OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS,
CUSTOMS HOUSE, MP & SEZ MUNDRA,
KUTCH, GUJARAT-370421
PHONE: 02838-271463 FAX :02838-271169/271475

A	**File No.**	**CUS/APR/BE/MISC/684/2023-Gr-4**
B	**OIO No.**	**MCH/ADC/ZDC/231/2026-27**
C	**Date of Order**	**24.07.2026**
D	**Passed by**	**Dipak Zala** **Additional Commissioner** **Import Assessment, Group-4,** **Custom House, Mundra**
E	**SCN No. & Date**	**SCN & PH WAIVED vide request letter dated 01.06.2023**
F	**Noticee/Party/ Importer**	M/s. Sai Bandhan Infinium Pvt. Ltd., Plot No. 2137, 3rd Floor, Bansal Atabhai Chowk, Near Golden Arc Comp, Bhavnagar-364001

1. The Order – in – Original is granted to concern free of charge.

2. Any person aggrieved by this Order – in – Original may file an appeal under Section 128 of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. 1 to

The Commissioner of Customs (Appeal), MUNDRA,
Office at 7th floor, Mridul Tower, Behind Times of India,
Ashram Road, Ahmedabad-380009

3. Appeal shall be filed within Sixty days from the date of Communication of this Order.

4. Appeal should be accompanied by a Fee of Rs. 5/- (Rupees Five Only) under Court Fees Act it must accompanied by (i) copy of the Appeal, (ii) 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. Proof of payment of duty / interest / fine / penalty / deposit should be attached with the appeal memo.

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

7. 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 or Penalty are in dispute, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE:

M/s. Sai Bandhan Infinium Pvt. Ltd. situated at Plot No. 2137, 3rd Floor, Bansal Atabhai Chowk, Near Golden Arc Comp, Bhavnagar-364001

(hereinafter referred to as 'the importer1, has imported Empty/Used cartridges (of various types and sizes) and solid cartridges/projectiles (without shells) by mis-declaring the same as "Heavy Melting Scrap" (CTH 72044900) under Bill of Entry 7055105 dated 12.01.2022.

2. ACTION TAKEN AND INVESTIGATION CONDUCTED:

2.1 The ten containers under Bill of Entry 7055105 dated 12.01.2022 were examined on 28.01.2022 & again on 02.02.2022. The cargo was imported from overseas supplier M/s. Stamcorp International PTE Ltd., 180 Cecil Street, #09-02, Bangkok Bank Building, Singapore-069546. During examination, the containers were completely de-stuffed in CFS area. Upon de-stuffing of Container No. GLDU 9470686, 55 bags were found kept in the Container. The Bags were having metallic articles of Empty/Used cartridges of various types and sizes used in guns and fire arms; and in some bags, some metallic solid cartridges/projectiles (without the shells), which appeared to be burst, were found. These solid cartridges/projectiles were very rusty, old and appeared to be used and dark grey in colour. All these empty and solid cartridges were segregated and weighed separately. Details of the goods found are as under: -

Sr. No.	**Container No.**	**Net Weight / Description**
1	CAIU3176757	23.720 MT of HMS
2	CARU3816110	23.640 MT of HMS
3	CXDU2080829	25.070 MT of HMS
4	DFSU3125710	25.760 MT of HMS
5	FCIU5817734	25.280 MT of HMS
6	TCLU2173831	25.390 MT of HMS
7	MEDU1343115	26.300 MT of HMS
8	MEDU2679608	25.000 MT of HMS
9	MEDU2886930	25.100 MT of HMS
10	GLDU9470686	(i) 23.755 MT of HMS; (ii) 1.734 MT Empty/Used cartridges of various types and sizes used in guns and firearms; (iii) 26 kgs of solid cartridges/projectiles, which appear to be burst/used, very rusty, old and used and dark grey in colour.

2.2 After examination, the above items of Container No. GLDU9470686 at Sr. No. 10 (ii) in above table i.e, 1.734 MTs of empty/ used cartridges were repacked in 57 white PP bags and put in same container. Further, the items mentioned at Sr. No. 10 (iii) in above table i.e. 26 kgs of solid cartridges/projectiles, which appeared to be burst/used, highly rusty and dark grey in colour were also re-packed in a PP bag marked as 'AA' and were kept in the same container i.e. GLDU9470686. The container was sealed and kept in

the CFS. Rest of the 9 containers were also examined after 100% de-stuffing to ensure that similar (empty/used cartridges) goods are not present in the rest of the consignment. However, on examination, it appeared that no empty/used cartridges were present in the rest of the containers/consignment.

2.3 For detailed examination by an expert a Chartered Engineer (CE) namely Shri Kunal Kumar of M/s. Suvikaa Associates, Gandhidham, who is empanelled by the Mundra Customs Commissionerate vide Public Notice no. 11/21 dated 10.11.2021 issued from File No. VIII/48-521/AG-CHM/CE/2021-22, was requested to examine the goods. On examination of the goods of the 10 containers, it was observed that the consignment consisted of heavily rusted parts of engines, machinery (broken into small pieces, grinding balls and other metallic items. As opined by the CE in his report dated 02.02.2022, these items were indeed metal scrap and can only be used for melting purpose (copy enclosed). The empty shells/ cartridges and projectiles were segregated during the first examination on 28.01.2022 and were lying packed in white PP bags (total 58 bags) which were kept in the container no. GLDU9470686. On checking the projectiles, empty shells/ cartridges it was observed that none of the cartridges/ shells and projectiles were attached together and all were separate and accordingly they were segregated. Also, these projectiles and shells/cartridges were seen to be heavily rusted/corroded.

2.4 Thus, from the above observations, it was concluded that the consignment, other than the 1.760 MTs of empty shells/ cartridges and projectiles, was "Heavy Melting Scrap". The 1.760 MTs (1734 kgs of shells/cartridges and 26 kgs of projectiles) of goods were found to be in violation of PSIC Condition as mentioned in 'Declaration' at Para 1 of the PSIC Certificate No. TUBY/2021/1900236/T dated 03.11.2021 issued by M/s. Tubby Impex Pvt. Ltd., which reads as under:
" DECLARATION

1. *The consignment does not contain any type of arms, ammunition, mines, shells, cartridges or any other explosive material in any form, either used or otherwise, and that the consignment was checked for radiation level and it does not have radiation levels (gamma and neutron) in excess of natural background. The radiation level of the consignment is within the accepted range and is fit to be exported to India. ……."*

2.5 Statement of Shri Amit Chakravarti Sharma, Manager (Purchase) M/s Sai Bandhan Infinium Private Limited was recorded on 29.12.2021 who inter-alia stated that:-

1. The company is dealing in the goods related to HMS and MS Turning. There are two directors in the company and the company is having a staff of more than 150 people. The import of goods started during Sep/Oct 2021 and they have been importing from many suppliers since then.
2. The documents required for import of HMS and MS Scrap are Bill of Lading, Invoice, Packing List, Certificate of Origin, Form 6 & Form 9 for Hazardous and other Wastes (Management and Transboundary Movement) Rules, 2016, pre-shipment inspection certificate and other documents like IEC Code, GST Registration, Pollution Control Certificate are also required.
3. They had filed the following documents under Bill of Entry 7055105 dated 12.01.2022 and all these documents are already e-sanchit in the system.

   a. No War material Certificate
   b. Pre-shipment Inspection Certificate
   c. Form 6 and Form 9 issued under Hazardous and other Wastes (Management and Transboundary Movement) Rules, 2016.

4. He had no idea that that "empty projectile, empty shells/ cartridge, burst cartridges/war material" were loaded in Container No. GLDU 9470686. The Pre Shipment Inspection Certificate was provided by M/s Tubby Impex Private Limited and "No war material Certificate" had been provided by the Supplier. They also enquired the same with the supplier M/s Stamcorp International Pte Ltd who vide their letter dated 28.01.2022 have informed that they had purchased the cargo from Scrap Salvage Pty Ltd, Namibia. Scrap Salvage Pty Ltd, Namibia is a scrap recycler who had purchased some scrap from Ndilimani Pyrotechnics Industries, Namibia. He produced the letter from M/s Stamcorp International Pte Ltd. along with the enclosures which contained a letter dated 28.01.2022 from Ndilimani Pyrotechnics Industries, Namibia, who are the manufacturers of ammunition and used, rusty and dead empty cartridges stating that they have wrongly loaded this cargo before crushing them. The letter certifies/ confirms selling of scrap to Scrap Salvage Pty Ltd, Namibia which is also attached with the letter.
5. He was aware that the import of arms, ammunition, mines, shells, live or used cartridge or any other explosive material in any form either used or otherwise is Restricted and the import of such cargo is governed by Para 2.32 of the Foreign Trade Policy. They had no idea about the cargo. They were relying on the Pre Shipment Inspection Certificate provided by M/s Tubby Impex Private Limited and "No war material Certificate" provided by the Supplier.

6. They had not ordered these offending goods and they produced copy of sales contract in support of their reply. The sale contract given by supplier M/s Stamcorp International Pte Ltd states that the goods are not war material/hazardous.
7. They know that an offence has been committed and they are ready to pay the applicable fine and penalty.
8. The said goods may be destroyed or may be dealt as per the Customs Law.

2.6 M/s Tubby Impex Pvt. Ltd. situated at C-54, 3rd Floor, South Extension-Part-2, New Delhi-110048 who is the nominated Pre Shipment Inspection Agency as per DGFT Norms & who has issued PSI Certificate dated 03.11.2021 were called vide Summons dated 10.03.2022 for further enquiry. However, the same returned undelivered.

2.7 Meanwhile, the importer requested for release of HMS cargo of 09 containers in which no offending goods were found. Accordingly, order for provisional release of the 09 Containers was given on submission of Bond of Full Value of the goods as declared in the subject BoE. However, the offending goods i.e. 1.760 MTs (1734 kgs of shells/cartridges and 26 kgs of projectiles) & 23.755 MTs of Heavy Metal Scrap found in container No. GLDU9470686 were placed under seizure vide Seizure Memo dated 09.05.2022 and handed over to the Deputy manager, Hind Terminus CFS; Mundra port for safe custody.

2.8 The contents of Container No. GLDU9470686 were then examined by Sh. H M Rajpara, Scientific Officer, Mobile Investigation Unit, Directorate of Forensic Science on 19.06.2022. The FSL report was submitted in Gujarati language whose gist is reproduced hereunder in English:

".....upon cutting the seal and opening the container, 58 half-filled gunny bags are seen. Upon opening the gunny bags, it is seen that each bag is having damaged and torn cartridges of weapons which are made of solid metal and empty from inside cylindrical in shape. It is directed to collect 50 such pieces randomly from the 58 bags and after sealing them to be sent to FSL Gandhinagar officials for further independent examination, study & testing."

2.9 Accordingly, samples were drawn vide Panchnama dated 02.08.2022 at Hind Terminals Pvt. Ltd., CFS Mundra Port for forwarding the same to DFS Gandhinagar. The samples, so drawn, were then sent to the Director, DFS Gandhinagar vide letter dated 09.08.2022 (115/03.08.2022). The examination report dated 21.04.2023 in case no. DFS/EE/22/BL/389 from DFS Gandhinagar has confirmed that all the samples are "Cartridge Cases/Bullets" and are "found reusable".

3. LEGAL PROVISIONS & CONTRAVENTIONS:

*Para 2.32 of the Foreign trade Policy 2015-20**:***

Import of Metallic waste and Scrap

(a) Import of any form of metallic waste, scrap will be subject to the condition that it will not contain hazardous, toxic waste, radioactive contaminated waste/ scrap containing radioactive material, any types of arms, ammunition, mines, shells, live or used cartridge or any other explosive material in any form either used or otherwise as detailed in Para 2.54 of Handbook of Procedures.

(b) The types of metallic waste and scrap which can be imported freely, and the Procedures for import in shredded form, unshredded and loose form, compressed bundles, are laid down in Para 2.54 of Handbook of Procedures.

Section 46 of the Customs Act, 1962:

Entry Of Goods On Importation:

(1) The importer of any goods, other than goods intended for transit or trans-shipment, 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.]

Section 110 of the Customs Act, 1962:

Seizure of goods, documents and things:

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

Provided that where it is not practicable to remove, transport, store or take

physical possession of the seized goods for any reason, the proper officer may give custody of the seized goods to the owner of the goods or the beneficial owner or any person holding himself out to be the importer, or any other person from whose custody such goods have been seized, on execution of an undertaking by such person that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer:

Provided further that where it is not practicable to seize any such goods, the proper officer may serve an order on the owner of the goods or the beneficial owner or any person holding himself out to be importer, or any other person from whose custody such goods have been found, directing that such person shall not remove part with or otherwise deal with such goods except with the previous permission of such officer.

Section 111 of the Customs Act, 1962:

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

(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

(l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;

(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 transshipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54];

Section 112 of the Customs Act, 1962:

Penalty for improper importation of goods, etc.-

Any person, -

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under Section 111, or abets the doing or omission of such an act, or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under Section 111,

shall be liable, -

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty [not exceeding the value of the goods or five thousand rupees], whichever is the greater;

(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of Section 114A, to a penalty not exceeding ten per cent of the duty sought to be evaded or five thousand rupees, whichever is higher:

Provided that where such duty 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 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 penalty so determined;

(iii) in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under Section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty [not exceeding the difference between the declared value and the value thereof or five thousand rupees], whichever is the greater;

(iv) in the case of goods falling both under clauses (i) and (iii), to a penalty [not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest;

(v) in the case of goods falling both under clauses (ii) and (iii), to a penalty [not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest.

Section 117 of the Customs Act, 1962:

Penalties for contravention, etc., not expressly mentioned. *- Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to*

comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding [Four lakh rupees].

Section 119 of the Customs Act, 1962:

Confiscation of goods used for concealing smuggled goods. *- Any goods used for concealing smuggled goods shall also be liable to confiscation.*

Explanation. - In this section, "goods" does not include a conveyance used as a means of transport.

4. SUMMARY OF INVESTIGATION:

4.1 Whereas it appears that Para 2.32 of the Foreign Trade Policy, regulating imports of metallic waste stipulates as under:
2.32 Import Metallic Waste and Scrap:

"(a) import of any form of metallic waste, scrap will be subject to the condition that it will not contain hazardous, toxic waste, radioactive contaminated waste/ scrap containing radioactive material, any type of arms, ammunition, mines, shells, live or used cartridge or any other explosive material in any form either used or otherwise as detailed in Para 2.54 of the Handbook of Procedure"

4.2 During examination of the goods, it appeared that out of the 249.18 Metric Tons of "Heavy Melting Scrap" contained in containers and covered under Bill of Entry No. 7055105 dated 12.01.2022, one container bearing no GLDU 9470686 contained 1734 kgs of Empty/Used shells/cartridges of various types and sizes and 26 kgs of solid cartridges/projectiles which appeared to be burst, very rusty, old & used and dark grey in colour. Prima facie, these goods appeared to have been imported in violation of the provisions of Para 2.32 of the Foreign Trade Policy 2015-20.

4.3 Whereas out of 10 containers, the goods contained in containers appearing at Sr. No. 1 to 9 of table appearing at Para 2.1 supra did not contain any offending goods and as such the same were released provisionally as per the request of the importer upon furnishing of bond of equal value of goods. However, the goods found in container listed at Sr. No. 10 of the table were found to be offending goods and as such were placed under seizure by the proper officer of the Mundra Customs.

4.4 The samples were found to be "Cartridge Cases/Bullets" and "reusable" by DFS Gandhinagar (examination report dated 21.04.2023 in case no. DFS/EE/22/BL/389).

4.5 From the Statement of Shri Amit Chakravarti Sharma, Manager

(Purchase), M/s. Sai Bandhan Infinium Private Limited, it is forthcoming that the importer is well aware about the requirements of the import of HMS namely;
a. "No War material" Certificate
b. Pre-shipment Inspection Certificate
c. Form 6 and Form 9 issued under Hazardous and other Wastes (Management and Transboundary Movement) Rules, 2016.
However, he had no idea that empty projectile, empty shells/ cartridge, burst cartridges/war material were kept inside Container No. GLDU9470686 imported vide Bill of Entry 7055105 dated 12.01.2022.

4.6 Despite the availability of Pre-Shipment Inspection Certificate issued by PSI Agency (M/s Tubby Impex Private Limited) and No war material Certificate provided by the Supplier, 1760 kgs of Empty /Used shells/ cartridges of various types and sizes and solid cartridges/ projectiles have been found inside Container No. GLDU 9470686 which clearly suggests that the PSI Agency has failed to discharge their duty as specified in Para 2.52 Handbook of Procedures.

4.7 From the statement of the importer, it is very much evident that they are well aware about the statutory requirements for import of Heavy Melting Scrap. The importer has accepted that they have been supplied the offending goods by M/s Ndilimani Pyrotechnics Industries, Namibia, who are manufacturers of ammunition and used, rusty and dead empty cartridges, supplied to them by their shipper i.e. M/s Stamcorp International Pte Ltd. These goods imported by way of mis-declaration along with HMS in contravention of Section 46 of the Customs Act, 1962 appear to be liable for absolute confiscation under Section 111 (d), 111 (l) & 111 (m) of the Customs Act, 1962.

4.8 The importer, vide letter dated 03.02.2022 had already requested for waiver of Show Cause Notice/Personal hearing in the matter.

5. In view of the above facts, it appears that: -

(i) 1734 kgs of Empty/Used shells/cartridges of various types and sizes, 26 kgs of burst, rusty, old and used solid cartridges/ projectiles and 23.755 MT of Heavy Melting Scrap imported vide Bill of Entry No. 7055105 dated 12.01.2022 found in container no. GLDU9470686 are liable for absolute confiscation under Section 111(d), 111(l) & 111(m) of the Customs Act, 1962.

(ii) The 23.755 MTS of Heavy Melting Scrap imported vide Bill of Entry No. 7055105 dated 12.01.2022 found in container no. GLDU9470686 are liable for confiscation under Section 119 of the Customs Act, 1962.

(iii) The importer M/s Sai Bandhan Infinium Pvt. Ltd., who imported used cartridges and projectiles in violation of the provisions of Para 2.32 of the Foreign Trade Policy, is liable for Penalty under Section 112(a)(i) of the Customs Act, 1962, Section 117 of the Customs Act, 1962.

(iv) Goods imported under nine containers (mentioned at Sr. No. 1 to 9 of the table in Para 2.1 above) appear to be proper.

6. WAIVER OF SHOW CAUSE NOTICE AND PERSONAL HEARING: -

The importer vide letter dated 01.06.2023 has submitted that they were not aware of the nature of cargo and they have not imported the same intentionally and same has been wrongly loaded by supplier Stamcorp International Pte Ltd. Further, they have requested to waive off the Show Cause Notice & Personal Hearing & decide the matter on merits.

DISCUSSION AND FINDINGS

7. I have carefully gone through the records of the case, Investigation report, statements recorded during investigation, documentary evidences placed on record and the request of the importer for waiver of Show Cause Notice and Personal Hearing. The importer i.e. Sai Bandhan Infinium Pvt. Ltd. vide letter dated 01.07.2023 requested for waiver of Show Cause Notice and Personal Hearing and requested for adjudication of the matter on merits. I find that the following issues arise for determination in this adjudication: -

(i) Whether the declared description, classification and valuation of the goods mentioned in the Bill of Entry No. 7055105 dated 12.01.2022 is liable for rejection or otherwise;

(ii) Whether the impugned goods are liable for confiscation under Section 111(d), 111(l), 111(m) and 119 of the Customs Act, 1962 as applicable or otherwise;

(iii) Whether the importer is liable to penalty under Section 112 (a), 117 of the Customs Act, 1962.

8. After having identified and framed the main issues to be decided, I now proceed to deal with each of the issues individually for analysis in light of facts, submissions, circumstances of the case, provisions of the Customs Act, 1962 and nuances of various judicial pronouncements.

9. Regarding the first issue of the case, I find that the importer filed Bill of Entry No. 7055105 dated 12.01.2022 for the import of goods declared as "Heavy Melting Scrap" under Customs Tariff Heading (CTH) 72044900. During the examination of the consignment by the officers of SIIB, Mundra, one container out of the total 10 containers, bearing Container No. GLDU9470686, was found to contain 1.734 MT of empty/used cartridges and 26 kg of solid cartridges/projectiles, in addition to 23.755 MT of Heavy Melting Scrap (HMS). The remaining nine containers were also 100% examined and were found as declared goods i.e. Heavy Melting Scrap, no empty/used cartridges detected therein. The details are as under: -

Container No.	Goods Declared	Goods found during examination
Sr. No. 1 to 9	Heavy Melting Scrap	Heavy Melting Scrap
Sr. No. 10 (GLDU9470686)	Heavy Melting Scrap	(i) 23.755 MTS HMS. (ii) 1.734 MTS Empty/Used Cartridges. (iii) 26 Kg solid cartridges/projectiles.

9.1 With regard to the classification of the impugned goods, I find that the goods consist of used/discharged cartridges and solid projectiles manufactured predominantly from brass. Having regard to their nature, composition and condition at the time of importation, the goods are appropriately classifiable under Customs Tariff Heading (CTH) 7404 00 21, which specifically covers "Scrap of empty or discharged cartridges of all bores and sizes of copper alloys." Therefore, I hold that the quantity, item description and CTH declared by the importer are liable to be rejected, and the same are required to be re-determined as per above table.

9.2 I further observe that the value of various grades of brass scrap has been specifically notified by the Central Government under Customs Notification No. 36/2001-Customs (N.T.) dated 03.08.2001, as amended from time to time, issued in exercise of the powers conferred under Section 14(2) of the Customs Act, 1962. The said notification prescribes tariff values for specified categories of brass scrap for the purpose of levy of customs duty. I find that the entry inward of the importing vessel was granted on 19.01.2022. In terms of Section 15 of the Customs Act, 1962, the rate of duty and tariff value applicable to imported goods shall be those in force on the date of entry inward of the vessel.

Accordingly, the applicable tariff value for brass scrap on the relevant date was USD 5,633 per metric tonne as notified under the aforesaid notification. Therefore, I hold that the notified tariff value applicable to brass scrap provides the appropriate basis for determination of value in the present case. Consequently, in terms of Section 14 of the Customs Act, 1962, read with Customs Notification No. 36/2001-Customs (N.T.) dated 03.08.2001, as amended, and the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, the assessable value of the imported quantity of 1.76 MTs (1.734+0.026) of brass scrap in the form of used cartridges/solid projectiles is determined at **Rs. 7,47,522/-**.

10. Regarding the second issues of the case in respect of confiscation, I find that the Noticee has violated Sub-Section (4) and 4(A) of Section 46 of the Customs Act as they have mis-declared and mis-classified the imported goods. I find that the Noticee was required to comply with Section 46 which mandates that the importer filing the Bill of Entry must make true and correct declarations and ensure the following:

(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.

10.1 I find that the imported goods (Cartridges) falling under CTH 74040021 is restricted as per Import Policy notified by the Directorate General of Foreign Trade (DGFT). Para 2.32 of the FTP specifically provides that import of metallic waste and scrap shall be subject to the condition that it does not contain any type of arms, ammunition, mines, shells, live or used cartridges or any other explosive material in any form either used or otherwise. During examination substantial quantities of empty/used cartridges and projectiles were found. Thus, the importer has clearly violated the conditions prescribed under Para 2.32 of the FTP.

Further, In the absence of the requisite compliance with the prescribed import conditions, the goods are liable to be treated as prohibited and in contravention of the provisions of the Foreign Trade (Development and Regulation) Act, 1992, read with the applicable DGFT Import Policy. Therefore, the goods are liable for confiscation under Section 111(d) of the Customs Act, 1962.

10.2 I find that the goods i.e. Cartridges in container no. GLDU9470686 were un-declared and found during examination. The importer failed to furnish the correct information such as item description, correct CTH, quantity and

valuation hence, contravened the provisions of Section 46 of the Customs Act, 1962. I observed that these acts of omission and commission on the part of the importer rendered the goods liable for confiscation under the provisions of Section 111(l) and 111(m) of the Customs Act, 1962.

10.3 I further find that remaining 23.755 MTs of HMS were imported in the same container (GLDU9470686) under the same Bill of Entry alongside the un-declared 1.76 MTs Cartridges. I find that these correctly declared goods were used to conceal the un-declared prohibited goods. I find that the remaining goods are therefore liable for confiscation under Section 119 of the Customs Act, 1962.

10.4 Further, since the remaining goods i.e. 23.755 MTs of 'HMS' are not prohibited goods, I find it appropriate to give M/s. Sai Bandhan Infinium Pvt. Ltd. an option to redeem the confiscated goods on payment of Redemption Fine under Section 125 of the Customs Act, 1962 for clearance for home consumption.

11. Penalties under Section 112(a)(i), 112(a)(ii) and 117 of the Customs Act, 1962: -

11.1 Regarding the issue of penalty imposition, I find that the evidence clearly indicates that the un-declared goods "1.76 MTS Cartridges/Projectiles" were prohibited as importer violated the conditions prescribed under Para 2.32 of the FTP, therefore, the said goods are liable for confiscation under Section 111(d), 111(l) and 111(m) of The Customs Act, 1962 Consequently, the proposal for imposition of penalty under Section 112(a)(i) is correct and sustainable in law.

11.2 Further for remaining 23.755 MTs of HMS goods, I find that it is clear from the provision that penalty under Section 112(a)(ii) can be imposed in cases where the acts or omissions of the importer/noticee renders the goods liable for confiscation under Section 111 (m) and 119 of the Act. From the discussions and findings recorded hereinabove, I find that the evidence available on record clearly establishes that the imported consignment was mis-declared in respect of its quantity and the declared goods were utilised for the purpose of concealing undeclared prohibited goods. Such acts of mis-declaration and concealment constitute clear violations of the provisions of the Customs Act, 1962.

11.3 I further find that the importer, while filing the Bill of Entry under the self-assessment scheme, failed to make a true and correct declaration of the

imported goods. The facts relating to the mis-declaration were within the knowledge of the importer and came to light only upon examination by the Customs authorities. Accordingly, the importer rendered the goods liable to confiscation and knowingly committed acts attracting penal consequences under the Customs Act, 1962. In view of the foregoing findings, I hold that the importer is liable to penalty under Section 112(a)(ii) of the Customs Act, 1962. The imposition of penalty under the said provision is, therefore, legally justified and sustainable in law.

11.4 I further find that penalties have already been imposed upon the importer under Sections 112(a)(i) and 112(a)(ii) of the Customs Act, 1962, for the acts and omissions leading to the improper importation of the goods. Section 117 of the Customs Act, 1962 is a residuary penal provision, which is attracted only in cases where no express penalty is provided elsewhere in the Act for a particular contravention. Since the acts of commission and omission on the part of the importer have already attracted and been dealt with under the specific provisions of Sections 112(a)(i) and 112(a)(ii), invocation of the residuary provision under Section 117 for the same set of facts would be unwarranted and legally unsustainable. Accordingly, I refrain from imposing penalty under Section 117 of the Customs Act, 1962.

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

ORDER

(i) I order to absolute confiscation of 1.76 MTS of empty/used cartridges old & used Solid cartridges/projectiles, having re-determined valued at Rs.7,47,522/- (Rupees Seven Lakhs Forty-Seven Thousand Five Hundred and Twenty-Two only) contained in container No. GLDU9470686 under Section 111(d), 111(l) and 111(m) of the Customs Act, 1962;

(ii) I order for confiscation of 23.755 Metric Tons of Heavy Melting Scrap, having assessable value of Rs.8,42,244/- (Rupees Eight Lakhs Forty-Two Thousand Two Hundred and Forty-Four Only) under Section 111(m) and 119 of the Customs Act, 1962. However, I give an option to the importer to redeem the goods on payment of Redemption fine of Rs.85,000 /- (Rupees Eighty-Five Thousand only) under the provisions of Section 125 of the Act ibid;

(iii) I impose penalty of Rs.50,000 /- (Rupees Fifty Thousand only) on M/s. Sai Bandhan Infinium Pvt. Ltd. under Section 112(a)(i) of the Customs Act, 1962.

(iv) I impose penalty of Rs. 5,000/- (Rupees Five Thousand only) on M/s. Sai Bandhan Infinium Pvt. Ltd. under Section 112(a)(ii) of the Customs Act, 1962.

13. 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.

Digitally signed by Dipakbhai Zala
Date: 24-07-2026 19:17:01

Dipak Zala,
Additional Commissioner of Customs,
Customs House, Mundra

By RPAD/ By Hand Delivery/Email/Speed Post

To,

M/s. Sai Bandhan Infinium Pvt. Ltd.
Plot No. 2137, 3rd Floor, Bansal Atabhai Chowk,
Near Golden Arc Comp, Bhavnagar-364001
Copy to:

1. The DC/AC, RRA/SIIB/TRC/EDI, Mundra Customs.
2. Notice Board/Guard File.