



OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS
CUSTOM HOUSE: MUNDRA, KUTCH
MUNDRA PORT & SPL ECONOMIC ZONE, MUNDRA-370421
Phone No. 02838-271029/423 FAX No. 02838-271425
Email : importsectionmundra@gmail.com

A	File No.	CUS/APR/INV/99/2023-Gr 4-O/o Pr Commr-Cus-Mundra
B	Order-in-Original No.	MCH/ADC/MK/143/2023-24
C	Passed by	Mukesh Kumari Additional Commissioner of Customs Custom House, Mundra.
D	Date of order	10.08.2023
E	Date of Issue	16.08.2023
F	SCN No. & Date	SCN vide F. No. S/15-50/Enq. Royal/SIIB-C/CHM/2021-22 dated 31.01.2023
G	Noticee/Party/ Importer/ Exporter	M/s. Royal Steel Trading, Situated at B-62, Wazirpur Industrial Area, North West, Delhi - 110052 (IEC No. AEQPJ2765R),
H	DIN No.	20230871MO000072247D

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

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

2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमाबली 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),
7 वीं मंजिल, मृदुल टावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड, अहमदाबाद 380 009”

“THE COMMISSIONER OF CUSTOMS (APPEALS), MUNDRA
Having his office at 7th Floor, Mridul Tower, Behind Times of India,
Ashram Road, Ahmedabad-380 009.”

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 ड्यूटी/ 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 alone is in dispute.

Brief facts of the case:

M/s Royal Steel Trading, (hereinafter referred to as 'said importer' for the sake of brevity), situated at B-62, Wazirpur Industrial Area, North West, Delhi - 110052 (IEC No. AEQPJ2765R), engaged in the import of "Cold Rolled Stainless Steel Coil Grade J3 (Grade 200)" (hereinafter referred to as 'said goods') falling under CTH 7220 9090 of the Customs Tariff Act, 1975, filed various bills of entry as mentioned in "**Table-A**", (hereinafter referred to as "said bills of entry") through its Customs Brokers namely M/s R R Logistics & M/s Rishi Kiran Logistics, for import of goods declared as "Cold Rolled Stainless Steel Coil Grade J3 (Grade 200)" availing the benefit of Sr. No. **967(I) of Notification No. 046/2011 dated 01.06.2011** on the basis of Certificates of Origin purportedly issued by the Ministry Of International Trade and Industry, Malaysia. Details of the bills of entry are as under:

Table – A In Rs.

Sl. No.	Bill of Entry and Date	Description of Goods	Ass. Value of the goods	COO reference no.	Name of Supplier
1.	5559323 dated 05.11.2019	Non Magnetic Stainless Steel Cold Rolled Circle Grade J3 (Mixed Size)	2870870	KL-2019-AI-21-010960 dated 31.10.2019	M/s Artfransi International SDN BHD, Malaysia
2.	9665049 dated 16.01.2019	Cold Rolled Stainless Steel Coil Grade J3 (Grade 200)	2365783	KL-2019-AI-01-001927 dated 07.01.2019	M/s Maly Matel Industry SDN BHD, Malaysia
3.	9664122 dated 16.01.2019	Cold Rolled Stainless Steel Coil Grade J3 (Grade 200)	2469275	KL-2019-AI-01-001930 dated 07.01.2019	M/s Maly Matel Industry SDN BHD, Malaysia
4.	9663921 dated 16.01.2019	Cold Rolled Stainless Steel Coil Grade J3 (Grade 200)	2973362	KL-2019-AI-01-001934 dated 07.01.2019	M/s Maly Matel Industry SDN BHD, Malaysia
5.	9663570 dated 16.01.2019	Cold Rolled Stainless Steel Coil Grade J3 (Grade 200)	2967335	KL-2019-AI-01-001939 dated 07.01.2019	M/s Maly Matel Industry SDN BHD, Malaysia
6.	9584242 dated 09.01.2019	Cold Rolled Stainless Steel Coil Grade J3 (Grade 200)	2390356	KL-2018-AI-12-023025 dated 28.12.2018	M/s Maly Matel Industry SDN BHD, Malaysia
7.	9583697 dated 09.01.2019	Cold Rolled Stainless Steel Coil Grade J3 (Grade 200)	2440488	KL-2018-AI-12-023021 dated 28.12.2018	M/s Maly Matel Industry SDN BHD, Malaysia
	9583334 dated	Cold Rolled Stainless Steel		KL-2018-AI-12-023017 dated	M/s Maly Matel Industry SDN

8.	09.01.2019	Coil Grade J3 (Grade 200)	2420399	28.12.2018	BHD, Malaysia
9.	5698863 dated 15.11.2019	Non Magnetic Stainless Steel Cold Rolled Circle Grade J3 (Mixed Size)	2899287	KL-2019-AI-21- 010975 dated 05.11.2019	M/s Artfransi International SDN BHD, Malaysia
		Total A. V.		2,37,97,155/-	

1 . 1 The intelligence gathered by the Officers of SIIB Section, Custom Mundra indicated that certain importers were importing “Cold Rolled Stainless Steel Coil Grade J3 (Grade 200)” classifying the same under CTH 7220 through ASEAN Countries especially Malaysia and violating the Rules meant for Determination of Origin of Goods under the Preferential Trade Agreement between the Government of ASEAN and Indian Rules, 2009 in order to avail exemption from payment of Basic Custom Duty. Further, Intelligence suggested that exporters in Malaysia are providing COO Certificate to the Importers of “Cold Rolled Stainless Steel Coil Grade J3 (Grade 200)” mentioning Origin Criteria as either WO (Wholly Obtained) goods or as the Regional Value Content (hereinafter referred to as ‘RVC’) to be above 35% whereas the same were not actually qualifying the minimum requirement of 35% value addition as per the Notification No. 189/2009-Cus (N.T.) dated 31.12.2009. In view of the above mis-declarations by the importers undue benefits on the basis of the preferential certificates of origin were being availed which resulted into misuse of the FTA resulting in evasion of huge amount of customs duty. Therefore, the above-mentioned Bills of Entry were taken up for further verification.

1.2 As the intelligence suggested that the importer had wrongly availed the benefit of the preferential rate of duty, therefore the above mentioned Bills of Entry were taken up for further verification. During the investigation a letter F. No. 456/241/2021-CUS. V dated 23.04.2021 received from Ministry of Finance, Department of Revenue, CBIC, New Delhi regarding the verification of Country of Origin Certificates under AIFTA Preferential Certificates whereby they informed as *“In this regard, it is to inform that the Ministry of International Trade and Industry, Malaysia vide its email dated 25.03.2021 has informed that they have never received a COO application from Artfransi International SDN BHD.”*

1.3 Further, vide email dated 18.05.2021 received from the Principal Assistant Director, Trade and Industry Co-operation Section, Trade and Industry Support Division, Ministry of International Trade and Industry, Malaysia (MITI) it was informed that they never received any COO application from suppliers mentioned in their email dated 18.05.2021 **including M/s Maly Matel Industry SDN BHD** via their ePCO system. Therefore, COO submitted

issued in the name of M/s Maly Matel Industry SDN BHD may be considered as non-authentic

1.4 As the issuing authorities had confirmed that they never received a Country of Origin application from M/s Artfransi International SDN BHD and M/s Maly Matel Industry SDN BHD, therefore, it appears that COOs submitted by the importer to avail the benefit of Sr. No. 967(I) of Notification No. 046/2011 dated 01.06.2011 are fake.

1.5 The details of the imports and the amounts of duties foregone as a result of producing the fake certificate of origin are as under:

Table – B

Sr. No.	B/E No. & Date	A. V.	BCD @ 7.5%	SWS @10 % of BCD	IGST @1 8%	Total dut y	Duty P aid	Diff. Duty
1	5559323 dated 05.11 .2019	2870870	215315.3	21531.525	559389	796235. 8	516756	279479.79 5
2	9665049 dated 16.01 .2019	2365783	177433.7	17743.372 5	460972.8	656149. 9	425841	230308.91 5
3	9664122 dated 16.01 .2019	2469275	185195.6	18519.562 5	481138.2	684853. 4	444470	240383.42 1
4	9663921 dated 16.01 .2019	2973362	223002.2	22300.215	579359.6	824662	535205	289456.95 1
5	9663570 dated 16.01 .2019	2967335	222550.1	22255.012 5	578185.2	822990. 4	534120	288870.36 2
6	9584242 dated 09.01 .2019	2390356	179276.7	17927.67	465760.9	662965. 2	430264	232701.23 7
7	9583697 dated 09.01 .2019	2440488	183036.6	18303.66	475529.1	676869. 3	439288	237581.34 7
8	9583334 dated 09.01 .2019	2420399	181529.9	18152.992 5	471614.7	671297. 7	435672	235625.66 3
9	5698863 dated 15.11 .2019	2899287	217446.5	21744.652 5	564926.1	804117. 2	521872	282245.24 9
		2,37,97,155/-					Total diff. dut y	23,16,652. 94/-

It can be seen that M/s Royal Steel Trading had evaded the customs duty to the tune

of **Rs. 23,16,653/-** by adopting the above modus operandi.

Legal Provisions:

2.1 Rule of proviso to Notification No. 046/2011 dated 01.06.2011 are re-produced here:

Provided that the importer Proves to the satisfaction of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be that the goods in respect of which the benefit of this exemption is claimed are of the origin of the countries as mentioned in Appendix I in accordance with provisions of the Customs Tariff [Determination of Origin of Goods under the Preferential Trade Agreement between the Governments of Member States of the Association of Southeast Asian Nations (ASEAN) and the Republic of India) Rules, 2009, published in the notification of the Government of India in the Ministry of Finance (Department Of Revenue) No. 189/2009-Customs (N.T.), dated the 31st December, 2009.

Whereas it appeared that in terms of Rule 13 of Notification No. 189/2009-Customs(N.T.) Dated 31.12.2009, the exemption from payment of Duty vide Sl. No.967(I)of 046/2011-Cus Dated 01.06.2011 under Asean India Free Trade Agreement claimed by the importer in the subject B/E would be granted subject to the condition that the importer produces a valid certificate of Origin, in support of their claim that the product is eligible for preferential tariff treatment as per the specimen in the attachment to the Operational Certification Procedures issued by a Government authority designated by the exporting party and notified to the other parties in accordance with the Operational Certification Procedures as set out in the Annexure III annexed to Customs Tariff (Determination of Origin of Goods under the Preferential Trade Agreement between the Governments of Member States of the Association of Southeast Asian Nations (ASEAN) and the Republic of India) Rules, 2009. Text of the 13 Rule reads as follows:

13. Certificate of Origin - Any claim that product shall be accepted was eligible for preferential tariff treatment shall be supported by a Certificate of Origin as per the specimen in the Attachment CO the Operational Certification Procedures issued by a Government authority designated by the exporting party and notified to the other parties in accordance with the Operational Certification Procedures as set out in Annexure III annexed to these rules.

Further Rule - 1 of above referred Annexure-III requires that the AIFTA Certificate of Origin shall be issued by the Government authorities (Issuing Authority), of the exporting

party. Text of the Rule -1 of the Annexure-Ill, reads as follows:-

1. *The AIFTA Certificate of Origin shall be issued by the Government authorities (Issuing Authority) of the exporting party.*

2.2 *Section 28(4): Where any duty has not been 12[levied or not paid or has been short-levied or short-paid] or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,-*

- (a) *collusion; or*
- (b) *any wilful mis-statement; or*
- (c) *suppression of facts,*

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been 13[so levied or not paid] or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

2.3. *SECTION 46. Entry of goods on importation. — (1) The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting [electronically] [on the customs automated system] to the proper officer a bill of entry for home consumption or warehousing [in such form and manner as may be prescribed] :*

..

..

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

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

- (a) *the accuracy and completeness of the information given therein;*
- (b) *the authenticity and validity of any document supporting it; and*
- (c) *Compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.]*

...

2.4 *SECTION 111. Confiscation of improperly imported goods, etc. - The following goods brought from a place outside India shall be liable to confiscation:*

..

(m) [any goods which do not correspond in respect of value or in any other particular] with the entry made under this Act or in the case of baggage with the declaration made under section 77 [in respect thereof, or in the case of goods under transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54];

..

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

2.5 SECTION 114A. *Penalty for short-levy or non-levy of duty in certain cases. - Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has [xxx] been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under [sub-section (8) of section 28] shall also be liable to pay a penalty equal to the duty or interest so determined :*

[Provided that where such duty or interest, as the case may be, as determined under [sub-section (8) of section 28], and the interest payable thereon under section [28AA], is paid within thirty days from the date of the communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent of the duty or interest, as the case may be, so determined:

Provided further that the benefit of reduced penalty under the first proviso shall be available subject to the condition that the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso :

2.6 SECTION 114AA. *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 document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.]*

Show Cause Notice:

3 Therefore, M/s Royal Steel Trading are hereby called upon to show cause within thirty days from the date of receipt of this notice to the Adjudicating Authority i.e. the Additional Commissioner of Customs (Group 4), Customs House Mundra, Office of the Commissioner of Customs, First Floor, Port User Building, Custom House Mundra, Kutch, Gujarat-370 421, as to why:-

- i. The goods imported vide bills of entry as mentioned in **Table-A** with Assessable Value of **Rs. 2,37,97,155/- (Rupees Two Crore Thirty Seven Lakh Ninety Seven Thousand One Hundred and Fifty Five only)** should not be confiscated under

Section 111(o) & 111(m) of the Customs Act, 1962.

- ii. The duty exemption benefit of the Notification No. 46/2011-Cus. dated 01.06.2011, as amended, claimed and extended at the time of assessment of bills of entry as mentioned in **Table-A** should not be denied and the Differential duty amount of **Rs. 23,16,653/- (Rupees Twenty Three Lakh Sixteen Thousand Six Hundred and Fifty Three only)** should not be demanded and recovered from them under the provisions of Section 28(4) of the Customs Act, 1962.
- iii. Interest on the amount mentioned in Para 3(ii) above should not be recovered under the provisions of Section 28AA of the Customs Act, 1962.
- iv. Penalty under Section 114A of the Customs Act, 1962 should not be imposed on M/s Royal Steel Trading in relation to the said goods
- v. Penalty under Section 114AA of Customs Act, 1962 should not be imposed on M/s Royal Steel Trading in relation to said goods;

Personal Hearing and Importer's Submission:

4 The importer was granted an opportunity of personal hearing on dated 18.04.2023, 25.05.2023 and 14.07.2023. Virtual Personal Hearing in the subject case has been conducted on 14.07.2023. Ms. Vidushi Shubham, the authorized person of the importer M/s Royal Steel Trading attended the PH. Mrs. Mrs. Vidushi has stated that the COO Certificate was provided by the Supplier and they availed the benefit as per Notification 46/2011. They do not have any role in the procurement of the COO Certificate. The matter is 4 years old and they should not be held responsible in the case.

Discussion and findings:

5 I have carefully gone through the case records, Show Cause Notice dated 31.01.2023 issued by the Investigation Agency (SIIB) and applicable provisions of Law. Virtual Personal Hearing in the subject case has been conducted on 14.07.2023. I find that the condition of Principle of Natural Justice under Section 122A of the Customs Act, 1962 has been complied. Hence, I proceed to decide the case on the basis of facts and documentary evidences available on records.

5.1 The issues before me are to decide whether-

- i. The goods imported vide bills of entry as mentioned in **Table-A** with Assessable Value of **Rs. 2,37,97,155/- (Rupees Two Crore Thirty Seven Lakh Ninety Seven Thousand One Hundred and Fifty Five only)** should be confiscated under Section 111(o) & 111(m) of the Customs Act, 1962 or otherwise.
- ii. The duty exemption benefit of the Notification No. 46/2011-Cus. dated 01.06.2011, as amended, claimed and extended at the time of assessment of bills of entry as mentioned in **Table-A** should not be denied and the Differential duty amount of **Rs. 23,16,653/- (Rupees Twenty Three Lakh Sixteen Thousand Six Hundred and Fifty Three only)** should be demanded and recovered from them under the

provisions of Section 28(4) of the Customs Act, 1962 or otherwise.

- iii. Interest on the amount mentioned in Table-B should be recovered under the provisions of Section 28AA of the Customs Act, 1962 or otherwise.
- iv. Penalty under Section 114A of the Customs Act, 1962 should be imposed on M/s Royal Steel Trading in relation to the said goods or otherwise.
- v. Penalty under Section 114AA of Customs Act, 1962 should be imposed on M/s Royal Steel Trading in relation to said goods or otherwise

5 . 2 I find that M/s Royal Steel Trading, (hereinafter referred to as 'said importer' for the sake of brevity), situated at B-62, Wazirpur Industrial Area, North West, Delhi - 110052 (IEC No. AEQPJ2765R), has imported "Cold Rolled Stainless Steel Coil Grade J3 (Grade 200)" falling under CTH 7220 9090 of the Customs Tariff Act, 1975, vide bills of entry as mentioned in "**Table-C**" availing the benefit of Sr. No. **967(I) of Notification No. 046/2011 dated 01.06.2011** on the basis of Certificates of Origin purportedly issued by the Ministry of International Trade and Industry, Malaysia.

Details of the bills of entry are as under:

Table - C

Sl. No.	Bill of Entry and Date	Description of Goods	Ass. Value of the goods	COO reference no.	Name of Supplier
1.	5559323 dated 05.11.2019	Non Magnetic Stainless Steel Cold Rolled Circle Grade J3 (Mixed Size)	2870870	KL-2019-AI-21-010960 dated 31.10.2019	M/s Artfransi International SDN BHD, Malaysia
2.	9665049 dated 16.01.2019	Cold Rolled Stainless Steel Coil Grade J3 (Grade 200)	2365783	KL-2019-AI-01-001927 dated 07.01.2019	M/s Maly Matel Industry SDN BHD, Malaysia
3.	9664122 dated 16.01.2019	Cold Rolled Stainless Steel Coil Grade J3 (Grade 200)	2469275	KL-2019-AI-01-001930 dated 07.01.2019	M/s Maly Matel Industry SDN BHD, Malaysia
4.	9663921 dated 16.01.2019	Cold Rolled Stainless Steel Coil Grade J3 (Grade 200)	2973362	KL-2019-AI-01-001934 dated 07.01.2019	M/s Maly Matel Industry SDN BHD, Malaysia
5.	9663570 dated 16.01.2019	Cold Rolled Stainless Steel Coil Grade J3 (Grade 200)	2967335	KL-2019-AI-01-001939 dated 07.01.2019	M/s Maly Matel Industry SDN BHD, Malaysia
6.	9584242 dated 09.01.2019	Cold Rolled Stainless Steel Coil Grade J3 (Grade 200)	2390356	KL-2018-AI-12-023025 dated 28.12.2018	M/s Maly Matel Industry SDN BHD, Malaysia
7.	9583697 dated	Cold Rolled Stainless Steel	2440488	KL-2018-AI-12-023021 dated	M/s Maly Matel Industry SDN

	09.01.2019	Coil Grade J3 (Grade 200)		28.12.2018	BHD, Malaysia
8.	9583334 dated 09.01.2019	Cold Rolled Stainless Steel Coil Grade J3 (Grade 200)	2420399	KL-2018-AI-12- 023017 dated 28.12.2018	M/s Maly Matel Industry SDN BHD, Malaysia
9.	5698863 dated 15.11.2019	Non Magnetic Stainless Steel Cold Rolled Circle Grade J3 (Mixed Size)	2899287	KL-2019-AI-21- 010975 dated 05.11.2019	M/s Artfransi International SDN BHD, Malaysia
		Total A. V.		2,37,97,155/-	

5.3 I find that COO Certificates as mentioned in the above **Table-C** which were purported to be issued by the Ministry of International Trade and Industry, Malasiya were found to be fake and it was informed by Ministry of International Trade and Industry, Malasiya (MITI) that the said Certificates were not issued by them as they never received a COO application from **M/s Maly Matel Industry SDN BHD**, Malaysia and **M/s Artfransi International SDN BHD.**.

5 . 4 I find that a conspiracy was hatched by M/s Royal Steel Trading, to defraud the Government of India's legitimate revenue by mis-use of the benefits of concessional rate of customs duty under Notification No. 46/2011-Cus. dated 01.06.2011 as amended. Pursuant to the said conspiracy, M/s Royal Steel Trading availed the benefits of concessional rate of customs duty under Notification No. 46/2011-Cus. dated 01.06.2011 by submitting the fake Preferential Certificates of origin in 'Form-AI' obtained by mis-representation and collusion in contravention of provisions of Rules of Origin for seeking the benefits of concessional rate of duty, with an intention to evade the payment of customs duty. The certificates produced by M/s Royal Steel Trading had been found to be unauthentic during the process of verification.

5.5 I find that by adopting the above modus-operandi, goods were imported by the importer M/s Royal Steel Trading vide bills of entry as mentioned in **Table-C** in contravention of the provisions of Notification No. 46/2011-Cus. dated 01.06.2011, as amended read with Notification No. 189/2009-Cus. (N.T.) dated 31.12.2009, by showing the goods as RVC (.... %) + CTSH in the 'Form-AI' certificates submitted by them at the time of clearances from Customs. M/s Royal Steel Trading had made wrong declarations for availing the undue benefit under the Notification No. 46/2011-Cus. dated 01.06.2011. Further, it appears that due to deliberate and intentional submission of fraudulently obtained unauthentic preferential Certificates of origin in 'Form-AI' for availing exemption under FTA, the goods in the BEs do not correspond to the documents submitted and declaration in

the Bill of Entry, therefore, the goods under bills of entry no. as mentioned in **Table-C** above totally valued at **Rs. 2,37,97,155/-** imported were liable for confiscation under Section 111 (m) of the Customs Act, 1962.

5.6. From the above discussions, it appears that the goods imported by importer do not qualify the requirement as of Origin of Goods as laid out under Notification No. 189/2009-Cus (N.T.) dated 31.12.2009 and the importer had not correctly declared the facts before the Customs authorities, thereby wrongly availing the benefits of concessional rate of customs duty under Notification No. 46/2011 dated 01.06.2011 for all imports of said goods made by them caused a loss of Government revenue. By adopting the above modus operandi, the amount of differential duty i.e. duty not levied or paid on account of the above stated mis-declaration was **Rs. 23,16,653/- (Rupees Twenty Three Lakh Sixteen Thousand Six Hundred and Fifty Three only)** is recoverable from the importer under the extended period provisions of Section 28(4) of the Customs Act, 1962, for the reasons brought out in foregoing paras. They are also liable for penalty under Section 114A of the Customs Act, 1962, as they have evaded the customs duty by collusion, willful mis-statement and suppression of facts as discussed in foregoing paras.

5.7 Further, I find that in view of the deliberate and intentional submission of fraudulently obtained unauthentic preferential Certificates of origin in 'Form-AI' for availing exemption under FTA, the goods imported and cleared under notification no. 46/2011-Cus. dated 01.06.2011 as amended under bills of entry no. as mentioned in **Table-C** above totally valued at **Rs. 2,37,97,155/-** imported by M/s Royal Steel Trading were liable for confiscation under Section 111(o) of the Customs Act, 1962, as the same are not eligible for the said benefits as the preferential Certificates of origin produced by them have been found to be unauthentic. Therefore, I find that importer has used fake and forged Country of Origin documents to avail duty benefit. Therefore, the importer is also liable for penalty under Section 114AA of the Customs Act, 1962.

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

Order

- i. I confirm and order for confiscation of the goods pertaining to Bills of Entry No. as mentioned in Table "C" value at Rs **2,37,97,155/-** and attempt for evading the duty of amount **Rs 23,16,653/-** as Goods declared are in contravention of Section 46 of the Act and are therefore liable for confiscation under Section 111 (m) and 111(o) of the Customs Act, 1962. However, However, I refrain from imposing the fine as goods are not available for confiscation.
- ii. I confirm and order to recover differential duty of **Rs. 23,16,653/- (Rupees Twenty Three Lakh Sixteen Thousand Six Hundred and Fifty Three only)** from the

I/1349420/2023

Importer M/s Royal Steel Trading under section 28(4) of Customs Act, 1962 along with interest at applicable rate under section 28AA of the Customs Act, 1962.

- iii. I impose a penalty of Rs. 23,16,653/- (Rupees Twenty three lakhs Sixteen Thousand Six hundred Fifty Three only) plus penalty equal to applicable interest under section 28AA payable on the duty demanded and confirmed above on importer i.e M/s Royal Steel Trading under section 114A of Customs Act, 1962.
- iv. I also impose a penalty of Rs.5,00,000/- (Rupees Five lakhs only) on the Importer M/s Royal Steel Trading under section 114AA of Customs Act, 1962.

7. This order is issued without prejudice to any other action which may be contemplated against the importer or any other person under provisions of the Customs Act, 1962 and rules/regulations framed thereunder or any other law for the time being in force in the Republic of India.

8. The SCN F. No. S/15-50/Enq. Royal/SIIB-C/CHM/2021-22 dated 31.01.2023 issued by the Additional Commissioner (SIIB), Custom House Mundra, is hereby disposed of.

Signed by
Mukesh Kumari
Additional Commissioner of Customs
Date: 10-08-2023 18:55:44
Custom House, Mundra

Dated: .08.2023

To,

M/s. Royal Steel Trading,
Situated at B-62, Wazirpur Industrial Area,
North West, Delhi - 110052
(IEC No. AEQPJ2765R),

Copy to:

1. The Dy. Commissioner of Customs, Review Section, CH, Mundra
2. The Dy. Commissioner of Customs, TRC, CH, Mundra
3. The Dy. Commissioner of Customs, Adjudication Cell.
4. The Dy. Commissioner of Customs, SIIB Section, CH, Mundra
5. The Dy. Commissioner of Customs, EDI Section, CH, Mundra
6. Guard file