BATTERY SCRAP 105.006 MTS (Approx 31.07%), E WASTE 0.15 MTS (Approx 0.04%) and GALVANISED NUTS & BOLTS 14.808 MTS (Approx 4.38%) having re-determined total assessable value of Rs. 1,36,88,485/-, appeared to be liable for confiscation under Section 111(d) & 111(1) of the Customs Act, 1962.

2.8 The Appellant vide letter dated 02.01.2025 has submitted that they do not want Show Cause Notice and Personal Hearing. Further, vide their letter dated 16.01.2025 they have submitted that supplier has dispatched restricted items by mistake and requested to allow to sell these material to party who have specific licence otherwise they are ready to Re-export these restricted items at their cost.

2.9 Consequently, the adjudicating authority passed the following order:

- i. He rejected the declared transaction value of Rs. 3,54,76,937/- of the goods imported vide Bill of Entry No. 6897966 dated 26.11.2024 under Rule 12 of the Customs Valuation. He ordered to re-determine the same as Rs. 4,60,00,053/- under Rule 9 of the CVR, 2007 read with Section 14 of the Customs Act, 1962. He ordered re-assessment accordingly including amendment of description, quantity and value of the goods.
- ii. He ordered for confiscation of the BATTERY SCRAP found to the tune of 105.006 MTS having re-determined assessable value of Rs. 1,25,47,167/-, Electronic waste found to the tune of 0.15 MTS having re-determined assessable value of Rs. 3,841/- and GALVANISED NUTS & BOLTS found to the tune of 14.808 MTS having re-determined assessable value of Rs. 11,37,477/- under Section 111(d), 111(1) & 111 (m) of the Customs Act, 1962. However, he gave an option to the Appellant M/s. Ara Scrap Recyclers LLP to re-deem the goods for limited purpose of re-export on payment of Redemption Fine of Rs. 13,00,000/- (Rs. Thirteen lakhs Only).
- iii. He ordered for confiscation of "Aluminium Scrap Tense 55.594 MTS, Aluminium Scrap Tally 3.044 MTS, HMS Scrap 21.746 MTS, Copper Barley Scrap 2.593 MTS, Cast Iron Scrap 40.415 MTS, Shredded Stainless Steel Melting Scrap 304 29.853 MTS, Shredded Stainless Steel Melting Scrap 316 64.727 MTS" actually found during examination total re-determined value of Rs. 3,23,11,568/- under Section 111(m) of Customs Act, 1962. However, he gave an option to the Appellant M/s Ara Scrap Recyclers LLP to re-deem the said goods for home consumption on payment of Redemption Fine of Rs. 12,00,000/- (Rs. Twelve lakhs only).
- iv. He ordered to impose penalty of Rs. 7,00,000/- (Rs. Seven lakhs only) under Section 112(a) (i) of Customs Act, 1962 and penalty of Rs. 20,000/- (Rs. Twenty thousands only) under Section 112(a) (ii) of Customs Act, 1962 on the Appellant M/s. Ara Scrap Recyclers LLP.
- v. The redeemable goods are to be released only after payment of applicable duties, Redemption Fine & Penalty as above and the goods i.e. Battery Scrap Electronic waste, GALVANISED NUTS & BOLTS are to be re-exported after payment of Redemption Fine and Penalty as above 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 Impugned Order was passed in gross violation of the principles of natural justice because it was issued without granting a personal hearing. It is argued that the order is "non-speaking" as it fails to provide cogent reasons or independent scrutiny, relying entirely on a Chartered Engineer's inspection report without considering the Appellant's supporting documents like invoices and packing lists. The Appellant cites various judicial precedents, including Supreme Court rulings, to emphasize that the duty to assign reasons and the right to be heard (*audi alteram partem*) are fundamental pillars of justice.

3.2 Regarding the alleged presence of battery scrap, e-waste, and nuts and bolts, the Appellant asserts that these items were never ordered and their presence is likely a mistake by the foreign supplier. They argue that nuts and bolts should be classified as non-prohibited scrap rather than usable goods. Furthermore, since the Department has allowed the re-export of these goods, the Appellant maintains that no redemption fine or penalty should be imposed, as they have not earned any profit margin from the transaction.

3.3 The Appellant challenges the rejection of their declared transaction value, stating it was dismissed solely based on the Chartered Engineer's valuation report alleging undervaluation. They argue that under Rule 3(2) of the Customs Valuation Rules, the transaction value must be accepted unless the price was influenced by a relationship between the parties, which is not the case here. Legal precedents are cited to show that transactional value cannot be discarded without evidence of underhand consideration or manipulation, neither of which was alleged by the Department.

3.4 The appeal disputes the liability of the goods for confiscation under

Sections 111(d), 111(l), and 111(m) of the Customs Act. The Appellant points out that the Impugned Order fails to specify which actual prohibition was violated for Section 111(d) to apply. They further argue that because the goods are not legally liable for confiscation, the imposition of a redemption fine under Section 125 is also unsustainable, as such a fine can only be levied in lieu of a valid confiscation.

3.5 Finally, the Appellant argues that the penalty under Section 112(a) is not imposable because there was no "mens rea" or mala fide intention on their part. They maintain that their conduct was entirely bona fide and that a penalty should not be imposed for technical or venial breaches of the law. They cite multiple Tribunal and Supreme Court decisions to support the principle that when re-export is permitted and there is no intent to evade duty, neither redemption fines nor penalties should be sustained.

#### **PERSONAL HEARING:**

4. Personal hearing was granted to the Appellant on 05.02.2026 following the principles of natural justice wherein Ms Raksha Bhandari, Advocate, appeared for the hearing and re-iterated the submissions made at the time of filing the appeal. She submitted a compilation of statutory provisions and case laws and further, submitted additional documents. She also submitted that the prohibited goods have been re-exported; therefore, no redemption fine and penalty should be imposed. It was also submitted that the Chartered Engineer had no basis to enhance the valuation of the goods. In absence of any data of contemporaneous imports, the value of goods decided between the importer and supplier must be accepted by the Department. Hence, valuation must be accepted and the redemption fine and penalty on the goods must not imposed.

#### **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 The core of the Appellant's argument rests on the sanctity of the "Transaction Value" as envisioned under Section 14 of the Customs Act, 1962. They contend that in the absence of evidence showing that any extra-commercial



consideration flowed from the buyer to the seller, the price actually paid or payable must be accepted. However, this interpretation overlooks the conditional nature of Section 14 and the procedural safeguards provided under the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR, 2007).

5.2 Section 14(1) of the Act stipulates that the value of imported goods shall be the transaction value, provided the goods are sold for delivery at the time and place of importation and the buyer and seller are not related. However, this is subject to such other conditions as may be specified in the rules. Rule 12 of CVR, 2007, provides the mechanism for the proper officer to doubt the truth or accuracy of the declared value. It states that when the proper officer has "reason to doubt" the truth or accuracy of the value declared in relation to any imported goods, he may ask the importer to provide further information. If the doubt persists, the transaction value can be rejected, and the value must be determined sequentially through Rules 4 to 9.

5.3 The term "reason to doubt" is not a subjective whim but must be based on objective evidence. In the present case, the "reason to doubt" was triggered by the physical examination, which established a fundamental discrepancy between the declared goods ("Mixed Metal Scrap") and the actual goods found ("Stainless Steel Grade 316," "Aluminium Tense," etc.). It is a settled position of law that when the description of the goods is found to be incorrect, the declared price loses its nexus with the goods. "Mixed Scrap" is a generic category often involving heterogeneous, low-value residues, whereas "SS Grade 316" is a high-value alloy with specific chemical compositions that command a premium in international markets. By declaring a premium product as a generic one, the Appellant suppressed the material facts that determine the market value.

Once the transaction value is rejected under Rule 12, the Adjudicating Authority is mandated to proceed sequentially. In this case, the Adjudicating Authority noted that there were no contemporaneous imports of identical or similar goods reflecting the exact mix found. Therefore, the authority correctly relied on the London Metal Exchange (LME) prices, which provide a transparent, international benchmark for metal scrap pricing, adjusted for the specific grades identified in the examination report.

5.5 If the goods found are different from the goods declared, the declared price is no longer the "price for the goods under assessment." Furthermore, in



**Varsha Plastics Pvt. Ltd. vs. Commissioner of Customs [2009 (235) E.L.T. 193 (S.C.)]**, the Apex Court held that the valuation rules are a complete code. If the primary method fails due to mis-declaration or lack of transparency, the authorities are well within their rights to use the subsequent methods. The use of LME prices as a basis for valuation in scrap cases has been consistently upheld by various Benches of the CESTAT and High Courts, provided appropriate adjustments for freight and grade are made.

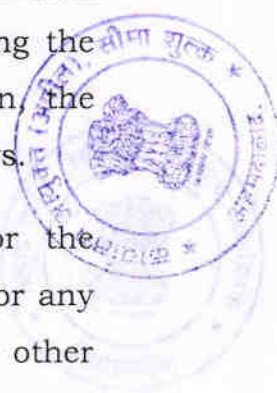
5.6 In the instant case, since the Appellant declared a lower grade to suppress the value and evade duty, the "reason to doubt" is not just reasonable but conclusively proved by the physical examination report. Consequently, I hold that the rejection of the transaction value under Rule 12 is legally sustainable and justified.

5.7 The physical examination of the imported consignment revealed a substantial presence of Stainless Steel Scrap Grade 316, Aluminium Scrap Tense, and Cast Iron Scrap, whereas the Appellant had declared the entire cargo as "Mixed Metal Scrap." This is not a mere technical error in nomenclature but a deliberate mis-declaration of the material's grade and identity to facilitate undervaluation.

5.8 In the international metal trade, the "Grade" of scrap is the most critical factor determining its value. Stainless Steel Grade 316 differs from other grades primarily due to its 2-3% Molybdenum content, which provides superior corrosion resistance. Consequently, its LME value is significantly higher than that of generic "Mixed Metal Scrap" or even Grade 304. By suppressing the specific grade in the Bill of Entry and providing a generic description, the Appellant attempted to circumvent the duty applicable to high-value alloys.

5.9 Section 111(m) of the Customs Act, 1962, provides for the confiscation of "any goods which do not correspond in respect of value or any other particular with the entry made under this Act." The phrase "any other particular" is of wide amplitude and undeniably includes the grade, quality, and composition of the goods. In the present case, the goods found during 100% examination were markedly different in composition and grade from what was declared. This lack of correspondence between the entry (Bill of Entry) and the actual goods renders the entire consignment liable to confiscation.

5.10 The Appellant argues that the mis-declaration was unintentional. However, under the Customs Act, the onus of making an "accurate and true"



declaration lies solely on the importer as per Section 46. The presence of specialized grades like SS 316 in such large quantities suggests a pre-meditated attempt to mis-declare. The Hon'ble Supreme Court in **Pine Chemical Suppliers vs. Collector of Customs 1993 (67) E.L.T. 25 (S.C.)** held that even if there is no intent to defraud, a mis-declaration in the Bill of Entry that results in a lower assessment of duty is sufficient to invoke confiscation under Section 111(m).

5.11 The goods are also liable to confiscation under Section 111(d) as they were imported in violation of the Foreign Trade Policy (FTP). The import of specific grades of scrap requires adherence to strict environmental and quality standards. By mis-declaring the grade, the Appellant bypassed the regulatory checks meant for high-value and specific metal alloys. In view of the above, I find that the Adjudicating Authority correctly held the goods liable for confiscation. The mis-declaration is not just about the value; it is a fundamental breach of the trust-based self-assessment system of the Customs Department.


5.12 The Appellant relied on **Eicher Tractors Ltd. v. Commissioner of Customs [2000 (122) ELT 321 (SC)]** to argue that the price paid is the sole criteria. I find this reliance misplaced. The Eicher Tractors ruling applies where the description of the goods is accurate. In the present case, since the description (Grade/Type of Scrap) itself is false, the Eicher Tractors principle cannot be invoked to shield a fraudulent declaration.

5.13 The Appellant filed the Bill of Entry stating the goods to be "Mixed Metal Scrap." The 100% physical examination and subsequent technical assessment confirmed that the goods were high-grade specialized scrap like Stainless Steel Grade 316 and Aluminium Tense. This discrepancy is not a mere oversight; it is a "material particular" that directly impacts the assessment of duty. The Appellant is a regular importer of metal scrap and possesses technical expertise in identifying metal grades. Claiming ignorance regarding the presence of high-grade alloy scrap in a consignment declared as generic "Mixed Scrap" is untenable. The sheer volume and organized packing of the high-grade material indicate that the declaration was made "knowingly." The Adjudicating Authority found that the invoice provided by the foreign supplier and the corresponding declaration by the Appellant were part of a coordinated effort to undervalue the goods by mis-describing the grade. Hence the Section 112 of the Customs Act, 1962 deals with the penalty for acts or omissions that render goods liable to confiscation as above has been rightly invoked by the adjudicating authority.



5.14 Upon comprehensive review of the Indian Customs Laws, including the Customs Act, 1962, and the CVR, 2007, it is evident that the Appellant's actions were aimed at revenue leakage through mis-declaration. The findings of the Adjudicating Authority are backed by physical evidence and legal provisions.

6. In view of the detailed discussion and findings above, the appeal filed by M/s. Ara Scrap Recyclers LLP is hereby rejected.



(AMIT GUPTA)

Commissioner (Appeals),  
Customs, Ahmedabad

F. No. S/49-463/CUS/MUN/2024-25

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Date:31.03.2026

By Speed post A.D/E-Mail

To,  
M/s. Ara Scrap Recyclers LLP  
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Daskroi, Ahmedabad-382435



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.

