



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,

चौथी मंज़िल 4th Floor, हडको भवन HUDCO Bhawan, ईश्वर भुवन रोड़ Ishwar Bhuvan Road
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad - 380 009
दूरभाष क्रमांक Tel. No. 079-26589281

DIN - 20250971MN0000666BD0

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| क | फ़ाइल संख्या FILE NO. | S/49-14/CUS/MUN/2024-25 |
| ख | अपील आदेश संख्या ORDER-IN- APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962) | MUN-CUSTM-000-APP-187-25-26 |
| ग | पारितकर्ता PASSED BY | Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad |
| घ | दिनांक DATE | 19.09.2025 |
| ङ | उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN- ORIGINAL NO. | Order-in-Original No. MCH/147/ADC/RK/Export/2022-23 dated 22.08.2023 read with Corrigendum dated 31.01.2024 |
| च | अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON: | 19.09.2025 |
| छ | अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT: | M/s Micro Trading Company, 4866/1, 24 Ansari Road, Daryaganj, Sanjeevani Hospital, New Delhi-110002 |



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| 1 | यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है. |
| | This copy is granted free of cost for the private use of the person to whom it is issued. |
| 2. | सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते हैं. |
| | Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order. |
| | निम्नलिखित सम्बन्धित आदेश/Order relating to : |
| (क) | बैगेज के रूप में आयातित कोई माल. |
| (a) | any goods exported |
| (ख) | भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो. |
| (b) | any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination. |
| (ग) | सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी. |
| (c) | Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder. |
| 3. | पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए : |
| | The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by : |
| (क) | कोर्ट फी एक्ट, 1870 के मद सं.6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए. |
| (a) | 4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870. |
| (ख) | सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो |
| (b) | 4 copies of the Order-in-Original, in addition to relevant documents, if any |
| (ग) | पुनरीक्षण के लिए आवेदन की 4 प्रतियां |
| (c) | 4 copies of the Application for Revision. |
| (घ) | पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/- (रुपए दो सौ मात्र) या रु. 1000/- (रुपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां. यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रुपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु. 200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु. 1000/- |
| (d) | The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the |



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| | amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-. | | | | |
| 4. | मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं | | | | |
| | In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address : | | | | |
| | <table> <tr> <td>सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ</td><td>Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench</td></tr> <tr> <td>दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</td><td>2nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016</td></tr> </table> | सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ | Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench | दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016 | 2nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016 |
| सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ | Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench | | | | |
| दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016 | 2nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016 | | | | |
| 5. | सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए- | | | | |
| | Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of - | | | | |
| (क) | अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हजार रूपए. | | | | |
| (a) | where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees; | | | | |
| (ख) | अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पाँच हजार रूपए | | | | |
| (b) | where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ; | | | | |
| (ग) | अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हजार रूपए. | | | | |
| (c) | where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees | | | | |
| (घ) | इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10% अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के 10% अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा । | | | | |
| (d) | An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute. | | | | |
| 6. | उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए. | | | | |
| | Under section 129 (a) of the said Act, every application made before the Appellate Tribunal- | | | | |
| | (a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or | | | | |
| | (b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees. | | | | |



ORDER-IN-APPEAL

Appeal has been filed by M/s Micro Trading Company, 4866/1, 24 Ansari Road, Daryaganj, Sanjeevani Hospital, New Delhi-110002 (hereinafter referred to as the 'appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original no. MCH/147/ADC/RK/Export/2022-23 dated 22.08.2023 read with Corrigendum dated 31.01.2024 (hereinafter referred to as 'the impugned order') passed by the Additional Commissioner, Customs House, Mundra (hereinafter referred to as the 'adjudicating authority').

2. Facts of the case, in brief, are that the appellant filed Shipping Bill No. 9029451 dated 03.04.2023 through their CHA M/s Unnati Cargo for Export of following cargo;

Table-I

| Shipping Bill no & Date | Description of Goods | Unit | Qty. Declared | CTH Declared |
|--------------------------|----------------------|------|---------------|--------------|
| 9029451 dated 03.04.2023 | Stone Granite Grits | Kgs. | 1,40,000 | 68042290 |

2.1 As per the intelligence, the above Shipping Bill No. 9029451 dated 03.04.2023 was put up on hold and examined under panchanama dated 07.04.2023 by the officer of SIIB, Mundra in presence of Authorized person of CHA and Representative of CFS, Mundra. During the examination, it was noticed that the consignment covered under the Shipping Bill 9029451 dated 03.04.2023 consisted of brickish red coarse powder like material with appearance similar to garnet in jumbo bags. An online search of the consignee M/s Mina Al Arab Sand Manufacturing LLC revealed that the it deals in garnet and its products. Accordingly Samples of the items were drawn and forwarded to IREL (India) Limited. Research Centre, Kollam, Kerala to determine the nature, composition, whether the item is Garnet or otherwise or any other rare earth mineral. The Customs Broker, M/s Unnati Cargo submitted vide letter dated 27.04.2023 copy of checklist, invoice and packing list, supplier invoice, e-way bill of copy, royalty copy (Govt Of Rajasthan) and Analysis report (Indian Bureau



of Mines regional Mineral Processing lab & pilot Plant).

2.2 On perusal of the said documents, it has come to knowledge that the Indian Supplier of the goods M/s Parakh Udyog, GSTIN 08AHIPP9049B2Z4 has supplied the goods to the exporter wherein the invoices mention the goods as (Rhyolite Crushed Stone Chips) and classified the goods under CTH 2517. Therefore, there is a discrepancy in the declared description of the goods as well as the CTH of the goods. Summons under section 108 of the Customs Act, 1962 was issued to the exporter to produce the purchase order from foreign buyer, the basis of declared CTH of the goods and records pertaining to past exports. In response to the said summon, the exporter vide letter dated 26.05.2023 produced copy of Purchase order dated LPO NO. 9847 dated 15.03.2023 and Proforma Invoice No. MIN/101/2023 dated 21.03.2023. As per the purchase order, the overseas buyer M/s. Minaa Al Arab Sand Manufacturing LLC has placed order for 140 MTs of 'Stone grinding Granite Grits'. Regarding the declared CTH, the exporter has informed that the declared CTH No. is 6804 2290 which was as received from the buyer as per their purchase order. They have also informed that they are new exporter and doing export shipment for the first time.

2.3 In response to test report sent to IREL an email dated 18.05.2023 in response to Test Memo No. 579 -582 vide F. No. S/43-22/ Micro Trading Co/SIIB-F/CHM/23-24 all dated 24.04.2023 for testing of samples collected during examination under panchanama dated 07.04.2023, the Mineral & Size Analysis reports vide no.ML-1840, ML1841, ML1842, ML 1843, ML 1844, ML 1845, ML 1846 and ML 1847 were submitted by IREL (India) Ltd Research Centre Kollam vide letter No. RC:UHO:STE:2101:59 dated 17-05-2023. The following queries were raised by SIIB, Mundra with respect to the samples forwarded against which the following replies were received:

Nature: Based on size analysis, the sample is granular in nature.

Composition: The composition of the sample is as per the Mineralogical analysis submitted. The analysis shows that the sample is not containing minerals.

Whether the sample under reference is garnet or otherwise: As mentioned in the Mineralogical Analysis report the samples are not containing Garnet.



Whether it is any other rare Earth mineral: As mentioned in the Mineralogical Analysis report the samples are not containing any other Rare Earth mineral.

As per the Mineralogical Analysis of the sample as per the IREL (India) Limited Research Centre, the item under test is composed of :

| Minerals | Weight % |
|---------------------------|----------|
| Magnetic Materials (Rust) | 0.4 |
| Light Materials* | 99.6 |
| Total | 100 |

*Light Material are not minerals

Therefore, it can be concluded on the basis of Test report that the item is under export is not Garnet or any other Rare Earth mineral.

2.4 However other discrepancies were noticed in the Shipping Bill and document submitted which are discussed below:

Distinction Between Declared CTHS And its impact. As per the shipping bill filed by the exporter, the declared CTH of the goods is CTH: 6804 22 90. The Heading 6804 covers the following items.

Millstones and grindstones for milling, grinding, or crushing grains, such as those used in flour mills.

3.3.1. Grinding wheels made of natural stone, agglomerated natural or artificial abrasives, or ceramics, used for various grinding applications.

3.3.2. Sharpening stones and polishing stones for manual sharpening or polishing of cutting tools or other surfaces.

3.3.3. Trueing stones used for dressing or shaping grinding wheels.

3.3.4. Cutting wheels made of natural stone, agglomerated natural or artificial abrasives. or ceramics, used for cutting purposes.

3.3.5. Parts of the above-mentioned items, such as segments or sections of grinding wheels.

3.3.6 The item under export consists of brickish red coarse powdery substance




and therefore does not correspond in description to any of the above mentioned articles.

2.5 From the above it can be seen that the goods generally classifiable under Heading 2517 are:

2.5.1 Pebbles, gravel, crushed stone, and crushed rock: This category includes natural stones, usually of a size larger than sand particles, which are commonly used in the construction industry for purposes such as concrete aggregates, road metalling, railway ballast, and other similar applications.

2.5.2 Shingle and flint: Shingle refers to small, rounded stones, typically of a size between pebbles and gravel, which are commonly used in construction for surfacing or decorative purposes. Flint refers to a type of hard, compacted quartz or chert rock, which may be heat-treated or unheated.

2.5.3 From the general appearance of the goods i.e brickish red coarse powdery substance, and in accordance with the General Rules of Interpretation, the items under export appear to be more suitably classifiable under CTH 2517 4900 i.e Granules, chippings and powder of, of stone of heading of Heading 25.15 (i.e. marble, travertine, ecaussine and other calcareous monumental or building stone of an apparent specific gravity - of 2.5 or more, and alabaster, whether or not roughly trimmed or merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape or Heading 25.16 (i.e granite, porphyry, basalt, sandstone and other monumental or building stone, whether or not roughly trimmed or merely cut, by sawing or otherwise, into blocks or slabs of a rectangular - (including square) shape whether or not heat treated (not of marble).

2.6 The items falling under CTH 6804 attract drawback at All India Rate of 1% as per Notification No. 07/2020- Cus. (N.T) dated 28.01.2020. The exporter has claimed Drawback of Rs 12,456/-. However as discussed above, the goods appear to be classifiable under CTH 2517 4900 for which NIL All India drawback rate is prescribed as per Notification No. 07/2020- Cus. (N.T) dated 28.01.2020. The Shipping Bill has been filed under claim of RODTEP. The RODTEP rates for items falling under CTH 6804 2290 has been fixed at 1% of FOB as per Appendix 4R Notified on 07.02.2023 under Notification No. 55 w.e.f 15.02.2023. The exporter has claimed RODTEP amount of Rs 12,456/-. However as discussed



above, the goods appear to be classifiable under CTH 2517 4900 for which no RODTEP rate has been prescribed which implies that the goods are not eligible for RodTEP.

2.7 Accordingly, the Adjudicating Authority passed the following order:

- i. He ordered to confiscate the mis-declared goods having declared value Rs 12,45,640/- (Rupees Twelve Lakh Forty-Five Thousand and Six Hundred Forty-Five only) vide Shipping Bill No. 9029451 dated 03.04.2023, being in contravention of Section 50 of the Customs Act, under Section 113(h) of the Customs Act, 1962. Since, the impugned goods were physically available for confiscation, he imposed Redemption Fine of Rs. 50,000/- (Rupees Fifty Thousand only) in lieu of confiscation under Section 113(h) of the Customs Act, 1962.
- ii. He imposed penalty of Rs. 50,000/- (Rupees Fifty Thousand only) on the exporter, viz., M/s Micro Trading Co., New Delhi, holding IEC No. AMPPM6810R under Section 114(iii) of the Customs Act, 1962.

3. SUBMISSIONS OF THE APPELLANT:

Being aggrieved with the impugned order, the Appellant has filed the present appeals wherein they have submitted grounds which are as under:-

3.1 The appellant submits that the impugned order is liable to be set aside/quashed as there was no intentional and deliberate act on the part of the appellant in giving wrong declaration of code as the appellant was new in this field and had no prior experience. Immediately on realizing the mistake, the appellant agreed to pay the fine and penalty and requested to release his goods so that he may export the same to the consignee in order to protect itself from any loss but retaining the goods for long period knowing fully well that there was no fault on the part of the appellant, it has caused heavy loss to the appellant.

3.2 Because when lab report cleared the doubts of the department, therefore, the appellant was not at fault and on the basis of lab report, it was clear that the goods were illegally retained by the custom department and were not released to the appellant in time in order to avoid any loss to the appellant.




Having done so, retaining the goods despite the lab report in favour of the appellant, the appellant has suffered great loss and damages as due to the conduct of the custom department, the appellant has lost his new client and future dealings with him got stopped. Because the impugned order is liable to be set aside as keeping in view the circumstances created by the custom department in causing undue delay for getting the lab report and then for passing the impugned order and then issuing corrigendum dated 31.01.2024, the appellant is at no fault and the impugned order is not sustainable and liable to be quashed. The appellant is not liable for any other payment i.e. for paying anything towards cost of retaining the goods by the customs, as there is no fault on the part of the appellant as the appellant was continuously requesting since very long, since inception that he is ready to pay the penalty and fine but no response was ever given to the request of the appellant.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 22.05.2025, following the principles of natural justice wherein Shri Zafar Kamal, Proprietor appeared for the hearing in virtual mode and he re-iterated the submission made at the time of filing the appeal.

DISCUSSION AND FINDINGS:

5. I have carefully gone through the case records, impugned order passed by the Additional Commissioner, Customs House, Mundra and the defense put forth by the Appellant in their appeal.

5.1 On going through the material on record, I find that the following issues need to be addressed:



(ii)

Whether the application for condonation of delay in filing the appeal should be allowed.

Whether the goods exported by the appellant were correctly declared in terms of description and Customs Tariff Heading (CTH) and if not; Whether the misdeclaration of goods and CTH led to an ineligible claim of export benefits, namely Drawback and RoDTEP.

- (iii) Whether the mis-declared goods are liable for confiscation under Section 113(h) of the Customs Act, 1962, read with other relevant provisions.
- (iv) Whether penalty imposed under Section 114(iii) of the Customs Act, 1962, is justified.

5.2 I find that the present appeals has been filed with a delay of 6 days The Appellant has sought condonation beyond the maximum permissible period of 60 days. The reason cited is that the authorized signatory had a sudden episode of high fever, cold, and weakness caused by a viral infection during the last week of the limitation period. Section 128 of the Customs Act, 1962, provides for a period of sixty days for filing an appeal, with a further grace period of thirty days if sufficient cause is shown for the delay. In this case, the appeal was filed with a delay of 6 days beyond the initial sixty-day period, but within the extended thirty-day period. The Appellant has attributed the delay to the ill health of the authorized signatory. While parties are expected to exercise due diligence, minor delays attributable to administrative oversights, especially when the appellant acts promptly upon discovering the issue, are generally condoned by appellate authorities to ensure that justice is not denied on mere technicalities. Considering the explanation provided, which indicates no deliberate inaction or gross negligence, I find that the Appellant has shown "sufficient cause" for the delay. Therefore, the condonation of delay is allowed in the interest of natural justice.

5.3 The core of the dispute lies in the undeniable factual discrepancies surrounding the export consignment. The Shipping Bill declared the goods as "Stone Granite Grits" under CTH 68042290. However, the physical examination of the goods revealed a "brickish red coarse powdery substance" , and the supplier's own invoice explicitly described the goods as "Rhyolite Crushed Stone Chips" classified under CTH 2517. The HSN Explanatory Notes clearly delineate the scope of CTH 6804, which covers "Millstones, Grindstones, Grinding Wheels And The Like". The detailed descriptions under this heading do not align with a "powdery substance". Conversely, CTH 2517 specifically encompasses "Pebbles, Gravel, Broken Or Crushed Stone... Granules, Chippings And Powder, Of Stones" , aligning perfectly with the actual nature of the goods. The IREL report, while confirming the item was "not Garnet or any other Rare Earth mineral" , did not




validate the declared commercial description or CTH. Instead, it implicitly supported the department's re-classification by confirming the material was not

what was initially suspected, thereby leaving the actual misdeclaration of commercial description and CTH unaddressed by the appellant's argument. The objective factual findings demonstrate a fundamental difference between what was declared and what was actually being exported. The appellant's claim of a "bonafide mistake" due to being "new in this field" is directly contradicted by these verifiable facts. The OIO's finding that it is "hard to believe that they were totally ignorant of the mid-declared items" and that their conduct "paved towards establishment of mens rea" underscores that this was not a mere clerical error but a deliberate misrepresentation.

5.4 This misdeclaration was not benign; it carried direct financial implications. The declared CTH 68042290 was eligible for 1% Drawback and 1% RoDTEP benefits, totaling approximately Rs. 24,912/- (Rs. 12,456/- for each scheme) on the declared FOB value of Rs. 12,45,640/-. However, the correct CTH 25174900 attracts NIL Drawback and has no prescribed RoDTEP rate, rendering the goods ineligible for these benefits. This attempt to claim ineligible export incentives clearly demonstrates the materiality and prejudicial nature of the misdeclaration.

5.5 The discrepancies and actions of the appellant constitute multiple contraventions of the Customs Act, 1962 viz

- Section 50 (Entry of goods for exportation): This section mandates exporters to ensure the "accuracy and completeness of the information given therein" and the "authenticity and validity of any document supporting it" in the shipping bill. The misdeclaration of goods description and CTH is a direct contravention of Section 50(3)(a).

- Section 113(h) (Confiscation of goods attempted to be improperly exported): This section renders goods liable for confiscation if they are "not included or are in excess of those included in the entry made under this Act". By presenting a shipping bill that did not accurately reflect the goods, the appellant rendered the consignment liable for confiscation under this provision. The OIO's finding that the goods were "found in disguised



manner" and would have been "exported scot-free" further substantiates the grounds for confiscation.

- Section 33 (Unloading and loading of goods at approved places only): The OIO found that the goods were brought into the Customs Area in contravention of Section 33, implying they arrived at the Container Freight Station (CFS) gate "without proper declaration and identification before the Customs Authorities".
- Section 41 (Delivery of departure manifest, export manifest or export report): The OIO further noted that the goods were not correctly mentioned in the export manifest, violating Section 41, which requires accurate reporting of export goods before departure.

5.6 The findings of the OIO indicate that these were not isolated errors but a concerted effort, pointing to a "well-defined understanding/motive between the exporter and the Customs Broker" and a "fraudulent intention" to clear goods "without any hassles". This elevates the nature of the contravention from a mere mistake to a planned evasion of customs scrutiny, providing a strong basis for the adjudicating authority's decision. The financial implications of the misdeclaration are clearly evident.

5.7 The confiscation of the goods and the imposition of penalties are legally justified and proportionate to the established contraventions.

5.7.1 Confiscation under Section 113(h) of the Customs Act, 1962: As elaborated, the goods were fundamentally mis-declared in the shipping bill and were not correctly reflected in the export manifest. They were also improperly brought into the customs area without proper declaration. These actions directly fall within the ambit of Section 113(h), which makes goods liable for confiscation if they are "not included or are in excess of those included in the entry made under this Act". The OIO's finding that the goods were "found in disguised manner" and would have been "exported scot-free" provides further legal basis for confiscation. This confiscation is not a discretionary measure but a mandatory consequence of the established contravention, serving to deter improper exports and ensure accurate documentation.

5.7.2 Imposition of Penalty under Section 114(iii) of the Customs Act, 1962: Section 114(iii) provides for a penalty on any person who commits or omits



to commit any act that would render goods liable to confiscation under Section 113. For "any other goods" (non-prohibited, non-dutiable in import context), the penalty can extend up to the value of the goods. The appellant's actions of misdeclaration and improper entry directly led to the goods being liable for confiscation, thus attracting the penal provisions of Section 114(iii). The OIO explicitly states that the "burden of penalties has been based on the principle of proportionality" and that a "lenient view" was taken. The imposed Redemption Fine of Rs. 50,000/- on goods with an FOB value of Rs. 12,45,640/- (approximately 4% of value) and a penalty of Rs. 50,000/- under Section 114(iii) (which allows penalty up to the value of goods) clearly demonstrates that the adjudicating authority exercised discretion and imposed a significantly lower penalty than the maximum permissible. This indicates a proportionate and lenient approach, as stated in the OIO. The penalties are fair, reasonable, and legally compliant with the principle of proportionality.

5.8 Based on the comprehensive discussion and findings presented above, it is unequivocally established that the appeal filed by M/s Micro Trading Company lacks merit, both procedurally and substantively. Therefore, there is no ground to interfere with the well-reasoned Order-in-Original.

6. In view of the foregoing, and in exercise of the powers vested in the undersigned under Section 128A of the Customs Act, 1962, the following order is passed:

- (i) The condonation of delay of 6 days in filing the appeal is hereby allowed.
- (ii) The Order-in-Original No. MCH/147/ADC/RK/Export/2022-23 dated 22.08.2023, read with Corrigendum dated 31.01.2024, passed by the Additional Commissioner of Customs, Export Assessment, Custom House, Mundra, is hereby upheld.



7. The appeal filed by M/s Micro Trading Company is hereby rejected .



સત્યાપિત/ATTESTED
[Signature]
અધીક્ષક/SUPERINTENDENT
સીમા શુલ્ક(અપીલ), અહમદાબાદ.
CUSTOMS (APPEALS), AHMEDABAD.

[Signature]
(AMIT GUPTA)
Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-14/CUS/MUN/2024-25

Date: 19.09.2025

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By Speed post /E-Mail

To,
M/s. Micro Trading Company,
4866/1, 24 Ansari Road, Daryaganj,
Sanjeevani Hospital, New Delhi-110002

Copy to:

1. The Chief Commissioner of Customs, Ahmedabad zone, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Custom House, Mundra.
3. The Additional Commissioner of Customs, Custom House, Mundra.
4. Guard File.