



प्रधान आयुक्त का कार्यालय, सीमा शुल्क ,अहमदाबाद

“सीमाशुल्क भवन ,”पहली मंजिल ,पुराने हाईकोर्ट के सामने ,नवरंगपुरा ,अहमदाबाद – 380 009.

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DIN: 20250971MN000000F9F0

PREAMBLE

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|------|--|---|--|
| A | फ़ाइल संख्या/ File No. | : | GEN/INV/Misc/158/2025-ICD-SNND-CUS-Commrte-Ahmedabad |
| B | कारण बताओ नोटिस संख्या-तारीख / Show Cause Notice No. and Date | : | The importer has requested for waiver of SCN & PH |
| C | मूल आदेश संख्या/ Order-In-Original No. | : | 128/ADC/SR/O&A/2025-26 |
| D | आदेश तिथि/ Date of Order-In-Original | : | 16.09.2025 |
| E | जारी करनेकी तारीख/ Date of Issue | : | 16.09.2025 |
| F | द्वारापारित/ Passed By | : | Shravan Ram, Additional Commissioner, Customs Ahmedabad. |
| G | आयातक का नाम औरपता / Name and Address of Importer / Passenger | : | M/S. Neelkanth Impex (IEC No. 0807010758) 25, Rajsuya Bungalows, Near Ramdevn, Satellite, Ahmedabad-380015 |
| (1) | यह प्रति उन व्यक्तियों के उपयोग के लिए निःशुल्क प्रदान की जाती है जिन्हें यह जारी की गयी है। | | |
| (2) | कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्ति की तारीख के 60 दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क(अपील), चौथी मंजिल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है। | | |
| (3) | अपील के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए और इसके साथ होना चाहिए: | | |
| (i) | अपील की एक प्रति और; | | |
| (ii) | इस प्रति या इस आदेश की कोई प्रति के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए। | | |
| (4) | इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को 7.5 % (अधिकतम 10 करोड़) शुल्क अदा करना होगा जहां शुल्क या इयूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने में असफल रहने पर सीमा शुल्क अधिनियम, 1962 की धारा 129 के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा। | | |

Brief Facts of the Case

M/s. Neelkanth Impex (IEC No. 0807010758), 25, Rajsuya Bungalows, Near Ramdevn, Satellite, Ahmedabad-380015 (hereinafter also referred to as “the Importer”) had filed Bills of Entry No. 9144601 dated 27.03.2025 and 9163964 dated 28.03.2025 at Customs, ICD, Sanand through Customs Broker M/s. Guru Prakash Enterprise (Customs Broker Code-AIPPM9858DCH002) (hereinafter also referred to Customs Broker) seeking clearance of goods detailed in table-1 below **(hereinafter referred to as “the import consignments”)** which were imported under Invoice and Bill of Lading mentioned against respective Bill of Entry.:-

Table-1:
Details of the goods sought clearance under B/Es 9144601 dated 27.03.2025 and 9163964 dated 28.03.2025

| B/E | Item Sr. No. | Item Description | CTH | Quantity (MT) | CIF value Rs. | Invoice and BL |
|---|--------------|---|----------|---------------|---------------|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 9144601 dt 27.03.2025 | 1 | Aluminium Scrap Taint Tabor As Per ISRI for melting | 76020010 | 7.513 | 1014793.32 | 32496 dated 29.01.2025 / 249337810 dated 09.02.2025 |
| | 2 | Heavy Melting Scrap for melting | 72044900 | 8.263 | 291790.08 | |
| | 3 | Stainless Steel Scrap Grade 31 6 for melting | 72042190 | 9.634 | 1428855.02 | |
| | 4 | Stainless Steel Scrap Grade 410 for melting | 72042190 | 13.308 | 939886.82 | |
| | 5 | Stainless Steel Scrap Grade 2507 for melting | 72042190 | 2.985 | 447989.41 | |
| Sub Total for BE 9144601 dt 27.03.2025 | | | | 41.703 | 4123314.65 | |
| 9163964 dated 28.03.2025 | 1 | Heavy Melting Scrap for melting | 72044900 | 5.071 | 129826.81 | 25-1000 dt 18.02.2025/ 249811059 dt 09.02.2025 |
| | 2 | Stainless Steel Scrap Grade 316 for melting | 72042190 | 25.908 | 3399942.56 | |
| | 3 | Aluminium Scrap Taint Tabor As Per ISRI for melting | 76020010 | 2.291 | 293470.97 | |
| | 4 | Stainless Steel Turning Scrap Grade 304 for melting | 72042190 | 1.838 | 192281.12 | |
| | 5 | Aluminium Scrap TELIC As Per ISRI for melting | 76020010 | 0.549 | 70276.99 | |
| | 6 | Stainless Steel Turning Scrap Grade 430 for melting | 72042190 | 4.988 | 191552.79 | |
| Sub Total for BE 9163964 dated 28.03.2025 | | | | 40.645 | 4277351.24 | |
| Grand Total for both B/Es | | | | | 8400665.89 | |

2. The ICES system marked the consignments covered under the above 02 Bills of Entry for 100% examination. As the goods, on visual appearance, appeared to be different from description declared in the Bills of Entry, the consignments covered

under the 02 Bills of Entry were examined by officers of Customs in presence of independent Panchas and authorized persons of Customs Broker under Panchanama dated 16.04.2025. As per Panchanama, the consignment, in addition to Aluminium and iron & steel scrap, was found to include several electrical items viz Battery Chargers / Engine Starters / Portable power for Jump Starters / Smart Chargers of different brands in mixed condition. As such, the consignments were detained for proper inventorization of the goods and ascertaining its value.

3. The metal scrap in the two consignments was segregated category wise and electrical items were separated from the scrap. The consignments were then inspected by empanelled Chartered Engineer, Shri Bhasker G. Bhatt of B. G. Bhatt & Co. on 28-Apr-2025 and on 9-May-2025. Based on the Inspection, he gave his opinion separately for the consignments of Bills of Entry No. 9144601 dated 27.03.2025 and 9163964 dated 28.03.2025 vide common Ref: BB/E-09.1/25/NI/ICD-THAR dated 27.05.2025 (**herein after collectively referred to as “the CE-Reports-BG”**). In his opinion, Shri Bhasker Bhatt, inter alia, stated that the communication cables in the consignments were brittle and hard for particular application and that the same has been considered as melting scrap. The reports also mentioned that electrical items for house hold / commercial application need BIS registration of corresponding products. The value of metal scrap and electrical items in the import consignments, reported in CE-Reports-BG, is summarized in Table-2 below.

Table-2
Value of goods as per CE Certificate of Shri Bhasker G Bhatt

| BE No. | DATE | VALUATION OF SCRAP (Rs.) | VALUATION OF ELECTRICAL ITEMS FOUND CONCEALED (Rs.) | TOTAL VALUE | TOTAL CIF VALUE |
|--------------|------------|--------------------------|---|-----------------|----------------------|
| 9163964 | 28.03.2025 | 4179867 | 14095294 | 18275161 | 19389330 |
| 9144601 | 27.03.2025 | 4123226 | 10688954 | 14812181 | 16128675 |
| TOTAL | | 8303093 | 24784248 | 33087342 | 3,55,18,005/- |

4. As the imported goods sought clearance under Bills of Entry No. 9144601 dated 27.03.2025 and 9163964 dated 28.03.2025 were found to be mis-declared with respect to their value and description, both the consignments were placed under seizure vide seizure memo dated 06.06.2025 under Section 110 of Customs Act 1962 on the reasonable belief that the same are liable for confiscation as per provisions of Section 111 of Customs Act 1962.

5. The Importer M/s. Neelkanth Impex vide letter dated 29.04.2025 approached the jurisdictional Customs Officer and requested, inter alia, for release of cargo informing that they had contracted their respective suppliers for specific cargo; that the other type of items (battery jump starter) found in the cargo were not part of their contract or requirements; that there might be an error on the supplier's part; that they have discussed with suppliers and that they were ready to demolish / mutilate the

electrical items. The Importer also requested for waiver of SCN and Personal hearing in the matter. With their letter dated 29.04.2025, the Importer also submitted letter dated 28.04.2025 from M/s. Gold Star Metals, LLC, USA who supplied goods covered under B/E No. 9144601-27.03.2025 and letter dated 29.04.2025 from M/s. RAI Metal LLC, USA, who supplied goods covered under B/E No. 9163964 dated 28.03.2025. Both the suppliers in their respective letters mentioned that the material destined to other party was incorrectly loaded in the consignment shipped to M/s. Neelkanth Impex; that it was a genuine loading error; that the Consignee was not responsible for mistake which was committed by their loading team.

6. Again vide letter dated 20.06.2025, M/s. Neelkanth Impex, requested for provisional release of the cargo and permission to re-export electrical items claiming that the said items were loaded mistakenly by their supplier. They also requested for waiver of SCN in the matter. However, thereafter, the Importer vide another letter dated 10.07.2025, stated that the valuation opined in CE-Reports-BG (i.e. by Shri Bhasker Bhatt in his report dated 27.05.2025) was not acceptable to them, inter alia, stating that the value of electrical items mentioned in the CE- Certificate-BG was too high and that any goods in the consignment are scrap for them. The Importer requested for natural justice by allowing re-examination of the cargo and second opinion of value by another empaneled Chartered Engineer. The request of the Importer was acceded to by the competent authority and second opinion on valuation of the cargo of Bills of Entry No. 9144601 dated 27.03.2025 and 9163964 dated 28.03.2025 was allowed as per Public Notice No. 11/2023 dated 13.04.2023 of Customs Ahmedabad Commissionerate.

7. Accordingly, the import consignments were inspected by Shri Atanu Kundu, Chartered Engineer on 22.07.2025. He provided his opinion vide report Ref. No. AK/14/2025-26/IMP/ICD-Sanand dated 05.08.2025 in respect of goods of B/E No. 9163964 dated 28.03.2025 and report Ref. No. AK/14/2025-26/IMP/ICD-Sanand dated 05.08.2025 in respect of goods of B/E No. 9144601 dated 27.03.2025 (**herein after collectively referred to as “the CE-Reports-AK”**). Shri Atanu Kundu in his reports, inter alia, opined that the metal scrap in the consignments included iron and steel scrap such as HMS, SS-316, SS-304, SS-430 and Aluminum scrap covered by ISRI codes Taint /Tabor & Telic; that cables, available in coil form in consignments, have rigid PVC covering and are not suitable for reuse; that nature / grade of scrap were matched with invoice & packing list; that the declared value per metric ton for different grade of scrap in the invoice seems to be fair in price and the same has been ascertained by net surfing through various websites; that some of the electrical items such as battery charger illumination, Jump starter, which were not enlisted in the invoices, are new and some of them may be old & used; that as per the BIS norms, electrical items for house hold /commercial application need BIS registration of corresponding products; that looking into the condition of all electrical goods, overall 35% allowance may be considered in valuation for old & used, loss of original packing or warranty or

serviceability; that net estimated value of these electrical goods have been tabulated after considering various website of the public domain such as indiamart.com, exportersindia.com, shop.advanceautoparts.com etc. The value of metal scrap and electrical items in the import consignments, opined in CE-Reports-AK, is summarized in Table-3 below.

Table-3
Value of goods as per CE Certificate of Shri Atanu Kundu

| BE No. | DATE | VALUATION OF SCRAP (Rs.) | VALUATION OF ELECTRICAL ITEMS FOUND CONCEALED (Rs.) | TOTAL VALUE (C+D) | TOTAL CIF VALUE |
|--------------|------------|--------------------------|---|-------------------|----------------------|
| 9163964 | 28.03.2025 | 4257461 | 7370057 | 11627518 | 12641149 |
| 9144601 | 27.03.2025 | 4396089 | 7012558 | 11408647 | 12419815 |
| TOTAL | | 8653551 | 14382615 | 23036165 | 2,50,60,964/- |

8. As the examination of goods by officers in presence of independent Panchas as well as reports of both the Chartered Engineers issued after conducting inspection of the import consignments have revealed presence of large quantity of electrical items which were not declared in the respective Invoices, necessary investigation was conducted wherein statements of Shri Ketan Prajapati, Partner of M/s. Neelkanth Impex, that of Mr. Apurva Thakkar who acted as indenting agent in respect of the consignments, have been recorded under provisions of Section 108 of Customs Act 1962. The relevant brief of these statements is as under.

(i) In his **statement dated 01.07.2025, Shri Ketan Prajapati**, Partner of M/s. Neelkanth Impex, inter alia, stated that M/s. Neelkanth Impex is mainly engaged in trading of metal scrap; that one Mr. Apurva Thakkar had acted as indenter in respect of the two import consignments and negotiated on behalf of them with overseas suppliers; that all the documents regarding the said consignments were received by Mr. Apurva Thakkar on his email.

(ii) In his further **statement recorded on 22.07.2025, Shri Ketan Prajapati**, inter alia, stated that in the cases of their import of scrap consignments through indenter Shri Apurva Thakkar, Director of M/s. Echelon Metals Pvt. Limited, the documents are sent by him directly to Customs Broker Ms. Guruprakash Enterprise from their e-mail id sales@echelonmetals.in with a copy marked to their email ID. He was shown photographs of two import consignments uploaded by PSIA M/s. SOLITARY CONSULTANT PVT. LTD on the portal of DGFT. On being asked, he stated that M/s. Neelkanth Impex had not received the photographs either from overseas supplier or from their indenter Shri Apurva Thakkar. In respect of electrical items found in the import consignments he stated that they were dealing in the trading of scrap items only and that they had not placed any order for import of electrical items with the supplier; that their supplier had incorrectly loaded those electrical items in the their shipment;

that they have already submitted letters dated 28.04.2025/ 29.04.2025 received from suppliers informing the same.

(iii) In his **statement dated 31.07.2025, Shri Apurva Thakkar**, Director of M/s. Echelon Metals Pvt. Limited, inter alia, stated that M/s. Echelon Metals Pvt. Limited is registered with GST department with GST registration No. 24AACCE4143K2ZS for its godown premises in Gujarat; that M/s. Echelon Metals Pvt. Limited is engaged in local trading as well as import (IEC No. 0311008763) of various types ferrous and nonferrous metal scraps. They have been importing scraps from US, European Countries and far East countries like Singapore, Malaysia etc. Our local procurement of scrap mainly comes from auctions conducted on MSTC Pvt. Ltd. and other small scale local traders; that their major buyers of scrap are M/s. Rajputana Stainless, Baroda and M/s, Mahesh Metal Alloys, Ahmedabad; that they import scrap in M/s. Echelon Metals Pvt. Limited through Nhava Sheva Port, Mundra Port, ICD-Sanand, ICD-Khodiyar etc. With respect to PSIC and photographs in respect of the two import consignments covered under Bills of Entry No. 9144601 dated 27.03.2025 and 9163964 dated 28.03.2025, he stated that they had received the PSICs from their overseas suppliers on their company e-mail id and forwarded the same to Customs Broker for filing Bill of Entry, however, they had not received any photographs from the suppliers nor they had asked for the same as it was not felt necessary. On being shown CE report (CE-Reports-BG) he agreed with the valuation of scrap items, he showed his inability to comment regarding applicability of BIS norms to electrical items and their value as he was dealing in the trading and indenting of scrap items only and that he had not negotiated for import of electrical items with overseas suppliers of the two consignments. He further stated that Overseas suppliers had incorrectly loaded these electrical goods in their shipment due to genuine mistake on the part of their loading team; that till date M/s. Neelkanth Impex have till date not made any payment towards the consignments to overseas suppliers; that on detection of the electrical goods in the consignments he brought the fact to the knowledge of suppliers and informed them that the payment towards these consignments would be made only after the issue is resolved from Customs angle.

Defence Submissions and Personal Hearing:

9. As discussed in above paras, M/s. Neelkanth Impex vide letter dated 29.04.2025 has stated that the other type of items (battery jump starter) found in the cargo was not part of their contract or requirements and submitted letters from suppliers who informed that it was due to error in loading at their end that goods other than metal scrap got loaded in the shipment sent to the M/s. Neelkanth Impex. The Importer also requested for waiver of SCN and Personal Hearing in the matter. Further vide letter dated 20.06.2025 the Importer requested for provisional release of the cargo and permission to re-export the electrical items claiming that the said items were loaded mistakenly by their suppliers. They also repeated the request of waiver of SCN.

Thereafter, vide letter dated 10.07.2025, the Importer requested for allowing re-examination of the cargo and second opinion of value by another Chartered Engineer on Ahmedabad Customs Panel in the interest of natural justice.

Discussion and Findings:

10.(i) I have carefully studied all the case records including the submissions made by the Importers vide letters dated 29.04.2025, 20.06.2025 and dated 10.07.2025. I find that that M/s. Neelkanth Impex have imported two consignments under Invoice No. 32496 dated 29.01.2025 and Invoice No. 25-1000 dated 18.02.2025 seeking their clearance as “metal scrap” under Bills of Entry No. 9144601 dated 27.03.2025 and 9163964 dated 28.03.2025 as per details mentioned in Table-1 above. Upon examination and inspection by two governmental empanelled Chartered Engineers, the consignment has been found to contain large number of electrical items in addition to metal scrap which reportedly also require BIS registration before import into India. The Importer also agrees with the fact of presence of electrical items in the two import consignments. Therefore, the goods covered in two Bills of Entry do not correspond to their declarations made in the respective Bills of Entry with respect to their description, quantity and value. Now the importer has requested for release of metal scrap and for re-export of the electrical goods back to country of origin claiming that said items were not contracted for import by them and that suppliers have mistakenly loaded said goods in their consignments. Therefore, in the present matter, for the purpose of considering request of the re-export of electrical items, it is has also to be ascertained if:-

- (a) The goods are imported properly as per provisions of Section 111 of Customs Act 1962; and if not, whether imported goods are liable for confiscation under Customs Act 1962.
- (b) The value of the goods declared in the import documents is correct. If not, the correct value of the goods would have to be ascertained.
- (c) M/s. Neelkanth Impex or other persons are liable for penalty under Customs Act 1962.

11. Whether the goods are imported properly.

As per Section 2 (23) of Customs Act 1962, “import”, with its grammatical variations and cognate expressions, means bringing into India from a place outside India. In the present case the containers have arrived in the premises of ICD Sanand and Bills of Entry No. 9144601 dated 27.03.2025 and 9163964 dated 28.03.2025 were filed seeking clearance of the goods (details as per Table-1 above). Therefore, the goods stand imported into India. I find that the import consignments were first examined under Panchanama dated 16.04.2025 and then got inspected by two empaneled Chartered Engineers. The Panchanama and reports of the Chartered Engineers have revealed that a large number of electrical items viz Battery Chargers / Engine Starters / Portable

power for Jump Starters / Smart Chargers were found in both the import consignments, in addition to the metal scrap. Therefore, it is clear that the goods are not imported properly.

12. Ascertaining correct value of the import goods:

(a) Section 14 of Customs Act 1962 provides that the value of imported goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, read with Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (hereinafter referred to as “the Rules 2007”). The value of the goods imported and sought clearance under Bills of Entry No. 9144601 dated 27.03.2025 and 9163964 dated 28.03.2025 is liable to be rejected as per Rule 12 of the Rules 2007, as the goods have been found to be mis-declared with regard to description, quality and quantity etc. The consignments covered under the two Bills of Entry include scrap of iron & Steel and Aluminum of different ISRI codes and various types of electrical items viz Battery Chargers / Engine Starters / Portable power for Jump Starters / Smart Chargers some which are new with damaged packing and others are old and used. Therefore, it is not possible to ascertain value of goods in terms of Rule 4 to Rule 8 of the Rules 2007 as import data of all such items is not readily available. Therefore, value has to be determined using reasonable means consistent with the principles and general provisions of the Rules 2007 and on the basis of data available in India as provided in Rule 9.

(b) I find that goods were inspected by two empaneled Chartered Engineers. The value of Metal scrap and electrical goods have been determined by both the CEs separately in their respective reports and the same is summarized, collectively for both consignments, as under.

Table-4
Value of goods declared and as ascertained by Chartered Engineers

| | CIF Value of Metal Scrap Rs. | FOB value of Electrical Items found in concealed Rs. | CIF Value of Electrical Items Rs. | TOTAL CIF VALUE (Metal Scrap + Electrical Items) Rs. |
|--|------------------------------|--|-----------------------------------|--|
| 1 | 2 | 3 | 4 | 5 =(2+4) |
| Value of both consignments as declared in B/Es | 84,00,666/- | Not declared in B/Es | Not declared in B/Es | 84,00,666/- |
| Value of both consignments as determined by Chartered Engineer Bhasker G Bhatt | 83,03,093/- | 2,47,84,248/- | 2,72,14,912/- | 3,55,18,005/- |
| Value of both consignments as determined by Chartered Engineer Atanu Kundu | 86,53,551/- | 1,43,82,615/- | 1,64,07,413/- | 2,50,60,964/- |

Both the Chartered Engineers have first determined the value of metal scrap in CIF terms but in case of electrical items, first FOB value is determined than flat transportation cost of USD 10,000 and Insurance at 1.125% has been added to FOB value to arrive at CIF value of electrical items. The variation in value of the metal scrap as declared by the Importer in Bills of Entry and that determined by both the Chartered Engineers is not very large. However, the variation in values of electrical items ascertained by them is very large.

(c) I find that Shri Bhasker G Bhatt has determined the value of electrical items, collectively for both consignments, as Rs. 2,47,84,248/- (FOB), the value of the same items has been, collectively, determined by Shri Atanu Kundu as Rs. 1,43,82,615/- (FOB). Both the Chartered Engineers have factored in, a discount of 35% on account of the goods being old and used and new ones with damaged original packings. However, I find that while CE Atanu Kundu has relied on sources viz, Indiamart.com, exportersindia.com which deal in commercial quantities, Shri Bhasker G Bhatt, has based value of these items, on the prices ascertained from websites viz www.desertcart.in, www.ebay.com, www.walmart.com, www.amazon.com etc. I find these websites list their prices as final market prices for delivery to retail individual purchasers. Clicking on the links available in CE-Reports-BG leads to the webpage of listed electrical item. In most of the cases, the prices are listed in rupee terms. These prices involve costs of taxes, transportation to the home of individual buyer, profit margin of wholesaler and retailer etc. Additionally, the prices in case of websites viz ubuy, desertcart etc involve transportation costs for single item from foreign country to individual buyer in India. If the value towards individualized transportation cost, profit margin for wholesaler and retailer, taxes is discounted from the value ascertained by Shri Bhaker G Bhatt, the value of electrical items would come near to value of these items ascertained by Shri Atanu Kundu in his reports i.e. CE-Reports-AK. Therefore, I would tend to prefer reports of Chartered Engineer Atanu Kundu i.e. CE-Reprot-AK for ascertaining value of the import consignments in terms of Rule 9 of the Rules 2007. Accordingly, I determine the CIF value of metal scrap of both consignments as Rs. 86,53,551/- and CIF value of electrical items of both consignments as Rs. 1,64,07,413/-, as appropriate on the basis of report of Chartered Engineer Shri Atanu Kundu.

13. Whether goods are liable for confiscation

(a) I find that examination under Panchanama dated 16.04.2025 and Report of Chartered Engineer as discussed at Para 12, above has revealed that the goods covered in two Bills of Entry do not correspond to their declarations made in the respective Bills of Entry with respect to their description, quantity and value and, thus collectively, all goods valued at Rs. 2,50,60,964/-including metal scrap and electrical items covered under Bills of Entry No. 9144601 dated 27.03.2025 and 9163964 dated 28.03.2025 are

liable for confiscation under Section 111 (m) of Customs Act 1962. Further, the electrical items valued at Rs. 1,64,07,413/- have been imported without being declared in the IGM and Bill of Entry and thus are liable for confiscation under Section 111 (l) of Customs Act 1962. Further, the metal scrap valued at Rs. Rs. 86,53,551/- has been used for importing electrically items in concealed manner and thus is liable for confiscation under Section 119 of Customs Act 1962.

(b) Electronics and Information Technology Goods (Requirement of Compulsory Registration) Order, 2021 provide for compulsory BIS registration of secondary cells /batteries and power adapters / chargers for importation into India. I find that Jump starters essentially are portable battery packs. Further, for importing Batteries / Battery Packs, Importer needs to take Extended Producer Responsibility (EPR) registration as per provisions of Battery Waste Management Rules, 2022. Similarly for importing Power Adapter / Chargers, EPR Registration in terms of E-Waste (Management) Rules, 2022 is required for Importer. The importer has not produced any BIS registration or EPR registration document in respect of these electrical items. As such, the goods other than metals scrap viz Battery Chargers / Engine Starters / Portable power for Jump Starters / Smart Chargers having collective value Rs. 1,64,07,413/- imported with the two import consignments are liable for confiscation under Section 111 (d) of Customs Act 1962 for having been imported in contravention of provisions of Information Technology Goods (Requirement of Compulsory Registration) Order, 2021, Battery Waste Management Rules, 2022 and that of E-Waste (Management) Rules, 2022.

14. Considering permission for re-export of electrical items.

As discussed above at Para 13 (b) above, BIS registration is required to be obtained in respect of electrical items viz secondary cells /batteries and power adapters / chargers in terms of provisions of Electronics and Information Technology Goods (Requirement of Compulsory Registration) Order, 2021 before importing said items into India. Similarly, for importing Batteries / Battery Packs, Importer of such goods needs to take Extended Producer Responsibility (EPR) registration as per provisions of Battery Waste Management Rules, 2022. Further, Section 2 (33) of Customs Act 1962 defines "prohibited goods" as *any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with*. Since neither BIS registration has been taken in respect of the subject electrical items nor has the Importer obtained EPR Registration, these electrical items are prohibited goods for import into India. As such, these electrical items can't be allowed to be cleared into Indian domestic market. The Importer M/s. Neelkanth Impex vide letter dated 29.04.2025 and then again vide letter dated 20.06.2025 has requested for release of metal scrap and re-export of electrical items which have been imported in the two

import consignments of metal scrap. I find that various provisions of Customs Act 1962 and that of Information Technology Goods (Requirement of Compulsory Registration) Order, 2021 and Battery Waste Management Rules, 2022 have been contravened in the process of improper import of these electrical items. However, there is no bar on re-export of the subject electrical items back to country of origin under provisions of Customs Act 1962. Therefore the electrical items imported improperly along with consignments covered under Bills of Entry No. 9144601 dated 27.03.2025 and 9163964 dated 28.03.2025 can be allowed to be re-exported subject to imposition of redemption fine and penalty for contraventions of above mentioned provisions of Customs Act 1962 and other allied Acts.

15. Whether M/s. Neelkanth Impex or other persons are liable for penalty under Customs Act 1962.

(a) Section 112 provides that a person is liable to penalty if due his act or due to his omission of act, in respect of any goods, such goods are rendered liable for confiscation under provisions of Section 111 of Customs Act 1962. In the present case, Shri Ketan Prajapati partner of M/s. Neelkanth Impex has stated in his statement that goods sought clearance under Bills of Entry No. 9144601 dated 27.03.2025 and 9163964 dated 28.03.2025 were contracted and imported by them under Invoice Nos 32496 dated 29.01.2025 and 25-1000 dated 18.02.2025. In statements dated 01.07.2025 and 22.07.2025 and vide letters dated 29.04.2025, the importer has stated that they had not contracted for purchasing and importing electrical items found in the consignments covered under Bills of Entry No. 9144601 dated 27.03.2025 and 9163964 dated 28.03.2025. The Importer has also submitted letters from suppliers stating that it was due mistake at their end that electrical items got mistakenly loaded to metal scrap containers destined to M/s. Neelkanth Impex. Even if I accept that improper import, in the present case, has occurred due to mistake on part of the supplier loading wrong items, the Importer M/s. Neelkanth Impex can't escape from responsibility of failing to observe correctness of declarations in documents due to their omission to follow prescribed procedures and practices. Metal scrap being sensitive commodity, the cargo is required to be inspected at loading port by Pre-Shipment Inspection Agency approved by DGFT and photographs of inspection are required to be uploaded on online portal. The Importer, at the least, omitted to call for check the photographs of the load port inspection which were even available at DGST Portal. The photographs reveal that the electrical items are visible in the photographs taken at the time of inspection before loading of the goods. This omission has rendered the imported goods liable for confiscation under Section 111 (m), 111 (d), 111 (l), 119 of Customs Act 1962, as discussed at para 13 above, and thus Importer M/s. Neelkanth Impex is liable for penalty under Section 112 (a) (iv) of Customs Act 1962.

(b) I find that Shri Ketan Prajapati partner of M/s. Neelkanth Impex has stated in his statements that the subject goods were contracted through indenting agent **Shri Apurva Thakkar**, Director of M/s. Echelon Metals Pvt. Limited, and import documents were first received by him and then forwarded by email to the Customs Broker and to them. Shri Apurva Thakkar in his stated also admitted in his statement that that documetns were received by him and then forwarded to Customs Broker and to M/s. Neelkanth Impex. On being asked about photographs of inspection, he stated that photographs were not received in the present case indicating that this was the deviation from the norm. Being involved in the process of making purchase contract which is part of process of import as defined under Section 2 (23), he should have ensured calling for photographs and forwarding to M/s. Neelkanth Impex. This action on part of Apurva would have alerted the M/s. Neelkanth Impex and avoided the improper import. Therefore, for his act of omission, Shri Apurva is also liable for penalty under Section 112 (a) (iv) of Customs Act 1962 for rendering the goods liable for confiscation under Section 111 (m), 111 (d), 111 (l), 119 of Customs Act 1962,

16. In view of the aforementioned discussion and findings, I pass the order as under:

Order

- (i) I reject the transaction value of Rs 84,00,666/ of both consignments as declared in Bills of Entry. I determine the value of Metals scrap at Rs. 86,53,551/- for both consignments covered under Bills of Entry No. 9144601 dated 27.03.2025 and 9163964 dated 28.03.2025. The value of electronic items of both Bills of Entry is determined as Rs. 1,64,07,413/-.
- (ii) I order to confiscate, metal scrap (scrap of iron & Steel and Aluminum of different ISRI codes) valued at Rs. 86,53,551/- under Section 111(m) and 119 of the Customs Act, 1962. The importer, M/s. Neelkanth Impex is given option to redeem these goods, within 30 days of issuance of this order, and on payment of redemption fine of Rs. 4,00,000/- (Rupees Four Lacs only) under Section 125 (1) of Customs Act 1962, in lieu of confiscation and on payment of with applicable duties of Customs and charges as per Section 125 (2), *ibid*.
- (iii) I order to confiscate, electrical items (Battery Chargers / Engine Starters / Portable power for Jump Starters / Smart Chargers) valued at Rs. 1,64,07,413/- under Section 111(d) and 111 (l) of the Customs Act, 1962. The importer, M/s. Neelkanth Impex is given option to re-export these goods to the respective suppliers in country of origin, within 30 days of issuance of this order, and on payment of redemption fine of Rs.12,00,000/- (Rupees Twelve Lacs only) under Section 125 (1) of Customs Act 1962, in lieu of confiscation.

- (iv) I order to impose penalty of Rs. 4,00,000/- (Rupees Four Lacs Only) on M/s. Neelkanth Impex under Section 112 (a) (iv) of Customs Act, 1962.
- (v) I order to impose penalty of Rs.1,00,000/- (Rupees One Lacs Only) on Shri Apurva Thakkar under Section 112(a) (iv) of Customs Act, 1962.

(Shravan Ram)
Additional Commissioner

DIN 20250971MN000000F9F0

F. No. GEN/INV/Misc/158/2025-ICD-SNND-CUS-Commrte-Ahmedabad

Date: 16.09.2025

By Speed Post/ By E-mail/ By Hand Delivery/ Through Notice Board:

To,

(1) M/s. Neelkanth Impex (IEC No. 0807010758), 25, Rajsuya Bungalows, Near Ramdevn, Satellite, Ahmedabad-380015

(2) Apurva Thakkar, Director of M/s. Echelon Metals Pvt. Limited

Copy:

- (i) The Commissioner of Customs, Ahmedabad. (Kind Attn : RRA Section)
- (ii) The Dy. Commissioner of Customs, ICD Sanand.
- (iii) The Deputy Commissioner of Customs (Task Force), Ahmedabad.
- (iv) The System In-Charge, Customs, HQ, Ahmedabad for uploading on the official web-site.
- (vi) Guard File.