

		OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS MUNDRA COMMISSIONATE Custom House, Mundra (Kachchh) MUNDRA PORT & SPL ECONOMIC ZONE, MUNDRA-370421 PHONE No: 02838-271165/66/67/68, FAX No.02838-271169/62
A	FILE NO.	CUS/APR/BE/671/2023-Gr2-O/o Pr Commr-Cus-Mundra
B	OIO NO.	MCH/ADC/MK/05/2023-24
C	Passed by	MUKESH KUMARI ADDITIONAL COMMISSIONER OF CUSTOMS, CUSTOMS HOUSE, MUNDRA.
D	DATE OF ORDER	05-04-2023
E	DATE OF ISSUE	05-04-2023
F	SCN NUMBER & DATE	IMPORTER VIDE LETTER DATED 31.03.2023 REQUESTED FOR WAIVER OF SCN & PH.
G	Noticee / Party / Importer	M/S. PLASTIC OMNIUM AUTO INERGY INDIA PVT. LTD., PLOT NO. S-16, 17 & 18, SPICOT INDUSTRIAL COMPLEX, PHASE - III, RANIPAT- 632405
H	DIN NUMBER	20230471MD 000000C6C5

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 अधिनियम 1962 की धारा 128 A के अंतर्गत प्रपत्र सीए- 1 -में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है।
 Any person aggrieved by this Order - in - Original may file an appeal under Section 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:
 “सीमा शुल्क आयुक्त (अपील),
 चौथी मंजिल, हुड़को बिल्डिंग, ईश्वर भुवन रोड, नवरंगपुरा, अहमदाबाद 380 009”
**“The Commissioner of Customs (Appeals), Ahmedabad,
4th floor, HUDCO Building, Ishwar Bhuvan Road,
Navrangpura, Ahmedabad- 380009.”**
3. उक्त अपील यह आदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए।
 Appeal shall be filed within sixty days from the date of communication of this order.
4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/-रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-

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

- i. उक्त अपील की एक प्रति और (A copy of the appeal, and)
- ii. इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची 1-के अनुसार न्यायालय शुल्क अधिनियम- 1870के 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, where penalty alone is in dispute.

Sub.: 16500.00 KGS excess import of “PE HB111R-Import 1.1 MT FIBC (Granules)” by M/s. Plastic Omnium Auto Inergy India Pvt. Ltd., Plot No. S-16, 17 & 18, Spicot Industrial Complex, Phase – III, Ranipat-632405 vide Bill of Entry No. 5235255 dated 26.03.2023 by mis-declaring the quantity of goods with an intent to evade appropriate customs duty.

BRIEF FACTS OF THE CASE :-

M/s. Plastic Omnium Auto Inergy India Pvt. Ltd., Plot No. S-16, 17 & 18, Spicot Industrial Complex, Phase – III, Ranipat-632405, filed Bill of Entry No. 5235255 dated 26.03.2023 through their CB M/s. SSS Sai Shipping Services Pvt. Ltd., Mundra, wherein, interalia, declared 176000.000 KGS of ““PE HB111R-Import 1.1 MT FIBC (Granules)”” was assessed having Assessable value at 1.565 USD per KG @ exchange rate of 1 USD = INR Rs.83.70/-, totaling Rs.2,54,04,648/-, Imported vide Bill of Entry consist the Bill of Lading No. 33900055938 dated 04.03.2023 and Invoice No. 90593489-1 dated 28.02.2023.

2. As per the examination report & weight tally sheet duly attested by the Superintendent Officer of Customs (Docks Examination) the total weight of the cargo was found to be 192500.00 KGS as against declared weight of 176000.00 KGS. Thus, a quantity of 16500.00 KGS has been found in excess over and above declared quantity, which is excess by more than 10 % of the declared quantity the excess quantity is beyond

the 5% variance allowed for adjudication as per Public Notice No.01/2019-20 issued by the Principal Commissioner, CH-Mundra.

3. Assessable Value of Excess Cargo as per Bill of Entry is worked out to Rs.22,97,311/- and Duty thereon Rs.6,37,159/-.

4. The importer has failed to observe the conditions of Section-46(4) of the Customs Act, 1962 and made the goods liable to confiscation under the provisions of Section -111(l) & 111(m) of the Customs Act, 1962, rendered themselves liable to the penal action under the provisions of Section -112(a) of the Customs Act, 1962.

WRITTEN SUBMISSION AND PERSONAL HEARING

5. Importer M/s. Plastic Omnim Auto Inergy India Pvt. Ltd vide letter dated 31.03.2023, has submitted that they do not want SCN & PH and requested to adjudicate the matter at the earliest.

DISCUSSION & FINDING

6. I have carefully gone through the case records. The importer vide letter dated 31.03.2023 requested for waiver of the show cause notice and personal hearing. Therefore, I find that the principle of natural justice as provided in Section 122A of the Customs Act, 1962 have been completed. Hence, I proceed to decide the case on the basis of documentary evidences available on records.

7. I find that on examination, the weight of cargo was found to 192500.00 KGS as against declared weight of 176000.00 KGS. It was therefore alleged that the importer has mis-declared the quantity of the goods to the tune of 16500.00 KGS valued at Rs.22,97,311/. The duty involved in the mis-declared goods is Rs.6,37,159/-.

8. As per the provisions of the Section 46(4) of the Customs Act, Importer has to declare correct value, Quantity and Duty and have to file Bill of Entry correctly.

9. I find that the imported has mis-declared the quantity of goods to the tune of 16500.00 KGS valued at Rs. 22,97,311/- liable for confiscation under the provisions of Section 111(l) and 111(m) of the Customs Act, 1962 and by mis-declaring the quantity, importer is also liable for penal action under Section 112(a)(ii) of the Customs Act, 1962. These proceedings are limited to the excess weight found only and this order per se cannot restrict any other action.

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

Order

10.1 I order to recover Duty at the applicable rate under the provisions of Customs Act, 1962, as amended from time to time, on the said excess quantity of Weight of Imported Material.

10.2 I order to confiscate the goods viz 16500.00 KGS of "PE HB111R-Import 1.1 MT FIBC (Granules)" Valued At Rs.22,97,311/- covered in Bill of Entry No. 5235255 dated 26.03.2023 under Section 111(l) and 111(m) of Customs Act, 1962. However, I give them (to the importer) an option to redeem the same on payment of redemption fine of Rs2,00000/- (Rs.Two lakh only) under section 125 ibid.

10.3 I also impose a penalty of Rs 50,000/- (Rs. Fifty thousand only.) on the importer under section 112(a)(ii) of Customs Act, 1962.

11. This order is issued without prejudice to any other action which may be required to be taken against any person as per the provision of the Customs Act, 1962 or any other law for the time being in force.

Signed by Mukesh Kumari
MUKESH KUMARI
Date: 05/04/2023 18:04:55
**ADDITIONAL COMMISSIONER OF
CUSTOMS,
CUSTOMS HOUSE, MUNDRA.**

F. No. CUS/APR/BE/671/2023-Gr2-O/o Pr Commr-Cus-Mundra Date: 05-04-2023.

To,
M/S. Plastic Omnium Auto Inergy India Pvt. Ltd.,
Plot No. S-16, 17 & 18,
Spicot Industrial Complex,
Phase - III, Ranipat-632405

Copy to :-

1. The Deputy Commissioner of Customs (GR-II), Custom House, Mundra
2. The Deputy Commissioner of Customs (RRA), Custom House, Mundra
3. The Deputy Commissioner of Customs (TRC), Custom House, Mundra
4. The Deputy Commissioner of Customs (EDI), Custom House, Mundra
5. Guard File

