प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, मुन्द्रा
OFFICE OF THE PRINCIPAL COMMISSIONER,
CUSTOM HOUSE, MUNDRA
Port User Building (PUB), Mundra (Gujarat – 370421)
ई-मेल/ E-Mail: group5-mundra@gov.in

A	फा /.सं .FILE NO.	CUS/APR/MISC/5520/2026-Gr 5-6-O/o Pr Commr-Cus-Mundra
B	मूल आदेश सं. ORDER-IN-ORIGINAL NO.	MCH/ADC/ZDC/275/2026-27
C	द्वारा पारित किया गया PASSED BY	Dipak Zala Additional Commissioner of Customs, Custom House, Mundra
D	आदेश की तिथि DATE OF ORDER	27-08-2026
E	जारी करने की तिथि DATE OF ISSUE	27-08-2026
F	कारण बताओ नोटिस संतिथि एवं . SCN NUMBER & DATE	SCN and PH waiver vide request letter dated 07.08.2026
G	नोटिसीआयातक / पार्टी/ NOTICEE/ PARTY/ IMPORTER	M/s. KM Fasteners Private Limited, IEC- 3414006910 Survey No. 4/10/B, near Jairatna Building, Char Rasta, Madanzampa Road, Vadodara - 390001

1. यह अपील आदेश संबन्धित को नि:शुल्क 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, नवरंगपुरा, अहमदाबाद 380009"

"The Commissioner of Customs (Appeals), Mundra, 4TH 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 be accompanied by –

5. उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत 5/- रूपये 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 ड्यूटि/ 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, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE:-

M/s KM Fasteners Private Limited, IEC 3414006910, having address at Survey No. 4/10/B, near Jairatna Building, Char Rasta, Madanzampa Road, Vadodara - 390001, filed Bill of Entry No. 2684004 dated 23.07.2026 for home consumption. The goods, comprising nine items of machinery, machine tools, dies, feeders, accessories, steel bars and a long stand, were supplied by M/s Multi Thread Fasteners LLC, USA, under Invoice No. 125 dated 28.04.2026 for a declared FOB value of USD 10,456.86. The declared assessable value was Rs. 13,64,215, and the self-assessed duty was Rs. 3,78,365.

2. The invoice and the Bill of Entry did not disclose that the goods were old and used. During examination, the goods were found to bear signs of use and to be old and used. As the condition and value declared were therefore doubtful, a report from a Customs-empanelled Chartered Engineer was obtained for identification, condition and appraisement of the goods.

3. Chartered Engineer Shri Tushar Zankat inspected the consignment at Honeycomb CFS, Mundra on 30.07.2026 and issued Certificate of Inspection No. CE/TZ/MUN/JUL005/2026-27 dated 04.08.2026. The inspection was recorded as "100% visual & physical" in respect of the goods covered under Bill of Entry No. 2684004 dated 23.07.2026, contained in Container No. TRHU4346731. The original invoice relating to the goods was stated to be "NOT AVAILABLE". Against the column "Present condition of item and expected lifespan", the Chartered Engineer recorded as follows:

> "As per physical appearance and condition viewed visually, the present state of the items is USED & NOT RECONDITIONED recently, but preventive and periodic maintenance was done. Based on which, the residual life of the said items is estimated to be more than 10 years. With proper installation by qualified engineers, proper care and attention given towards prompt periodic maintenance and Servicing, the average residual life of the items will be enhanced accordingly."

3.1 The "CE OBSERVATION AND FINDINGS", as recorded in the report, are reproduced verbatim below:

(i) "Based on wear-tear, generation of technology and status of items, the current value of identical items in international market, in my considered opinion, the fair and reasonable value is (Refer Annexure)."

(ii) "The estimated value of such items (new) of identical type, if purchased in YOM may be (Refer Annexure)."

(iii) "The cargo checked fully & item machines along with their standard accessories consists of steel bar and long stand in semi knocked down condition, which can be used for fasteners industries. Hence they can be classified as capital goods."

(iv) "During inspection I have visually inspected and the items mentioned in the packing list are tallied."

(v) "The valuation for the items mentioned in the packing list was included in the valuation interpretation table."

(vi) "The consignment does not contain any E-waste and hazardous waste in it."

The item-wise valuation annexure forming part of the Chartered Engineer's report is reproduced below:

Table-A

S. No.	Description of items as per the Declaration	Specification Details Noticed	Qty in Units	Year of MFG	Cost of Item at the time of Manufacture in USD (Per Unit)	Evaluated FOB Value by CE in USD – Unit Price	Evaluated FOB Value by CE in USD – Total Price	Declared Invoice FOB Value in USD – Unit Price	Declared Invoice FOB Value in USD – Total Price	CE Remarks
1	THREAD ROLL MACHINE DIES	MAKE: REKOFA	52 PCS	*Around 4 years old	35	20	1,040	12.530769	651.6	USED AND NOT RECONDITIONED
2	CHAMFERING MACHINE AND ITS ACCESSORIES	MAKE: R.S ENG. WORKS	1 SET	*Around 4 years old	1200	700	700	450	450	USED AND NOT RECONDITIONED
3	ROUND BAR FEEDER MACHINE (3 SMALL FEEDER)	**ROUND BAR FEEDER	3 SET	*Around 4 years old	350	200	600	110	330	USED AND NOT RECONDITIONED
4	THREAD ROLL MACHINE AND ITS ACCESSORIES	MAKE: REKOFA	1 SET	*Around 4 years old	10,000	5,500	5,500	2500	2500	USED AND NOT RECONDITIONED
5	ANCHOR BOLT FEEDER MACHINE	**ANCHOR BOLT FEEDER	1 SET	*Around 4 years old	2500	1,500	1,500	780	780	USED AND NOT RECONDITIONED
6	THREAD ROLL MACHINE AND ITS ACCESSORIES & TOOLS	MAKE: REKOFA	1 SET	*Around 4 years old	12,000	7,000	7,000	4,959.96	4,959.96	USED AND NOT RECONDITIONED
7	HARDNESS TESTING MACHINE	MAKE: SAROJ; MODEL: RAS; S.NO: 13/01/198	1 SET	*Around 4 years old	300	200	200	120	120	USED AND NOT RECONDITIONED

8	STEEL BAR	**STEEL BAR	1430 KGS	*Around 4 years old	1	0.6	858	0.21	300.3	USED AND NOT RECONDITIONED
9	LONG STAND	**LONG STAND	1 NOS	*Around 4 years old	1,000	550	550	365	365	USED AND NOT RECONDITIONED
	TOTAL						**17,948**		**10,456.86**	

The notes appended below the aforesaid table read as follows:

"* The year of manufacture is not available on the item. Based on the present condition and collected information, the year of manufacture was ascertained."

"**During physical inspection, no plate is available on the items, based on the specification details available on various websites, design, dimension and the details collected from the documents provided to us, the subject items were confirmed."

Duty Calculations:-

Table-B

Item No.	Description	Declared FOB (USD)	CE FOB (USD)	Enhancement in AV (₹)	BCD @ 7.5% (₹)	SWS @ 10% of BCD (₹)	IGST @ 18% (₹)	Total duty: BCD + SWS + IGST (₹)
1	Thread roll machine dies	651.60	1040.00	36233.27	2717.50	271.75	7060.05	**10049.30**
2	Chamfering machine and accessories	450.00	700.00	22897.50	1717.31	171.73	4461.58	**6350.62**
3	Round bar feeder machine —3 small feeders	330.00	600.00	26894.98	2017.12	201.71	5240.49	**7459.32**
4	Thread roll machine and accessories	2500.00	5500.00	315029.50	23627.21	2362.72	61383.50	**87373.43**
5	Anchor bolt feeder machine	780.00	1500.00	73108.21	5483.12	548.31	14245.13	**20276.56**
6	Thread roll machine, accessories and tools	4959.96	7000.00	168968.08	12672.61	1267.26	32923.43	**46863.30**
7	Hardness testing machine	120.00	200.00	7660.38	574.53	57.45	1492.63	**2124.61**
8	Steel bar	300.30	858.00	60846.97	4563.52	456.35	11856.03	**16875.90**
9	Long stand	365.00	550.00	16499.91	1237.49	123.76	3215.01	**4576.26**
	Total	**10456.86**	**17948.00**	**728138.80**	**54610.41**	**5461.04**	**141877.85**	**201949.30**

4. Relevant Legal Provisions:

A. Under Customs Act, 1962:-

I. Section 2(15) —'duty' means a duty of customs leviable under this Act;

II. Section 12. Dutiable goods.—(1) Except as otherwise provided in this Act, or any other law for the time being in force, duties of customs shall be levied at such rates as may be specified under the 1[Customs Tariff Act, 1975 (51 of 1975)], or any other law for the time being in force, on goods imported into, or exported from, India.

(2) The provisions of sub-section (1) shall apply in respect of all goods belonging to Government as they apply in respect of goods not belonging to Government.

III. Section 17 Assessment of duty :

(1) An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.

(2) The proper officer may verify the entries made under section 46 or section 50 and the self assessment of goods referred to in sub-section (1) and for this purpose, examine or test any imported goods or export goods or such part thereof as may be necessary.

Provided …

(3) For the purposes of verification under sub-section (2), the proper officer may require the importer, exporter or any other person to produce any document or information, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and thereupon, the importer, exporter or such other person shall produce such document or furnish such information.

(4) Where it is found on verification, examination or testing of the goods or otherwise that the self- assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.

IV. Section 46. Entry of goods on importation. - (1) The importer of any goods, other than goods intended for transit or transhipment, shall make entry thereof by presenting electronically to the proper officer a bill of entry for home consumption or warehousing in the prescribed form:

Provided that the Principal Commissioner of Customs or Commissioner of Customs may, in cases where it is not feasible to make entry by presenting electronically, allow an entry to be presented in any other manner:

Provided further that] if the importer makes and subscribes to a declaration before the proper officer, to the effect that he is unable for want of full information to furnish all the particulars of the goods required under this sub-section, the proper officer may, pending the production of such information, permit him, previous to the entry thereof (a) to examine the goods in the presence of an officer of customs, or (b) to deposit the goods in a public warehouse appointed under section 57 without warehousing the same.

(2) Save as otherwise permitted by the proper officer, a bill of entry shall include all the goods mentioned in the bill of lading or other receipt given by the carrier to the consignor.

(3) The importer shall present the bill of entry under sub-section (1) before the end of the next day following the day (excluding holidays) on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing:

Provided that a bill of entry may be presented within thirty days of the expected arrival of the aircraft or vessel or vehicle by which the goods have been shipped for importation into

India:

Provided further that where the bill of entry is not presented within the time so specified and the proper officer is satisfied that there was no sufficient cause for such delay, the importer shall pay such charges for late presentation of the bill of entry 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, 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.

(5) If the proper officer is satisfied that the interests of revenue are not prejudicially affected and that there was no fraudulent intention, he may permit substitution of a bill of entry for home consumption for a bill of entry for warehousing or vice versa.

V. Section 111 - Confiscation of improperly imported goods etc.- The following goods brought from a place outside India shall be liable to confiscation: -

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

VI. Section 112 – 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 5[not exceeding the value of the goods or five thousand rupees], whichever is the greater;
ii. (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;

VII. Section 114AA: Penalty for use of false and incorrect material. –

If a person knowingly or intentionally makes, signs or uses, or causes to be

made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable for a penalty not exceeding five times the value of goods.

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

5.1 M/s KM Fasteners Private Limited filed Bill of Entry No. 2684004 dated 23.07.2026 for nine items of machinery, accessories, dies, feeders, steel bars and long stand, declaring an aggregate FOB value of USD 10,456.86, without declaring that the goods were old and used. During examination, the goods were found old and used; therefore, a Chartered Engineer's report was obtained for determining their condition and value;

5.2 The Chartered Engineer, vide Certificate No. CE/TZ/MUN/JUL005/2026-27 dated 04.08.2026, certified the goods as used and not reconditioned, approximately four years old, with residual life exceeding ten years, and appraised their aggregate FOB value at USD 17,948.00;

5.3 By not declaring the old and used condition, the importer failed to make a true and complete declaration as required under Sections 46(4) and 46(4A) of the Customs Act, 1962. Since the goods have not yet been granted clearance under Section 47, the incorrect self-assessment is liable to be rejected and the Bill of Entry reassessed under Section 17(4) by treating the description of all nine items as "OLD AND USED (NOT RECONDITIONED)";

5.4 In view of the material misdeclaration and the 71.64% (approx.) difference between the declared and CE-appraised FOB values, the declared value is liable to rejection under Rule 12 of the Customs Valuation Rules, 2007 and redetermination under Rule 9 at an assessable value of ₹20,92,354, as against the declared assessable value of ₹13,64,215. Consequently, differential customs duty of ₹2,01,949/- is payable.

5.5 Though the goods are freely importable as second-hand capital goods under Para 2.31(I)(d) of FTP 2023, they do not correspond with the declaration made in the Bill of Entry in respect of condition and value. The goods are, therefore, liable to confiscation under Section 111(m) of the Customs Act, 1962 and may be redeemed on payment of fine under Section 125 thereof;

5.6 The importer, by acts and omissions rendering the goods liable to confiscation, is liable to penalty under Section 112(a)(ii). Further, by knowingly using a Bill of Entry containing an incorrect declaration regarding the condition and value of the goods, the importer is also liable to penalty under Section 114AA of the Customs Act, 1962.

6. The following issues arise for consideration:

(i) Whether the self-assessment of Bill of Entry No. 2684004 dated 23.07.2026 is liable to be rejected and the goods reassessed under Section 17(4) by treating the description of all nine items as "OLD AND USED (NOT RECONDITIONED)";

(ii) Whether the declared value is liable to rejection under Rule 12 and redetermination under Rule 9 of the Customs Valuation Rules, 2007 at ₹20,92,353.60, with consequential differential duty of ₹2,01,949/-;

(iii) Whether the goods are liable to confiscation under Section 111(m) and redemption fine under Section 125 of the Customs Act, 1962;

(iv) Whether penalty is imposable upon the importer under Section 112(a)(ii) of the Customs Act, 1962; and

(v) Whether penalty is imposable upon the importer under Section 114AA of the Customs Act, 1962.

WAIVER OF PERSONAL HEARING AND SCN

7. By letter dated 07.08.2026, the importer accepted the enhanced value determined in the Chartered Engineer's report and undertook to pay the differential customs duty, fine and penalty. The importer stated that non-mention of the old and used condition arose from lack of awareness, requested a lenient view, and expressly waived issuance of a show cause notice and the opportunity of personal hearing. Since the importer knew and accepted the grounds, the CE findings, and the proposed consequences, the matter is taken up for decision on the available record in terms of the written waiver. The waiver is voluntary and is confined to the present consignment.

DISCUSSION AND FINDINGS

8. I have carefully gone through Bill of Entry No. 2684004 dated 23.07.2026, Invoice No. 125 dated 28.04.2026, the examination findings, Chartered Engineer Certificate No. CE/TZ/MUN/JUL005/2026-27 dated 04.08.2026, the item-wise valuation and duty calculations, and the importer's letter dated 07.08.2026. The issues framed in paragraph 6 are decided below.

8.1 The importer has expressly accepted the CE-appraised value and the consequential differential duty, fine and penalty, and has waived written show cause notice and personal hearing. Nevertheless, acceptance cannot replace the statutory examination of description, valuation and liability; the conclusions below are therefore based independently on the material on record.

Issue No. (i): Description, self-assessment and amendment

9. Under Sections 17(1), 46(4) and 46(4A) of the Customs Act, 1962, the importer was required to make a correct self-assessment and a true and complete declaration. Neither the Invoice nor the Bill of Entry disclosed that any of the nine items was old and used. Physical examination showed visible signs of use. The Customs-empanelled Chartered Engineer thereafter inspected the entire consignment and certified the goods to be used and not reconditioned, approximately four years old, with residual life exceeding ten years. The CE also recorded that the original purchase invoices and catalogues were unavailable. The importer has not disputed these findings.

9.1 The condition of the goods as "old and used" is a material particular having a direct bearing on their description and valuation. Upon verification of the entries and examination of the goods under Section 17(2) of the Customs Act, 1962, read with the Chartered Engineer's report, all nine items were found to be old and used and not reconditioned, contrary to the declaration made in the Bill of Entry. Consequently, the self-assessment made by the importer under Section 17(1) is incorrect and the goods are liable to re-assessment under Section 17(4), by adopting the description of each item as "OLD AND USED (NOT RECONDITIONED)", with consequential re-determination of assessable value and duty.

9.2 The CE has treated the machines together with their standard accessories, steel bars and long stand as capital goods for the fasteners industry. They fall under the residuary category of second-hand capital goods in Para 2.31(I)(d) of FTP 2023 and are freely importable. The CE has also certified that the consignment contains no e-waste or hazardous waste. Hence, no violation of an import prohibition is established and confiscation under Section 111(d) is not attracted.

Issue No. (ii): Rejection and re-determination of value

10. Under Section 14 read with Rules 3 and 12 of the Customs Valuation Rules, 2007, the declared transaction value may be rejected where its truth or accuracy is reasonably

doubted. In the present case, the old and used condition of the goods was not declared, original purchase/cost records were unavailable, and the CE-appraised FOB value of USD 17,948.00 exceeded the declared FOB value of USD 10,456.86 by approximately 71.64%. The importer did not produce evidence dispelling this doubt and, by letter dated 07.08.2026, accepted the CE valuation. The declared value is therefore rejected under Rule 12.

10.1 As required by Rule 12, the subsequent valuation methods have been examined sequentially:

- **Rule 4:** Inapplicable, as no contemporaneous transaction value of identical old and used goods of matching make, model, age and condition is available.
- **Rule 5:** Inapplicable, as no reliable value of similar goods matching the specifications, condition and residual life is available.
- **Rules 6 and 7:** Inapplicable, as the goods were imported for industrial use and no Indian sale data of the imported, identical or similar goods in the condition as imported is available.
- **Rule 8:** Inapplicable, as verified manufacturer's cost, fabrication, profit and general-expense data are unavailable; moreover, used machinery is not manufactured in its imported condition.
- **Rule 9:** Consequently applicable. The CE's item-wise appraisal, based on physical inspection, age, condition, wear and tear, residual life and international-market information, constitutes reasonable data available in India. This approach is also consistent with CBIC Circular No. 07/2020-Customs dated 05.02.2020.

Accordingly, the FOB value is re-determined under Rule 9 at USD 17,948.00.

Table-C

Particular	**As declared**	**As redetermined**	**Difference**
FOB value (USD)	10,456.86	17,948.00	7,491.14
Assessable value (Rs.)	13,64,214.80	20,92,353.60	7,28,138.80
BCD @ 7.5% (Rs.)	1,02,316.11	1,56,926.52	54,610.41
SWS @ 10% of BCD (Rs.)	10,231.61	15,692.65	5,461.04
IGST @ 18% (Rs.)	2,65,817.25	4,07,695.10	1,41,877.85
Total duty (Rs.)	**3,78,364.97**	**5,80,314.27**	**2,01,949.30**

10.2 Applying the notified exchange rate of ₹97.20 per USD and retaining the documented additions of freight of USD 3,000, EX-WORKS/ Misc. charges of USD 565 and insurance of ₹1,290, the assessable value is determined as follows:

[(USD 17,948 + USD 3,000 + USD 565) × ₹97.20] + ₹1,290
= ₹20,92,353.60.

The consequential differential duty is **₹2,01,949/- (Rupees Two Lakh One Thousand Nine Hundred and Forty-Nine only).**

Issue No. (iii): Confiscation and redemption fine

11. Section 111(m) applies where imported goods do not correspond in respect of value

or any other particular with the entry made under the Act. Here, all nine items were entered without disclosing their old and used condition, and their value has been validly re-determined on the material discussed above. The mismatch concerns both condition and value and is material. I therefore hold the goods liable to confiscation under Section 111(m). As already found, Section 111(d) is not attracted because the goods are freely importable second-hand capital goods.

11.1 Since the goods are not prohibited, Section 125(1) mandates an option to redeem them. In fixing the fine, I take into account the re-determined assessable value of ₹20,92,353.60, the value enhancement of ₹7,28,138.80, the material non-declaration, and the need for deterrence. I also take into account that the goods are freely importable, contain no e-waste or hazardous waste, remain available before clearance, and that the importer accepted the CE value and waived notice and hearing. I consider it appropriate to allow redemption of the confiscated goods on payment of redemption fine under section 125(1) of Customs Act, 1962.

Issue No. (iv): Penalty under Section 112(a)(ii)

12. By filing and subscribing to a Bill of Entry which omitted the old and used condition and carried an incorrect self-assessment, the importer committed acts and omissions that rendered the goods liable to confiscation under Section 111(m). As the goods are dutiable goods and no prohibition has been established, Penalty is attracted under clause (ii) of Section 112(a) of the Customs Act, 1962.

Issue No. (v): Penalty under Section 114AA

13. Section 114AA applies where a person knowingly or intentionally makes, signs or uses a declaration, statement or document which is false or incorrect in any material particular. In the present case, the importer was aware of the factual condition of the machinery purchased and imported; nevertheless, the Bill of Entry was filed without disclosing that the goods were old and used, and the importer subscribed to the declaration regarding the truth and completeness of its contents. Lack of awareness of the legal consequences does not negate knowledge of the factual condition of the goods. I therefore hold that the ingredients of Section 114AA of the Customs Act, 1962 are satisfied and the importer is liable to penalty thereunder.

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

ORDER

(i) I reject the self-assessment of Bill of Entry No. 2684004 dated 23.07.2026 and order re-assessment of the goods under Section 17(4) of the Customs Act, 1962, by adopting the description of each of the nine items as “OLD AND USED (NOT RECONDITIONED)”;

(ii) I reject the declared transaction value under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and re-determine the assessable value of the goods under Rule 9 thereof at ₹20,92,354 (Rupees Twenty Lakh Ninety Two Thousand Three Hundred Fifty Four only). Consequently, I re-assess the total customs duty at ₹5,80,314.27 and order payment of differential customs duty amounting to ₹2,01,949/- (Rupees Two Lakh One Thousand Nine Hundred Forty-Nine only) as detailed in Table-B above;

(iii) I order confiscation of the aforesaid goods having a re-determined assessable value of ₹20,92,354 (Rupees Twenty Lakh Ninety Two Thousand Three Hundred Fifty Four Only) under Section 111(m) of the Customs Act, 1962. However, under Section 125(1) of the Customs Act, 1962, I give the importer an

option to redeem the confiscated goods on payment of a redemption fine of ₹ 2,00,000/- (Rupees Two Lakh only). The redemption fine shall be in addition to the duty and other charges payable in terms of Section 125(2) of the Customs Act, 1962;

(iv) I impose a penalty of ₹ 20,000/- (Rupees Twenty Thousand only) upon M/s KM Fasteners Private Limited under Section 112(a)(ii) of the Customs Act, 1962; and

(v) I impose a penalty of ₹ 25,000/- (Rupees Twenty Five Thousand only) upon M/s KM Fasteners Private Limited under Section 114AA of the Customs Act, 1962.

15. This order is issued without prejudice to any other action which may be contemplated against the importer or any other person 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.

Digitally signed by Dipakbhai Zala
Date: 27-08-2026 15:39:29

(Dipak Zala)
ADDITIONAL COMMISSIONER
(IMPORT)
CUSTOMS HOUSE, MUNDRA

To

M/s KM Fasteners Private Limited,
Survey No. 4/10/B, near Jairatna Building,
Char Rasta, Madanzampa Road,
Vadodara - 390001.

Copy to

(1) The Deputy/Assistant Commissioner (RRA), Custom House, Mundra
(2) The Deputy/Assistant Commissioner (TRC), Custom House, Mundra
(3) The Deputy/Assistant Commissioner (EDI), Custom House, Mundra
(4) Guard File.