

	OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, 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/SHED/MISC/1337/2024-Docks Examn-O/o Pr-Commr-Cus-Mundra
B. Order-in- Original No.	:	MCH/ADC/MK/159/2024-25 dated 16.10.2024
C. Passed by	:	Mukesh Kumari, Additional Commissioner of Customs, Customs House, AP & SEZ, Mundra
D. Date of order /Date of issue	:	16.10.2024 / 17-10-2024
E. Show Cause Notice No. & Date	:	SCN and PH Waiver
F. Noticee(s)/Party/ Exporter	:	M/s. Ramdev Enterprises, 36 MOD, Near Flyover, Main Road, Kenchiya, Tehsil PiliBangan, Hanumangarh, Rajasthan- 335802
G. DIN	:	20241071MO0000444C93

- यह अपील आदेश संबन्धित को निःशुल्क प्रदान किया जाता है।
This Order - in - Original is granted to the concerned free of charge.
- यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 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),
**Having his office at 7th Floor, Mridul Tower, Behind Times of India,
Ashram Road, Ahmedabad-380 009.”**

- 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.
- 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 be accompanied by –

- उक्त अपील की एक प्रति और A copy of the appeal, and
- 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 ऊँटी/ ब्याज/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिए।

Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo.

6. अपील प्रस्तुत करते समय, सीमा शुल्क अन्य के, अधिनियम शुल्क सीमा और 1982, अपील नियम)। चाहिए जाना किया पालन का मामलों सभी तहत के प्रावधानों सभी

While subMithing 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.

BRIEF FACTS OF THE CASE:

M/s. Ramdev Enterprises (IEC No. BULPA9193A) (herein after referred as “the Exporter”) having registered address: 36 MOD, Near Flyover, Main Road, Kenchiya, Tehsil PiliBangan, Hanumangarh, Rajasthan- 335802, have filed Shipping Bill No. 4369111 dated 27.09.2024 through their CHA- M/s Aarvi Exim Solutions LLP (herein after referred as “Customs Broker or CB), for export of goods declared as “Industrial Material & Spare Parts of Earthmoving Excavator”. The total FOB value of the goods is Rs. 41,51,386/-

2. The Docks Officer after examination submitted that some of the parts under export were noticed as old and used. Hence, expert opinion of Empaneled Chartered Engineer was sought for. The CE M/s. Suvikaa Associates, vide its reports No. Cus/403/23-24 dated 03.10.2024 (RUD-1) has submitted that:-

- i. The cargo condition a mix of old and new industrial material and spare parts for earth moving excavator.
- ii. The cargo does not fall under list of SCOMET Items.
- iii. Based on the present condition of the spare parts, it is operable for the next 5-6 years with scheduled maintenance.
- iv. The industrial material and spare parts for earth moving excavator are well maintained and in working condition
- v. Further the CE has also suggested estimated value of the cargo as 54940.38 USD against the 55777.03 USD as declared by the exporter in the SB.

They further submitted that one item mentioned at Sr. No. 13 of the SB, declared as ‘M S Scrap’ and export duty amounting to Rs. 13,068/- has been paid by the exporter vide challan no. 2 dated 30.09.2024 (RUD-2).

3. In view of the above Docks officers objection and CE report, following observation have been made:-

(i) There are total 22 items in the subject S/bill 4369111 dated 27.09.2024. The Docks officer and CE in their report dated 03.10.2024 has mentioned that goods are mix of old and new industrial material and spare parts for earth moving excavator. However, exporter has not declared in the description of items whether the goods are OLD or NEW.

(ii) CE in the Annexure- 'A' of the subject report dated 03.10.2024, has not mentioned which goods are NEW and which goods are OLD.

(iii) Accordingly, a letter dated 10.10.2024 was issued to the CE for seeking clarification regarding the 'Old and New' items of the subject S/bill.

(iv) Further, CE vide their reply letter dated 10.10.2024 has given their clarification enclosing the revised Annexure, mentioning which items of the S/bill are OLD and which items are NEW. Details of revised Annexure as under:-

Report no. CUS/403/23-24 Shipping Bill no. 4369111 dated 27/09/2024			RAMDEV ENTERPRISES Annexure 'A'			03/10/2024					
Sr. No.	Item	Quantity	Description	Manufacturer Details	Serial no. / Model no.	Year of Manufacture	Condition	Declared Value per piece (USD)	Total Declared value (USD)	C.E. Assessed Value per piece (USD)	Total Value assessed by C.E. (USD)
1	SCAFFOLDING ROUND SHUTTERING PLATES	1	Scaffolding round shuttering plates are robust, circular panels designed to provide temporary support for concrete structures during the pouring and curing phases. Made from high-quality materials, they ensure stability and shape retention. These plates facilitate the creation of smooth, even surfaces, making them essential for efficient construction and structural integrity.	NOT AVAILABLE	NA	2018	Old	969.55	969.55	955.01	955.01
2	INDUCTION MOTOR	8	An induction motor is an electric motor that operates on the principle of electromagnetic induction. It consists of a stator and a rotor. When alternating current in the stator creates a rotating magnetic field, inducing current in the rotor. Induction motors are widely used for their reliability, efficiency, and low maintenance requirements.	Bharat Bipee Electric, Mansion 6th Floor Appasheb Marathe Marg Prabhadevi Mumbai 400 025 India Tl: +91 22 4614 3414	NA	2016	Old	182.85	1462.80	180.11	1440.85
3	HELICAL GEAR	16	A helical gear is a type of gear with teeth that are cut at an angle, allowing for smoother and quieter operation compared to spur gears. The angled teeth engage gradually, reducing vibration and wear. Helical gears are commonly used in machinery and automotive applications for efficient power transmission and increased load capacity.	NOT AVAILABLE	NA	2023-2024	New	423.14	6770.24	416.79	6668.69
4	MOTOR	8	A motor is a machine that converts electrical energy into mechanical energy, enabling motion. It operates on principles of electromagnetism, using electric currents to create magnetic fields. Motors are widely used in various applications, from household appliances to industrial machinery, providing essential power for tasks such as rotation, movement, and automation.	ABB INDIA - Address:Dhaka - 3rd Floor, Plot No.5 & 6,2nd Stage,Peempi industrial Area IV,Peenya 560058 Bangalore, Karnataka Phone:+91 80 22949129 /+91 80 22949150 /+91 80 22949151 /+91 80 22949152 /+91 80 22949153 /+91 80 22949154 Fax:+91 80 229 49148	M38IP200MLA 6	2015	Old	184.70	1477.60	181.93	1455.44
5	MOTOR HAVELLS	1	A motor is a machine that converts electrical energy into mechanical energy, enabling motion. It operates on principles of electromagnetism, using electric currents to create magnetic fields. Motors are widely used in various applications, from household appliances to industrial machinery, providing essential power for tasks such as rotation, movement, and automation.	Havells India Ltd. Headquartered Office: Plot No. 100, Sector 10, Building, K.G. Marg, New Delhi - 110001, (India) Corporate Office: QIG Towers, 20, Sec - 126, Expressway Noida - 201304 U.P. (India) Corporate Identity Number(CIN): L39900U11983PLC016304	NA	2014	Old	367.28	367.28	361.77	361.77
6	TATA FUEL FILTER	31	A fuel filter is a crucial component in internal combustion engines, designed to remove contaminants, debris, and water from fuel before it enters the engine. By ensuring clean fuel delivery, it enhances engine performance, efficiency, and longevity. Regular maintenance and replacement of fuel filters are essential for optimal engine operation.	TATA MOTORS, Near Teen Hathi Naka, Gyan Sadhana College Service Road, Thane (W) 400604	NA	2024	New	25.58	792.98	25.20	781.09
7	JCB FILTER KIT(SAKURA+SOKUR)	25	A filter kit includes various filtration components designed to remove impurities from fluids or air in systems. Commonly used in automotive and industrial applications, it ensures optimal performance and longevity of engines and machinery. Regular replacement of filter kits helps maintain efficiency and prevents damage from contaminants.	JCB India Limited Registered office address - B-1 / I-1, 2nd Floor, Mohan Co-operative Industrial Estate, Mathura Road New Delhi - 110049 CIN Number : U74899DL1979PLC009431 Contact No.: 011-40539745	NA	2024	New	27.89	697.25	27.47	686.79

Report no. CUS/03/23-24 Shipping Bill no. 4369111 dated 27/09/2024			RAMDEV ENTERPRISES Annexure 'A'						03/10/2024			
S	ITEM	DESCRIPTION	QTY	ITEM DETAILS			SUPPLIER	ITEM NO.	QUANTITY	UNIT	PRICE	
				ITEM NO.	ITEM NAME	ITEM DESCRIPTION						
8	JCB AIR FILTER SET INNER+OUTER	A filter set includes various filtration components designed to remove impurities from fluids or air in systems. Commonly used in automotive and industrial applications, it ensures optimal performance and longevity of engines and machinery. Regular replacement of filter sets helps maintain efficiency and prevents damage from contaminants.	10	ICB India Limited	Registered office address - B-1 / I-1, 2nd Floor, Mohan Co-operative Industrial Estate, Mathura Road New Delhi DL 110044 IN CIN Number : U74899DL1978PLC009431 Contact No. : 011-40593745	NA	2024	New	51.12	511.20	50.35	501.53
9	XCMG FILTER	An air filter set consists of multiple filters designed to capture dust, pollen, and other airborne particles from incoming air. Used in HVAC systems and vehicles, these filters enhance air quality and protect machinery components. Regular replacement is vital for maintaining airflow and ensuring efficient system performance.	25	XCMG India	SPICOT Industrial Complex, Cheyyar A-B, Phase - II, SPICOT Industrial Complex, Kunnavakkam, Cheyyar, Tiruvannamalai Cheyyar, Tamil Nadu 631701, IN	NA	2024	New	24.51	612.75	24.14	601.56
10	XCMG TOOTH RC FORGED	Tools RC forged components are precision-engineered parts made through the forging process, offering enhanced strength and durability. Commonly used in machinery, these components feature specially designed teeth for improved performance in power transmission. Their robust construction ensures reliability under high-stress conditions, making them ideal for heavy-duty applications.	50	XCMG India	SPICOT Industrial Complex, Cheyyar A-B, Phase - II, SPICOT Industrial Complex, Kunnavakkam, Cheyyar, Tiruvannamalai Cheyyar, Tamil Nadu 631701, IN	NA	2023	New	14.41	720.50	14.19	709.69
11	J5 210 TOOTH RC FORGED	Tools RC forged components are precision-engineered parts made through the forging process, offering enhanced strength and durability. Commonly used in machinery, these components feature specially designed teeth for improved performance in power transmission. Their robust construction ensures reliability under high-stress conditions, making them ideal for heavy-duty applications.	50	ICB India Limited	Registered office address - B-1 / I-1, 2nd Floor, Mohan Co-operative Industrial Estate, Mathura Road New Delhi DL 110044 IN CIN Number : U74899DL1978PLC009431 Contact No. : 011-40593745	NA	2023	New	16.87	843.50	16.62	830.85
12	ELECTRIC PANEL BOARD	An electric panel board is a central component in electrical distribution systems, housing circuit breakers and fuses to protect electrical circuits. It manages power distribution throughout a facility, ensuring safety and efficiency. Regular maintenance is crucial for preventing overloads and ensuring proper operation of connected devices.	1	Lauritz Knudsen Electrical & Automation Unnisa Building, A-400, TTC - MIDC, Dist - Maharashtra, Navi Mumbai - 400730 Tel : +91-22-69327800 E-Mail : cic@LKEA.com	MK1 / 5000001	2023	New	4934.51	4934.51	4860.49	4860.49	
13	M S SCRAP VALVE AND FLANGE	Valves and flanges are essential components in piping systems, controlling the flow and pressure of liquids and gases. Valves regulate the flow of media, while flanges create secure joints between pipes. Together, they ensure system integrity and efficient operation in various industrial, commercial, and residential applications.	1548	NOT AVAILABLE	NA	NA	New	0.76	1173.23	0.75	1155.64	
14	CRUSHING MACHINERY	Crushing machinery is used in the construction and mining industries to break down large materials into smaller, manageable pieces. This equipment includes crushers and mills, which process rocks, ores, and other materials for further processing. Efficient crushing improves material handling and prepares aggregates for construction projects.	2	NOT AVAILABLE	NA	2015	Old	1550.61	3101.22	1527.35	3054.70	
15	CRUSHING MACHINE	Crushing machinery is used in the construction and mining industries to break down large materials into smaller, manageable pieces. This equipment includes crushers and mills, which process rocks, ores, and other materials for further processing. Efficient crushing improves material handling and prepares aggregates for construction projects.	2	NOT AVAILABLE	NA	2015	Old	1421.42	2842.84	1400.10	2800.20	
16	AIR COMPRESSOR TYPE	An air compressor is a mechanical device that converts power into potential energy stored as pressurized air. Used in various applications, from powering pneumatic tools to inflating tires, air compressors enhance efficiency and productivity. They come in various sizes and types, catering to both industrial and home use.	2	Viral Air Compressor Service N/H- 8, Gondal road, Opp. Vilka Corporation, Vadli, Rajkot - 360004, Gujarat, India	V5-220	2024	New	1808.99	3617.98	1781.86	3563.71	

Report no. CUS/403/23-24

Shipping Bill no. 4369111 dated 27/09/2024

RAMDEV ENTERPRISES

Annexure 'A'

03/10/2024

17	R.C.C TANK STARR	16	A Reinforced Cement Concrete (R.C.C.) tank is a durable storage structure designed to hold liquids, typically water. Constructed using reinforced concrete, these tanks offer strength and longevity, making them suitable for various applications, including water supply, irrigation, and industrial processes. Regular maintenance ensures structural integrity and functionality.	NOT AVAILABLE	NA	NA	New	672.48	10759.68	662.39	10598.28	
18	CONCRETE MIXER MACHINE	1	A concrete mixture is a combination of cement, aggregates, water, and additives used to create concrete for construction. The mixture's proportions affect strength, workability, and durability. Proper mixing techniques ensure uniformity and performance, making it essential for achieving desired structural characteristics in various construction projects.	NOT AVAILABLE	NA	2014-2015	Old	1421.73	1421.73	1400.40	1400.40	
19	DIESEL GENERATOR SET KVA 250	1	A diesel generator is a versatile power generation system that converts diesel fuel into electrical energy. Widely used for backup power, remote locations, and industrial applications, these generators offer reliability and efficiency. With varying capacities, they provide essential electricity for homes, businesses, and critical operations during power outages.	Powerhouse Diesel Generator 1516 James P Rodgers Dr. Valdosta Ga. 31601 Tel: 229-671-9171. Fax: 229-244-5326 info@pdgpower.com	YB37574 /JB33593L	2017-2018	Old	2842.84	2842.84	2800.20	2800.20	
20	DIESEL GENERATOR SET KVA 112.5	1	A diesel generator is a versatile power generation system that converts diesel fuel into electrical energy. Widely used for backup power, remote locations, and industrial applications, these generators offer reliability and efficiency. With varying capacities, they provide essential electricity for homes, businesses, and critical operations during power outages.	Powerhouse Diesel Generator 1516 James P Rodgers Dr. Valdosta Ga. 31601 Tel: 229-671-9171. Fax: 229-244-5326 info@pdgpower.com	YB37544 /JB38633L	2017-2018	Old	4134.75	4134.75	4072.73	4072.73	
21	600MM BELT CONVER GEAR WITH BELT	4	A belt conveyor gear with belt is a mechanical system designed for transporting materials efficiently. The gear mechanism drives the belt, allowing for continuous movement of items along a predetermined path. Commonly used in manufacturing and logistics, these systems enhance productivity by streamlining material handling processes.	NOT AVAILABLE	NA	2016	Old	1042.92	4171.68	1027.28	4109.10	
22	VIBRATOR	1	A vibrator is a mechanical device used to generate vibrations, often employed in construction and manufacturing. In concrete work, it helps to eliminate air bubbles, ensuring even distribution and compaction. This enhances the strength and durability of the final product. Vibrators are essential tools for achieving high-quality results.	NOT AVAILABLE	NA	2017	Old	1550.92	1550.92	1527.66	1527.66	
Total		1804							Total	55777.03	Total	54940.38



Er. KUMAR KUNAL AJAY
B.TECH (Mech)
(Chartered Engineer-India,
Membership No. AM1979038
The Institution of Engineers (India)

(vi) As per above revised Annexure-'A' of CE, total 11 items mentioned at Sr. No. 1,2,4,5,14,15,18,19,20,21,22 are mentioned as 'OLD' and remaining 11 items 3,6,7,8,9,10,11,12,13,16,17 are mentioned as 'NEW'.

(vii) Further, the CE in their Valuation report has also suggested estimated value of the cargo as 54940.38 USD against the 55777.03 USD as declared by the exporter in the SB.

(viii) Exporter has not claimed any export benefit/incentives and filed subject Shipping Bill under Scheme code '00'.

(ix) Exporter has filed subject S/bill under 'IGST Paid' with IGST amount of Rs. 8,32,304.83/- Due to change in valuation as per CE report, from 55777.03 USD

to 54940.38 USD, there is difference in valuation of 836.65 USD i.e. Rs. 69,358/- (Exchange Rate- Rs. 82.9), result in to decrease in IGST Amount by Rs. 12,484/-.

4. As per CE report dated 03.10.2024 and revised Annexure-'A' provide vide their letter dated 10.10.2024, it is cleared that out of 22 items, 11 items mentioned at Sr. No. 1,2,4,5,14,15,18,19,20,21,22 are OLD and the exporter has not mentioned about the same in the description. Therefore, the exporter has mis-declared these 11 items.

Further, CE has suggested estimated value of the cargo as 54940.38 USD against the 55777.03 USD as declared by the exporter in the SB. Therefore, it is cleared that exporter has overvalued the cargo by 836.65 USD i.e. Rs. 69,358/- (Exchange Rate- Rs. 82.9).

5. (i) The exporter vide their letter dated 10.10.2024 submitted that they are accepting the value as declared by CE in valuation report no cus/403/23-24.

(ii) Further, as there is mis-declaration in the description of goods by not mentioning clearly the old & new goods, CB vide their letter dated 14.10.2024, have informed that Exporter M/s. RAMDEV ENTERPRISES, provided them the invoice, and they have meticulously prepared the checklist and filed the necessary documents in accordance with the invoice; that they would like to bring to attention that the invoice does not specify whether the items are new or used; that consequently, they have not indicated the condition of the cargo in the checklist.

6. Further, Section 50 of the Customs Act, 1962, which places onus upon the exporter, reads as follows:

SECTION 50. Entry of goods for exportation. -

(1) *The exporter of any goods shall make entry thereof by presenting electronically on the customs automated system] to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export [in such form and manner as may be prescribed: Provided that*

(2) *The exporter of any goods, while presenting a shipping bill or bill of export, shall make and subscribe to a declaration as to the truth of its contents.*

(3) *The exporter who presents a shipping bill or bill of export under this section 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.*

7. Further, in view of the above facts, it appears that, the exporter by resorting to mis-declaration of the description and overvaluation of the impugned goods, has failed to comply with the provisions of the Section 50 of the Customs Act, 1962.

8. Further, from the above, it appears that, the exporter, by resorting to mis-declaration and overvaluation, has rendered the impugned goods liable for confiscation under Section 113(i) of the Customs Act, 1962. Furthermore, for rendering the goods liable for confiscation, the exporter has also rendered themselves liable for penal action under Section 114(iii) of the Customs Act, 1962.

9. The relevant portion of the Section 113(i) and 114(iii) of the Customs Act, 1962 are as follows:

SECTION 113. Confiscation of goods attempted to be improperly exported, etc. –

The following export goods shall be liable to confiscation as per:

- i. *any goods entered for exportation which do not correspond in respect of value or any material particular with the entry made under this Act or in the case of baggage with the declaration made under section 77.*

Section 114. Penalty for attempt to export goods improperly, etc.—

Any person 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 113, 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 three times the value of the goods as declared by the exporter or the value as determined under this Act, 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 any other goods, to a penalty not exceeding the value of the goods, as declared by the exporter or the value as determined under this Act, whichever is the greater.

10. In view of the above, it appears that:

- (i) The description of the 11 items, mentioned at Sr. No. 1,2,4,5,14,15,18,19,20,21,22 of the subject Shipping Bill No. 4369111 dated 27.09.2024 found as 'Old', required to be amended;

- (ii) The valuation of all the items of the subject Shipping bill no. 4369111 dated 27.09.2024, required to be amended as per CE Valuation report Cus/403/23-24.
- (ii) Impugned goods covered under Shipping Bill No. 4369111 dated 27.09.2024 are liable for confiscation under Section 113(i) of the Customs Act, 1962;
- (iv) The exporter, M/s. Ramdev Enterprises, having IEC No. BULPA9193A for rendering the impugned goods under confiscation is liable for penal action under Section 114(iii) of the Customs Act, 1962.

RECORDS OF PERSONAL HEARING :

11. The Exporter vide their letter dated 16.10.2024, has requested for waiver of Show Cause Notice and Personal Hearing by the adjudicating authority.

DISCUSSION AND FINDINGS:

12. I have carefully gone through the records of the case. The exporter requested for waiver of Show Cause Notice and personal hearing. Thus, I find that the principles of natural justice as provided in Section 122A of The Customs Act 1962 has been complied with and therefore, I proceed to decide the case on the basis of the documentary evidence available on records.

12.1. The issues to be decided by me are:

- (i) The description of the 11 items, mentioned at Sr. No. 1,2,4,5,14,15,18,19,20,21,22 of the subject Shipping Bill No. 4369111 dated 27.09.2024 found as 'Old', required to be amended;
- (ii) The valuation of all the items of the subject Shipping bill no. 4369111 dated 27.09.2024, required to be amended as per CE Valuation report Cus/403/23-24 dated 03.10.2024.
- (ii) Impugned goods covered under Shipping Bill No. 4369111 dated 27.09.2024 are liable for confiscation under Section 113(i) of the Customs Act, 1962;
- (iv) The exporter, M/s. Ramdev Enterprises, having IEC No. BULPA9193A for rendering the impugned goods under confiscation is liable for penal action under Section 114(iii) of the Customs Act, 1962.

Now, I proceed to decide the case issue-wise.

12.2. I find that in examination some goods are found to be old, further as per CE valuation report Cus/403/23-24 dated 03.10.2024 and revised Annexure-'A', total 11 items are found to be 'Old' and the same was not declared by the exporter under Shipping Bill No. 4369111 dated 27.09.2024. Therefore, the goods are mis-declared by the exporter.

12.3. I find that as per CE valuation report Cus/403/23-24 dated 03.10.2024 and revised

Annexure-‘A’, the exporter has over-valued the goods.

12.4. I find that the goods attempted to be exported are found as mis-declared and overvalued and the exporter also accepted the valuation given by CE, and therefore, I find that the goods are liable for confiscation under Section 113(i) of the Customs Act, 1962.

12.5. I find that Section 114 of the Customs Act, 1962 stipulates that:

Any person 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 113, 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 ¹[²not exceeding three times the value of the goods as declared by the exporter or the value as determined under this Act, 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 any other goods, to a penalty not exceeding the value of the goods, as declared by the exporter or the value as determined under this Act, whichever is the greater.

12.6. I find that the impugned goods to be exported under Shipping Bill No. 4369111 dated 27.09.2024 found to be mis-declared and overvalued, hence as the exporter has mis-declared and overvalued the impugned goods, the same are liable for confiscation under **113(i)** of the Customs Act, 1962.

Therefore, penalty is imposable in the case under **Section 114(iii)** of the Customs Act, 1962 for rendering the same liable for confiscation under Section 113 of the Customs Act, 1962.

13. In view of the forgoing discussions and findings, I pass the following order:

ORDER

- i. I order to reject the description of 11 items (Sr. No. 1, 2, 4, 5, 14, 15, 18, 19, 20, 21, 22) and declared value of all the items to be exported vide Shipping Bill No. 4369111 dated 27.09.2024.
- ii. I order to confiscate the Impugned goods covered under Shipping Bill No. 4369111 dated 27.09.2024 under Section 113(i) of the Customs Act, 1962. However,

I give the option to the exporter to redeem the same against payment of a Redemption Fine of Rs. 10,000/- (Rupees Ten Thousand Only) under Section 125 of the Customs Act, 1962;

iii. I order to impose and recover Penalty of Rs. 5,000/- (Rupees Five Thousand Only) on the exporter under Sections 114(iii) of the Customs Act, 1962.

14. This order is issued without prejudice to any other action that may be contemplated against the exporter or any other person(s) under the 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.

MUKESH KUMARI
ADDITIONAL COMMISSIONER
ADC/JC-I-O/o Pr Commissioner-Customs-Mundra

F.No.CUS/SHED/MISC/1337/2024-Docks Examn

Date : 17-10-2024

BY SPEED POST

To,
M/s. Ramdev Enterprises (IEC No. BULPA9193A)
Address: 36 MOD, Near Flyover, Main Road,
Kenchiya, Tehsil Pilibangan, Hanumangarh,
Rajasthan- 335802

Copy to:-
(1) The Deputy Commissioner(TRC)/RRA /Review Section
(2) Guard File.