

	<p>प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, मुन्द्रा</p> <p><b>OFFICE OF THE PRINCIPAL COMMISSIONER,</b></p> <p><b>CUSTOM HOUSE, MUNDRA</b></p> <p>Port User Building (PUB), Mundra (Gujarat – 370421)</p> <p>ईमेल: group4-mundra@gov.in</p>	 <p>सत्यमेव जयते</p>
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A	File No.	CUS/APR/BE/MISC/400/2025-Gr
B	OIO No.	MCH/ADC/AKM/313/2024-25
C	Order Date	21.02.2025
D	Passed by	Amit Kumar Mishra, Additional Commissioner of Customs, Customs House, AP & SEZ, Mundra.
E	SCN No. & Date	Importer requested for waiver of SCN & PH
F	Noticee / Party / Importer	M/s. Greenmet International , "Revenue Survey No.47,Plot No 2, Nr., Village Ghangli, Sihor, Bhavnagar- 364240
G	DIN	20250271M0000029115E

1. यह अपील आदेश संबन्धित 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 नियमावली 1982 के नियम 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 129A(1) के अंतर्गत प्रपत्र सीए3-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, हुडको बिल्डिंग, ईश्वर भुवन रोड, नवरांगपुरा, अहमदाबाद 380009”

**“The Commissioner of Customs (Appeals), Mundra, 4<sup>TH</sup> Floor, Hudco Building, Ishwar Bhuvan Road, Navrangpura, Ahmedabad-380009.”**

3. उक्त अपील यह आदेश भेजने की दिनांक से तीन माह के भीतर दाखिल की जानी चाहिए।  
 Appeal shall be filed within three months 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 -

5. उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मदसं-6 के तहत निर्धारित 0.50 पैसे की एक न्यायालय शुल्क स्टाम्प वहन करना चाहिए।  
 The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paisa only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.

6. अपील ज्ञापन के साथ ऊटी/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये। Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.

7. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और सीमा शुल्क अधिनियम, 1962 के सभी मामलों में पालन किया जाना चाहिए।  
 While submitting the appeal, the Customs (Appeals) Rules, 1982 and the Customs Act, 1962 should be adhered to in all respects.

8. 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 (Appeals) 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 Fact of the Case:**

M/s. Greenmet International LLP (IEC ABAFG8006F) having address “Revenue Survey No.47,Plot No 2, Nr., Village Ghangli, Sihor, Bhavnagar- 364240 ” (hereinafter referred to as ‘importer’ for sake of Brevity) had filed Bills of Entry No. 8029019 dated 27.01.2025 through their CB M/s. Kashish Impex for import of “COPPER SCRAP BIRCH AS PER ISRI, ALUMINIUM SCRAP TENSE AS PER ISRI, HEAVY MELTING SCRAP” from TRINIDAD & TOBAGO by declaring “Country of Origin” as TRINIDAD & TOBAGO . The GSTIN of the said Importer is 24ABAFG8006F1ZU.

Other details of Bill of Entry are as under:

Sl. No.	Bill of Entry/Date	Container Number	Declared Assessable	Total declared	Supplier's Name

			Value	Duty	
1.	8029019 dated 27.01.2025	MSDU1066846	26,49,687/-	5,37,581/-	M/s CNA METALS LIMITED

1.2 The importer vide their letter dated 18.02.2025 informed that their exporter overseas M/s CNA METALS LIMITED, UNITED STATES were unable to provide them PSIC Certificate due to unavailability of DGFT notified Agencies at the place of loading port i.e Port of Spain.

1.8. In terms of Para 2.32 of the Foreign Trade Policy, a Pre-shipment Inspection Certificate (PSIC) is one of the mandatory documents for the import of shredded, unshredded, compressed, and loose forms of metallic waste and scrap.

### **LEGAL PROVISIONS APPLICABLE IN THE CASE:**

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2. Provisions under Foreign Trade Policy:

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*Para 2.32: Import of Metallic waste and Scrap*

*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.*  
*(a) Import of following types of metallic waste and scrap will be free subject to conditions detailed below:*

*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.*

*(Sl.      Exim Code      Item description*

1. 720410 00      *Waste and scrap of cast iron*
2. 72042190      *Other*
3. 72042920      *Of High speed steel*
4. 72042990      *Other*
5. 72043000      *Waste and scrap of tinned iron or Steel*
6. 72044100      *Turnings, shavings, chips, milling waste, saw dust, fillings, trimmings and stampings, whether or not in bundles.*

7.	72044900	<i>Other</i>
8.	72045000	<i>Re-melting scrap ingots</i>
9.	74040012	<i>Copper scrap</i>
10.	74040022	<i>Brass scrap</i>
11.	75030010	<i>Nickel scrap</i>
12.	76020010	<i>Aluminium scrap</i>
13.	79020010	<i>Zinc scrap</i>
14.	80020010	<i>Tin scrap</i>
15.	81042010	<i>Magnesium scrap</i>

(b) 'Freely' Importable metallic waste and scraps (shredded) as listed above shall be permitted through all ports of India subject to following conditions:

(i) At the time of the clearance of goods, importer shall furnish to the Customs pre-shipment inspection certificate as per the format to Appendix 2H from any of the Inspection & Certification agencies given in Appendix-2G, to the effect that the consignment was checked for radiation level and scrap does not contain radiation level (gamma and neutron) in excess of natural background. The certificate shall give the value of background radiation level at that place as also the maximum radiation level on the scrap; and;

(ii) Importer shall also furnish copy of the contract with the exporter stipulating that the consignment does not contain any radioactive contaminated material in any form.

(c) .....

(d) Import of un-shredded compressed and loose form of metallic waste, scrap listed in paragraph 2.54(a) above in shall be subject to the following conditions:-

(i) At the time of the clearance of goods, importer shall furnish to the Customs pre-shipment inspection certificate as per the format in Appendix 2H from any of the Inspection & Certification agencies given in Appendix-2G to the effect that 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 contain radiation level (gamma and neutron) in excess of natural background. The certificate shall give the value of background radiation level at that place as also the maximum radiation level on the scrap.

(ii) The imported item (s) is actually a metallic waste/ scrap /seconds /defective as per the internationally accepted parameters for such a classification.

(iii) Copy of the contract between the importer and the exporter stipulating that the consignment does not contain any type of arms, ammunition, mines, shells, cartridges, radioactive contaminated, or any other explosive material in any form either used or otherwise.

(iv) Import of scrap would take place only through following designated ports and no exceptions would be allowed even in case of EOUs, SEZs:-

“1. Chennai, 2. Cochin, 3. Ennore, 4. JNPT, 5. Kandla, 6. Mormugao, 7. Mumbai, 8. New Mangalore, 9. Paragraphdip, 10. Tuticorin, 11. Vishakhapatnam, 12. ICD Loni, Ghaziabad, 13. Pipava, 14. Mundra, 15. Kolkata, 16. ICD Ludhiana, 17. ICD Dadri (Greater Noida), 18. ICD Nagpur, 19. ICD Jodhpur, 20. ICD Jaipur, 21. ICD Udaipur, 22. CFS Mulund, 23. ICD Kanpur, 24. ICD Ahmedabad, 25. ICD Pitampur and 26. ICD Malanpur”

(v) Only entry sea ports will be designated and notified for import of un-shredded Metallic Waste and Scrap subject to the following:

(i) Any sea port to be designated for import of un-shredded metallic scrap will be required to install Radiation Portal Monitors and Container Scanner with adequate security. The sea port having completed the above shall approach jurisdictional Customs for inspection and certification. Customs may give necessary clearance on receipt of certification from AERB. On getting clearance from Customs, DGFT will notify such a port as designated port for import of un-shredded scrap.

(ii) The existing designated sea ports namely Chennai, Cochin, Ennore, JNPT, Kandla, Mormugao, Mumbai, New Mangalore, Paradeep, Tuticorin, Vishakhapatnam, Pipava, Mundra and Kolkata will be allowed to import un-shredded scrap till 30.09.2022 by which time they are required to install and operationalize Radiation Portal Monitors and Container Scanner. Such sea ports which fail to meet the deadline will be derecognised for the purpose of import of un-shredded metallic scrap w.e.f 01.10.2022.

(iii) Further, any ICD can handle clearance of un-shredded metallic scrap provided the same passes through any of the designated sea ports as mentioned above or any new ports to be notified/designated from time to time, where Radiation Portal Monitors and Container Scanner are in operation and the consignment is subjected to risk based scanning/ monitoring as per the protocol laid down by Customs.

(iv) Import consignments of metallic waste and scrap shall be subject to pre-shipment inspection certificate (PSIC) from the country of origin. However, metallic waste and scrap (both shredded and unshredded) imported from safe countries / region i.e. the USA, the UK, Canada, New Zealand, Australia and the EU will not require PSIC if consignments are cleared through Ten (10) ports namely, Chennai, Tuticorin, Kandla, JNPT, Mumbai Krishnapatnam, Mundra and Kattupalli, Hazira and Kamarajar. Consignments from these six

*countries / region will be accompanied by certificate from the supplier / scrap yard authority to the effect that it does not contain any radioactive materials / explosives. These will however be subject to radiation and explosive checks through portal monitors and container scanner at these ports. Trans- shipments through these countries / regions will not be allowed this facility. Import through remaining eight (8) other ports (for both shredded and unshredded scrap /waste), irrespective of country of origin, will be subject to PSIC.*

*Para 2.56 Responsibility and Liability of PSIA and Importer*

- a. *In case of any mis-declaration in PSIC or mis-declaration in application form for recognition as PSIA, PSIA would be liable for penal action under Foreign Trade (Development & Regulation) Act, 1992, as amended, in addition to suspension/cancellation of recognition.*
- b. *The importer and exporter would be jointly and severally responsible for ensuring that the material imported is in accordance with the declaration given in PSIC. In case of any mis-declaration, they shall be liable for penal action under Foreign Trade (Development & Regulation) Act, 1992, as amended.*
- c. *The scanned copy of the PSIC (in pdf format) shall have to be uploaded by the PSIA on DGFT website or emailed to DGFT (at psic-dgft@gov.in). The certificate shall be issued in prescribed form Appendix 2H.*
- d. *The PSIA will also be required to take photographs or make video of the inspection carried out, duly capturing the following activities/details:*
  - (i) *Photograph(s) or video clipping of the place of inspection with PSIA inspector (mandatory) and representatives of exporter / importer, if available (optional); with time, date of the inspection (at least 1 photograph or video clipping);*
  - (ii) *Photograph(s) or video clipping of the testing instrument(s) used for inspection;*
  - (iii) *Photograph(s) or video clipping of the process of stuffing of containers showing the container number (at least 1 photograph or video clipping per container)*
  - (iv) *Photograph(s) or video clipping of the sealing process (at least 1 photograph or video clipping per container)*
- (e) *The photographs and/or video clippings [as per 2.56 (d) above] and PSIC shall be uploaded on DGFT website by PSIA, through digital signatures or sent to psicdgft@gov.in through registered e-mail of PSIA. Till such time the DGFT website link is operationalized, the PSIC and photographs/videos will be e-mailed to the DGFT (at psicdgft@gov.in).*

SECTION 111 (d) of the Customs Act, 1962 provides for confiscation of improperly imported goods etc. –

*The following goods brought from the 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;*

Section 112(a) of the Customs Act, 1962 provides for 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, 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, to a penalty [not exceeding the duty sought to be evaded on such goods or five thousand rupees], whichever is the greater;*

Section 117. 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<sup>1</sup> [one lakh rupees].*

### **Submission made by the importer:**

3. Importer vide letter dated 18.02.2025 has submitted that they are unable to provide the PSIC certificate and has requested to waive the issuance of SCN and Personal Hearing. They have further requested to adjudicate the matter and allow for re-export of the cargo covered under Bill of Entry No 8029019 dated 27.01.2025.

### **Discussion & Findings:**

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4. I have carefully gone through the relevant documents, submissions made by the importer and applicable provisions of Law. The importer submitted that they don't require Personal Hearing and Show Cause Notice in the matter. 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.

4.1 The issues before me are to decide whether-

b. The Goods imported by importer are liable for confiscation under section 111(d) and penalty should be imposed under section 112 (a)(i), & 117 of the Customs Act, 1962 or otherwise.

4.2 I find that M/s. Greenmet International Llp (IEC ABAFG8006F) having address "Revenue Survey No.47,Plot No 2, NR., Village Ghangli, Sihor, Bhavnagar- 364240" (hereinafter referred to as 'importer' for sake of Brevity) had filed Bill of Entry No. 8029019 dated 27.01.2025 through their CB M/s. Kashish Impex for import of "COPPER SCRAP BIRCH AS PER ISRI, ALUMINIUM SCRAP TENSE AS PER ISRI, HEAVY MELTING SCRAP" from TRINIDAD & TOBAGO.

4.6 I find that the Importer has conveyed through their letter dated 18.02.2025 that they are unable to produce the PSIC due to suspension of operation of PSIA Agencies from TRINIDAD & TOBAGO and they do not want Show Cause Notice and Personal hearing along with a request to re-export the consignment back to TRINIDAD & TOBAGO.

4.7 I find that the imported goods in the Bill of Entry No. 8029019 dated 27.01.2025; the said goods have been imported in India without valid PSIC and in violation and contrary to the provisions of Para 2.32 of the Foreign Trade Policy of DGFT, thereby causing the said imported goods liable for confiscation under the provisions of Section 111(d) of the Customs Act, 1962 and the importer M/s. Greenmet International LLP have rendered themselves liable for penalty under Section 112 (a) (i) of the Customs Act, 1962.

4.9 Since, the subject goods are prohibited, section 125 of the Customs Act, 1962 provides that whenever confiscation of any goods is authorized by the Customs Act, 1962, the officer adjudicating it may, in the case of any goods, the importation or exportation whereof is prohibited under the act or under any other law for the time being in force and shall, in the case of any other goods, give to the owner of the goods an option to pay in lieu of confiscation such fine as the said officer thinks fit. I find that said provision makes it mandatory to grant an option to owner of the confiscated goods to pay fine in lieu of confiscation for re-export of the imported goods in case the goods are prohibited. I find it appropriate to allow for redeem the goods for re-export under section 125 of the Customs Act, 1962.

### **ORDER**

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

i. I confirm and order for confiscation of the goods pertaining to Bill of Entry No.

8029019 dated 27.01.2025 valued at 26,49,687/- as Goods declared are in contravention of Section 46 of the Act and are therefore liable for confiscation under Section 111 (d) of the Customs Act, 1962. However, I accede to request of importer and give an option to re-deem the goods for re-export under provision of section 125 of customs Act, 1962 on payment of Redemption Fine of Rs. 50,000/- (Rs. Fifty Thousand only).

ii. I impose a penalty of Rs. 10,000/- (Rs. Ten Thousand only) on the Importer M/s. Greenmet International LLP (IEC ABAFG8006F) having address "Revenue Survey No.47,Plot No 2, NR., Village Ghangli, Sihor, Bhavnagar- 364240" under section 112(a)(i) of Customs Act, 1962.

**6.** 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.

AMIT KUMAR MISHRA  
ADDITIONAL COMMISSIONER  
ADC/JC-II-O/o Pr Commissioner-Customs-Mundra  
Custom House, Mundra

Date: 21-02-2025

To,  
M/s. Greenmet International LLP (IEC ABAFG8006F)  
Revenue Survey No.47,Plot No 2, NR.,  
Village Ghangli, Sihor, Bhavnagar- 364240

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. Guard file