	प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, मुन्द्रा **OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS,** **CUSTOM HOUSE: MUNDRA, KUTCH** **MUNDRA PORT & SPL ECONOMIC ZONE, MUNDRA-370421** ई-मेल/ E-Mail: adj-mundra@gov.in	
A	फा /.सं .FILE NO.	GEN/ADJ/ADC/1384/2025-Adjn-O/o Pr Commr-Cus-Mundra
B	मूल आदेश सं. ORDER-IN- ORIGINAL NO.	MCH/ADC/ZDC/188/2026-27
C	द्वारा पारित किया गया PASSED BY	**Dipak Zala,** Additional Commissioner of Customs, Custom House, Mundra
D	आदेश की तिथि DATE OF ORDER	12-06-2026
E	जारी करने की तिथि DATE OF ISSUE	12-06-2026
F	कारण बताओ नोटिस संएवं तिथि . SCN NO. & DATE	37/2025-26/ADC/ZDC/ADJ/MCH dated 26.06.2025
G	नोटिसीपार्टी / आयातक/ NOTICEE/PARTY/ IMPORTER	M/s. Tirupati Coal Company (IEC: AOLPP6229F)

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 128A 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 128A 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 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:-

1. Specific intelligence gathered by the Directorate of Revenue Intelligence, Gandhidham Regional Unit (hereinafter also referred to as "the DRI") indicated that M/s Tirupati Coal Company (IEC: AOLPP6229F, Proprietor: Shri Ishwarbhai Ramjibhai Patel), having address as '*14, Maruti Avenue Complex, Opp. Sabar Dairy, Talod Road, Himatnagar, District- Sabarkantha, Gujarat-383001*', (hereinafter also referred to as "the importer") is engaged in import of 'Colour Coated Aluminium Coils' at Mundra Port from China and indulged in evasion of Anti-dumping duty by way of mis-declaration.

2. Acting upon the aforesaid intelligence, the import consignments covered under Bill of Entry No. 4222955 dated 28.06.2024 filed at Mundra Port covered under Container GAOU6408238 wherein goods were declared as 'Color Coated Aluminium Coils of various sizes' was put on hold by DRI for examination thereof. The details of the import consignment are as follows:

Table-I

Bill of Lading No.	FGSH2405000271 dated 04.06.2024
Shipper	M/s Zhejiang Tianzhiwang Advanced Materialtek Co. Ltd., No. 1 West Jingsi Road, Development Zone Changxing Country, Zhejiang, China-313100
Importer & IEC	M/s. Tirupati Coal Company, 14, Maruti Avenue Complex, Opp. Sabar Dairy, Talod Road, Himatnagar, District-Sabarkantha, Gujarat-383001 IEC: AOLPP6229F
Description of Goods as per Bill of Entry	• Color Coated Aluminum Coils (Size: 0.06*1240MM)-7103 Kg • Color Coated Aluminum Coils (Size: 0.06*1240MM)-6928 Kg • Color Coated Aluminum Coils (Size: 0.08*1240MM)-2583 Kg • Color Coated Aluminum Coils (Size: 0.018*1240MM)-3032 Kg • Color Coated Aluminum Coils (Size: 0.018*1240MM)-2047 Kg • Color Coated Aluminum Coils (Size: 0.018*1240MM)-1879

	Kg • Color Coated Aluminum Coils (Size: 0.018*1240MM)-1908 Kg

3. The examination of the goods covered under Bill of Entry No. 4222955 dated 28.06.2024 was conducted under panchnama dated 10.07.2024 at M/s Saurashtra Freight Pvt. Ltd., CFS at Mundra Port by the officers of DRI. Representative samples from the above consignment were drawn during examination under panchnama dated 10.07.2024.

4 . The representative samples pertaining to Bill of Entry No. 4222955 dated 28.06.2024 were sent to the Customs House Laboratory for necessary testing thereof under Test Memos No. 193/2024 to 211/2024. In response, the Custom House Laboratory, Custom House Kandla provided the Test Reports of the representative samples of the subject import goods to the DRI vide letter dated 11.09.2024 covering all test reports. It was observed that in case of test reports of test Memo no. 202/2024, 204/2024, 208/2024, 209/2024, 210/2024 and 211/2024, the average thickness has been observed as more than 0.08 mm and brief details of these Test Reports are as under:

Sr. No.	Test Memo No.	Sample Marked	Average thickness as per report of Chemical Examiner CH Lab, Kandla (in mm)	Weight in Kgs as per Panchnama dated
1	202/2024	J1-1	0.09	2583
2	204/2024	L1-1	0.09	2351
3	208/2024	P1-1	0.083	2366
4	209/2024	P2-1	0.093	
5	210/2024	Q1-1	0.09	2281
6	211/2024	Q2-1	0.11	
			Total (in Kgs)	9581

5 . During the investigation, Statement of Shri Hiteshkumar Popatbhai Patel, Authorized Representative of M/s Tirupati Coal Company was recorded on 22.10.2024 under the Customs Act, 1962 wherein he interalia, stated that-

i. his firm M/s Tirupati Coal Company was established in 2012 and engaged in trading of Aluminium Coils and Scrap. He further mentioned that his firm was mainly involved in import only and had been importing Aluminium Coils since year 2020.
ii. When presented with reports received from the Custom House Laboratory, Kandla, he acknowledged that in case of Test Memo No. 202/2024, 204/2024, 208/2024, 209/2024, 210/2024 and 211/2024, the average thickness

(in mm) of the Aluminium Coils was found to be greater than 0.08.

iii. Upon being questioned about incorrect declaration made in Bill of Entry and packing list he stated that the discrepancy happened due to mistake from the supplier end. He further accepted the reports and denied for re-testing.

iv. He further affirmed that he was aware of the Anti-dumping Notification No. 68/2021 and acknowledged that 449 USD/MTS of Anti-Dumping Duty would be applicable if the thickness of aluminium coils was found to be above 0.08mm.

v. He accepted the liability and ready to pay differential duty along with applicable interest and penalty for the Aluminium Foils that fall under the purview of Anti-Dumping Duty.

6. As per Notification No. 68/2021-Customs (ADD) dated 6th December, 2021, the Govt. of India through CBIC has fixed the Tariff Value for import of Flat Rolled Products of Aluminium classified under HS Code 7606, 7607 as 449 US Dollar per Metric Ton. The said Notification indicated that the import of Flat Rolled Products of Aluminium whose thickness more than 80 microns (0.08mm) attracts 449 USD/MTS of Anti-Dumping Duty. Relevant part of notification are as under:-

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

Notification No. 68/2021-Customs (ADD)

New Delhi, the 6th December, 2021

G.S.R. ---(E).- Whereas in the matter of 'Certain Flat Rolled Products of Aluminium' (hereinafter referred to as the subject goods) falling under chapter heading 7606 or 7607 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act), originating in, or exported from People's Republic of China (hereinafter referred to as the subject country), and imported into India, the designated authority in its final findings *vide* notification number 6/27/2020-DGTR, dated the 7th September, 2021, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 7th September, 2021, has come to the conclusion that the-

(i) the dumping margin for the subject goods from the subject country is positive and significant;
(ii) domestic industry has suffered material injury and the injury margin is positive;
(iii)the material injury suffered by the domestic industry has been caused by the dumped imports,

and has recommended imposition of an anti-dumping duty on the imports of subject goods, originating in, or exported from the subject country and imported into India, in order to remove injury to the domestic industry.

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act, read with rules 18 and 20 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, after considering the aforesaid final findings of the designated authority, hereby imposes on the subject goods, the description of which is specified in column (3) of the Table below, falling under heading of the First Schedule to the Customs Tariff Act as specified in the corresponding entry in column (2), originating in the country as specified in the corresponding entry in column (4), exported from the country as specified in the corresponding entry in column (5), produced by the producers as specified in the corresponding entry in column (6), and imported into India, an anti-dumping duty at the rate equal to the amount as specified in the corresponding entry in column (7), in the currency as specified in the corresponding entry in column (9) and as per unit of measurement as specified in the corresponding entry in column (8), of the said Table, namely:-

TABLE

Sl. No.	Heading	Description*	Country of origin	Country of export	Producer	Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	7606, 7607	Flat Rolled Products of Aluminium	People's Republic of China	Any country including People's Republic of China	Jiangsu Dingsheng New Materials Joint-Stock Co., Ltd.	65	MT	US Dollar
2.	7606, 7607	Flat Rolled Products of Aluminium	People's Republic of China	Any country including People's Republic of China	Inner Mongolia Liansheng New Energy Material Co., Ltd.	65	MT	US Dollar
3.	7606, 7607	Flat Rolled Products of Aluminium	People's Republic of China	Any country including People's Republic of China	Arconic (Kunshan) Aluminum Products Co., Ltd.	NIL	MT	US Dollar
4.	7606, 7607	Flat Rolled Products of Aluminium	People's Republic of China	Any country including People's Republic of China	Granges Aluminium (Shanghai) Ltd.	NIL	MT	US Dollar
5.	7606, 7607	Flat Rolled Products of Aluminium	People's Republic of China	Any country including People's Republic of China	Any producer other than at serial number 1, 2, 3 & 4	449	MT	US Dollar
6.	7606, 7607	Flat Rolled Products of Aluminium	Any country other than People's Republic of China	People's Republic of China	Any producer	449	MT	US Dollar

*The following products are excluded from the scope of the subject goods:

i. Can-body Stock – also includes Can End Stock (CES) used to make aluminium cans

ii. Aluminium Foil up to 80 microns.

2. The anti-dumping duty imposed under this notification shall be effective for a period of five years (unless revoked, superseded or amended earlier) from the date of publication of this notification in the Official Gazette, and shall be payable in Indian currency.

Explanation. - For the purposes of this notification, rate of exchange applicable for the purposes of calculation of such anti-dumping duty shall be the rate which is specified in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), issued from time

to time, in exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and the relevant date for the determination of the rate of exchange shall be the date of presentation of the bill of entry under section 46 of the said Act.

[F.No. 190354/268/2021-TRU]

(Rajeev Ranjan)
Under Secretary to the Government of India

7. Seizure:

During the investigation, it was observed that out of total 25.480 MTs of imported goods i.e. 'Color Coated Aluminium Coils of various thickness', 9.581 MTs of Aluminium Coils was found mis-declared and was having thickness more than 0.08 mm and the the same has been declared less than original thickness of goods to avoid applicable Anti-Dumping Duty on imported goods as per Notification No. 68/2021-Customs (ADD) dated 6th December, 2021.

Thus, it appeared that the goods imported under Bill of Entry No. 4222955 dated 28.06.2024 have been mis-declared. Therefore, there being a reasonable belief that that the said goods i.e. **9.581 MTs** of Aluminium Coils are liable for confiscation under the provisions of Section 111 of the Customs Act and the other remaining **15.899 MTs** are liable for confiscation under the provisions of Section 119 of the Customs Act, 1962, the same were placed under seizure under Section 110 of the Customs Act, 1962 vide Seizure Memo dated 27.11.2024**.**

8.1 Re-testing of samples-

It was observed that for some of the coils, the average thickness was given as 0.08 mm. It was decided by the competent authority to re-test the samples at CRCL, New Delhi whose thickness was provided exactly as 0.08 mm by Custom House Laboratory, Kandla. CRCL, New Delhi vide Re-Test Report dated 12.02.2025 provided results for samples for which thickness was found below 0.08 mm i.e. not under purview of Notification No. 68/2021-Customs (ADD) dated 6th December, 2021.

8.2 Since the investigation could not be completed within 6 months, the competent authority i.e. the Pr. Commissioner of Customs, Mundra Customs granted extension of further 6 months in the matter i.e. upto 03.07.2025, vide letter dated 02.01.2025

9 . <u>Brief of investigation conducted and liability of imported goods for confiscation:</u>

9.1 Intelligence gathered by DRI indicated that M/s Tirupati Coal Company

(IEC: AOLPP6229F, Proprietor: Shri Ishwarbhai Ramjibhai Patel), having address as '*14, Maruti Avenue Complex, Opp. Sabar Dairy, Talod Road, Himatnagar, District-Sabarkantha, Gujarat-383001*', has imported 'Colour Coated Aluminium Coils' and the thickness of colour coated aluminium foils is mis-declared and the same has been declared less than original thickness of goods to avoid applicable Anti-Dumping Duty on imported goods as per Notification No. 68/2021-Customs (ADD) dated 6th December, 2021. The flat rolled product of aluminium from China attract ADD@USD 449/MT in respect of aluminium foils having thickness above 80 microns (0.08mm).

9.2 Further, during recording of the statement of Shri Hiteshkumar Popatbhai Patel, Authorized Representative of M/s Tirupati Coal Company under Section 108 of the Customs Act, 1962 on 22.10.2024, upon being presented the test report of Test Memo no. No. 202/2024, 204/2024, 208/2024, 209/2024, 210/2024 and 211/2024 received from the Custom House Laboratory, Kandla, he accepted the Test Report of the said Test memo wherein the average thickness was found to be greater than 0.08 mm and ready to pay the differential duty along with interest and penalty.

9.3 From the investigation carried out by the DRI, it was revealed that the imported goods covered under Bill of Entry No. 4222955 dated 28.06.2024 filed at Mundra, were mis-declared by M/s. Tirupati Coal Company to evade applicable Anti-Dumping Duty. The importer's authorized representative, Shri Hiteshkumar Popatbhai Patel, admitted to the findings but attributed the mis-declaration to the supplier's error.

9 . 4 During investigation it was revealed that **9.581 MTs** of Aluminium Coils having thickness above 80 microns (0.08mm) which attracts anti-dumping duty (USD 449/MT) as per Notification No 68/2021-Customs (ADD) dated 6th December, 2021 comes to **USD 4301.87** or Total Rs. **3,62,648**/- (considering USD exchange rate of Rs. 84.30 as on date of Bill of Entry filing) (Rs. Three Lakh Sixty-Two Thousand Six Hundred Forty-Eight only). It therefore appears that the said 'Color Coated Aluminium Coils' i.e. 9.581 MTs were found to be mis-declared. Accordingly, the subject said goods i.e. **9.581 MTs** of 'Color Coated Aluminium Coils' valued as **Rs. 27,29,165/-** (calculated on pro-rata basis) appear to be liable to confiscation under Section 111 (f) and 111(m) of the Customs Act, 1962 and the other remaining **15.899 MTs** 'Color Coated Aluminium Coils' valued as **Rs. 45,28,858/-** (calculated on pro-rata basis) are liable for confiscation under the provisions of Section 119 of the Customs Act, 1962.

10. Relevant Legal provisions:

Section 111. Confiscation of improperly imported goods, etc. –

The following goods brought from a place outside India shall be liable to confiscation: -
….

(f) any dutiable or prohibited goods required to be mentioned under the regulations in an arrival manifest or import manifest or import report which are not so mentioned;
…….

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

Section 119. Confiscation of goods used for concealing smuggled goods. -

Any goods used for concealing smuggled goods shall also be liable to confiscation

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 –
(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher."

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 to a penalty not exceeding five times the value of goods."*

Section 125: Option to pay fine in lieu of confiscation.
(i) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods [or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit:

11. Role and Culpability of M/s. Tirupati Coal Company (Proprietor Shri Ishwarbhai Ramjibhai Patel), involved into evasion of Anti Dumping Duty by way of mis-declaration:

M/s. Tirupati Coal Company, having address as '14, Maruti Avenue Complex, Opp. Sabar Dairy, Talod Road, Himatnagar, District- Sabarkantha, Gujarat-383001' imported a consignment from China under Bill of Entry No. 4222955 dated 28.06.2024 consisting of total 01 Container of declared import cargo as 'Color Coated Aluminum Coils of various sizes'. Whereas, it emerges during investigation that, M/s. Tirupati Coal Company were importing the subject goods since long and were very well aware about the provisions relating to Anti-Dumping Duty. From the facts and evidences as discussed in the forgoing paras that, M/s. Tirupati Coal Company, Gujarat indulged in mis-declaration of import goods and tried to evade applicable Anti-dumping duty in 01 consignment

covered under Bill of Entry 4222955 dated 28.06.2024. Further, from the facts and evidences discussed above, it emerged that in order to evade the applicable Customs duty M/s. Tirupati Coal Company in connivance with the supplier knowingly mis-declared the value of the goods imported from China. Hence, in terms of Section 111 (f) and 111(m) they have rendered the subject goods liable to confiscation. The importer/any person, who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, is liable to penalty under Section 112 (a) of the Customs Act, 1962. In terms of Section 112(b) of Customs Act, 1962, any person acquiring possession of or is in any way concerned in carrying, removing, depositing, harboring, 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, is also liable to penalty. Further, it has been revealed that M/s. Tirupati Coal Company, in collusion with the overseas supplier, deliberately used forged invoices in the course of customs clearance, thereby wilfully suppressing the correct description of the goods. The act of knowingly using false and incorrect documents attracts the provisions of Section 114AA of the Customs Act, 1962. The omission and commission on the part of M/s. Tirupati Coal Company who were knowingly concerned in mis-declaration in the import documents have rendered themselves liable to penalty under **Section 112 (a), Section 112(b) and Section 114AA** of the Customs Act, 1962.

12. Accordingly, Show Cause Notice No. 37/2025-26/ADC/ZDC/ADJ/MCH dated 26.06.2025 was issued to **M/s Tirupati Coal Company (IEC: AOLPP6229F)** calling upon it to show cause as to why:

a. The **9.581 MTs** of 'Color Coated Aluminium Coils' covered under Bill of Entry No. 4222955 dated 28.06.2024 should not be assessed with applicable 'Anti-Dumping Duty' covered under Notification No. 68/2021-Customs (ADD) dated 6th December, 2021.

b . the mis-declared goods i.e. **9.581 MTs** of 'Color Coated Aluminium Coils' covered under Bill of Entry No. 4222955 dated 28.06.2024 valued at **Rs. 27,29,165/-** should not be held liable for confiscation under Section 111(f) and 111(m) of the Customs Act, 1962.

c. the remaining goods i.e. **15.899 MTs** valued at **Rs. 45,28,858/-** covered under Bill of Entry No. 4222955 dated 28.06.2024 should not be held liable for confiscation under Section 119 of the Customs Act, 1962.

d. Penalty should not be imposed upon them under Section 112(a), 112(b) and 114 AA of the Customs Act, 1962, separately.

DEFENCE SUBMISSION AND RECORD OF PERSONAL HEARING

13. In compliance with the principles of natural justice, a personal hearing was granted to the noticee. Shri Hiteshkumar Popatbhai Patel, authorized representative of M/s. Tirupati Coal Company, appeared on 06.11.2025 to attend

the scheduled personal hearing. He agreed to pay differential duty, fine and penalty and requested for early adjudication.

DISCUSSION AND FINDINGS

14. I have carefully gone through the Show Cause Notice No. 37/2025-26/ADC/ZDC/ADJ/MCH dated 26.06.2025, the Personal Hearing record dated 06.11.2025, and all the documentary evidence available on record. The noticee was afforded opportunity of Personal Hearing on 06.11.2025. Shri Hiteshkumar Popatbhai Patel, Authorized Representative, appeared on behalf of M/s. Tirupati Coal Company at the Personal Hearing on 06.11.2025. The principles of natural justice as enshrined in Section 122A of the Customs Act, 1962 have accordingly been complied with. The issues to be decided by me are:

(i) Whether the 9.581 MTs of 'Color Coated Aluminium Coils' covered under Bill of Entry No. 4222955 dated 28.06.2024 are liable to be assessed with applicable Anti-Dumping Duty under Notification No. 68/2021-Customs (ADD) dated 6th December, 2021;

(ii) Whether the mis-declared goods i.e. 9.581 MTs of 'Color Coated Aluminium Coils' covered under Bill of Entry No. 4222955 dated 28.06.2024 valued at **Rs. 27,29,165/-** are liable for confiscation under Sections 111(f) and 111(m) of the Customs Act, 1962;

(iii) Whether the remaining goods i.e. 15.899 MTs of 'Color Coated Aluminium Coils' valued at **Rs. 45,28,858/-** covered under Bill of Entry No. 4222955 dated 28.06.2024 are liable for confiscation under Section 119 of the Customs Act, 1962;

(iv) Whether penalty is imposable on M/s. Tirupati Coal Company under Section 112(a), 112(b) and Section 114AA of the Customs Act, 1962.

15. Anti-Dumping Duty applicability on 9.581 MTs of Color Coated Aluminium Coils:

15.1 Regarding the first issue, I find that M/s. Tirupati Coal Company filed Bill of Entry No. 4222955 dated 28.06.2024 for clearance of 'Color Coated Aluminium Coils' of various sizes under CTH 76071994, declaring the thickness of all the coils as below 0.08 mm (80 microns). Acting upon specific intelligence gathered by the Directorate of Revenue Intelligence, Gandhidham Regional Unit, the subject consignment was put on hold and the goods were examined by officers of DRI under Panchnama dated 10.07.2024 at M/s. Saurashtra Freight Pvt. Ltd., CFS, Mundra Port. Representative samples were drawn during the examination and forwarded to Custom House Laboratory, Kandla for testing. The details of the test results are as under:

Sr.	Test Memo	Sample	Average Thickness as per CH	Weight as per

No.	No.	Marked	Lab, Kandla (in mm)	Panchnama (in Kgs)
1	202/2024	J1-1	0.09	2583
2	204/2024	L1-1	0.09	2351
3	208/2024	P1-1	0.083	2366
4	209/2024	P2-1	0.093	
5	210/2024	Q1-1	0.09	2281
6	211/2024	Q2-1	0.11	
Total				**9581 Kgs**

In view of the above, it is evident that out of the total 25.480 MTs of imported coils, **9.581 MTs** were found to have average thickness exceeding 0.08 mm (80 microns), as against the declared thickness of below 0.08 mm in the Bill of Entry.

15.2 I have carefully gone through Notification No. 68/2021-Customs (ADD) dated 6th December, 2021, whereby the Government of India, through CBIC, has imposed Anti-Dumping Duty on import of 'Flat Rolled Products of Aluminium' classified under HS Code 7606 and 7607, originating in or exported from People's Republic of China. The said Notification, at Serial No. 5 of the Table thereunder, fixes the Anti-Dumping Duty at **449 USD per Metric Ton** in respect of goods produced by any producer other than those at Serial Nos. 1 to 4, exported from People's Republic of China. The said Notification further specifies that **Aluminium Foil up to 80 microns (0.08 mm)** is excluded from the scope of the subject goods. Therefore, any Flat Rolled Product of Aluminium having thickness **more than 80 microns (0.08 mm)** is squarely within the scope of the ADD Notification and attracts ADD @ 449 USD/MT.

15.3 I find that the supplier of the subject consignment is M/s. Zhejiang Tianzhiwang Advanced Materialtek Co. Ltd., China. This supplier does not figure among the four named producers at Serial Nos. 1 to 4 of the Table in the said Notification. Accordingly, ADD is applicable at the rate of **449 USD/MT** as per Serial No. 5 of the Notification.

15.4 I find that the statement of Shri Hiteshkumar Popatbhai Patel, Authorized Representative of M/s. Tirupati Coal Company, was recorded by DRI on 22.10.2024 under Section 108 of the Customs Act, 1962. Upon being presented the test reports of Test Memo Nos. 202/2024, 204/2024, 208/2024, 209/2024, 210/2024 and 211/2024 received from Custom House Laboratory, Kandla, he accepted the said test reports in their entirety, wherein the average thickness of the Aluminium Coils was found to be greater than 0.08 mm. He further affirmed that he was fully aware of Anti-Dumping Notification No. 68/2021-Customs (ADD) and acknowledged that ADD @ 449 USD/MT would be applicable if the thickness of Aluminium Coils was found to be above 0.08 mm. He accepted the duty liability and expressed readiness to pay the differential duty along with applicable interest and penalty.

15.5 I consider the statement of the noticee's authorized representative as material evidence in this case. It is relevant here to refer to the evidentiary value of statements recorded under Section 108 of the Customs Act, 1962. The Hon'ble Supreme Court in *Romesh Chandra Mehta v. State of West Bengal [1999 (110) ELT 324 (SC)]* has held that statements recorded under Section 108 by a Gazetted Officer of Customs are admissible as valid evidence. This position has been reiterated by the Hon'ble Supreme Court in *Percy Rustomji Basta v. State of Maharashtra [1983 (13) ELT 1443 (SC)]*, wherein it was held that a person giving statement under Section 108 does not stand in the character of an accused person and such statement is not hit by Section 24 of the Evidence Act. I therefore treat the said statement as reliable and substantive evidence in support of the charge of misdeclaration.

15.6 In view of the above, I find that 9.581 MTs of 'Color Coated Aluminium Coils' imported under Bill of Entry No. 4222955 dated 28.06.2024 have thickness exceeding 80 microns (0.08 mm) and are squarely covered under Notification No. 68/2021-Customs (ADD) dated 6th December, 2021. The Anti-Dumping Duty applicable is @ 449 USD/MT, which works out to USD 4,301.87, equivalent to **Rs. 3,62,648/-** (considering exchange rate of Rs. 84.30 per USD as on the date of filing of the Bill of Entry). The misdeclaration of thickness in the Bill of Entry to avoid this ADD liability stands established from the test reports and the admission of the noticee's authorized representative recorded under Section 108 of the Customs Act, 1962. I accordingly hold that Anti-Dumping Duty @ 449 USD/MT under Notification No. 68/2021-Customs (ADD) dated 6th December, 2021 is leviable on the said 9.581 MTs of goods.

16. <u>Confiscation of mis-declared goods i.e. 9.581 MTs of 'Color Coated Aluminium Coils' under Section 111(f) and 111(m)</u>:

16.1 Regarding the second issue, I find that consequent upon the introduction of self-assessment under Section 17 of the Customs Act, 1962 with effect from 08.04.2011, it is the importer who is required to ensure correct declaration of description, value, quantity, classification and applicable duty in the Bill of Entry filed under Section 46 of the Customs Act, 1962. Section 46(4) and 46(4A) of the Customs Act cast a statutory obligation on the importer to ensure the accuracy and completeness of the information given in the Bill of Entry, the authenticity and validity of any supporting document, and compliance with any restriction or prohibition relating to the goods under the Customs Act or any other law for the time being in force.

16.2 I find that the Show Cause Notice proposes confiscation of the mis-declared goods under Section 111(f) and Section 111(m) of the Customs Act, 1962. The relevant provisions are reproduced below:

> *"111(f): any dutiable or prohibited goods required to be mentioned under the regulations in an arrival manifest or import manifest or import report which are not so mentioned."*

"111(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 transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54."

16.3 I find that M/s. Tirupati Coal Company declared the thickness of all Aluminium Coils in Bill of Entry No. 4222955 dated 28.06.2024 as below 0.08 mm (80 microns). However, laboratory testing by Custom House Laboratory, Kandla conclusively established that 9.581 MTs of the said coils had average thickness exceeding 0.08 mm. As regards Section 111(f), I find that the subject goods are dutiable goods attracting Anti-Dumping Duty under Notification No. 68/2021-Customs (ADD) by virtue of their actual thickness exceeding 80 microns. The importer, by misdeclaring the thickness as below 0.08 mm in the import documents, effectively failed to disclose the true dutiable character of the said 9.581 MTs of goods in the import manifest, thereby attracting the provisions of Section 111(f) of the Customs Act, 1962. As regards Section 111(m), I find that the imported goods did not correspond, in respect of the material particular of thickness and description, with the entry made in the Bill of Entry under the Customs Act, 1962. The consequence of this misdeclaration was evasion of Anti-Dumping Duty amounting to **Rs. 3,62,648/-.** The noticee's authorized representative has himself admitted to the misdeclaration in his statement recorded on 22.10.2024 under Section 108 of the Customs Act, 1962, attributing it to supplier error, which does not however absolve the importer of the legal consequence of having filed an incorrect Bill of Entry under the self-assessment regime. These acts of omission and commission on the part of the importer render the said 9.581 MTs of goods liable for confiscation under Section 111(f) and Section 111(m) of the Customs Act, 1962.

16.4 Once the goods are held liable for confiscation, the next question before me is whether to allow the release of the impugned goods on Redemption Fine. I find that sub-section (1) of Section 125 of the Customs Act, 1962 prescribes that:

"Wherever confiscation of any goods is authorized by this Act, the officer adjudicating it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall in the case of any other goods, give to the owner of the goods, or, where such owner is not known, the person from whose possession or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit."

16.5 In the present case, since the imported goods are not prohibited goods, I find it appropriate to give M/s. Tirupati Coal Company an option to redeem the confiscated goods on payment of Redemption Fine under Section 125 of the Customs Act, 1962 for clearance for home consumption.

17. <u>Confiscation of remaining goods i.e. 15.899 MTs of 'Color Coated Aluminium Coils' under Section 119</u>:

17.1 Regarding the third issue, I find that the Show Cause Notice proposes confiscation of the remaining 15.899 MTs of 'Color Coated Aluminium Coils', which were found upon testing to have thickness below 0.08 mm and accordingly do not attract Anti-Dumping Duty — under Section 119 of the Customs Act, 1962, on the ground that these goods were used for concealing the smuggled/mis-declared goods. Section 119 of the Customs Act, 1962 provides as follows:

> "*119. Confiscation of goods used for concealing smuggled goods: Any goods used for concealing smuggled goods shall also be liable to confiscation.*"

17.2 I find that the remaining 15.899 MTs of 'Color Coated Aluminium Coils' were imported in the same container (GAOU6408238) under the same Bill of Entry alongside the misdeclared 9.581 MTs of ADD-attracting coils. I find that these correctly declared goods were used to conceal the misdeclared goods which were liable to Anti-Dumping Duty under Notification No. 68/2021-Customs (ADD) dated 6th December, 2021. I find that the remaining goods are therefore liable for confiscation under Section 119 of the Customs Act, 1962.

17.3 Further, since the remaining goods i.e. 15.899 MTs of 'Color Coated Aluminium Coils' are not prohibited goods, I find it appropriate to give M/s. Tirupati Coal Company an option to redeem the confiscated goods on payment of Redemption Fine under Section 125 of the Customs Act, 1962 for clearance for home consumption.

18. <u>Penalties under Section 112(a), 112(b) and 114AA</u>:

18.1 Regarding the fourth issue, I find that the goods covered under Bill of Entry No. 4222955 dated 28.06.2024 have been held liable to confiscation under Section 111(f) and Section 111(m) of the Customs Act, 1962 as discussed above. I find that M/s. Tirupati Coal Company, by filing the Bill of Entry with misdeclared thickness of Aluminium Coils, supported by packing list and commercial invoice reflecting thickness below 0.08 mm when the actual thickness of 9.581 MTs of goods exceeded 80 microns, has committed acts which have rendered the goods liable to confiscation under Section 111(f) and Section 111(m) of the Customs Act, 1962. M/s. Tirupati Coal Company is accordingly liable to penalty under S**ection 112(a)(ii)** of the Customs Act, 1962.

18.2 I further find that simultaneous imposition of penalty under both Section 112(a) and Section 112(b) in respect of the same act would amount to double penalty for the same offence, and accordingly I refrain from imposing penalty under Section 112(b) of the Customs Act, 1962.

18.3 Regarding penalty under Section 114AA, I find that M/s. Tirupati Coal Company filed Bill of Entry No. 4222955 dated 28.06.2024 declaring the thickness of all Aluminium Coils as below 0.08 mm, which was false and incorrect in a material particular, namely the thickness of the goods, which is the determinative parameter for applicability of Anti-Dumping Duty under Notification No.

68/2021-Customs (ADD). The noticee's authorized representative, Shri Hiteshkumar Popatbhai Patel, in his statement recorded on 22.10.2024 under Section 108 of the Customs Act, 1962, affirmed full awareness of the ADD Notification and its threshold of 0.08 mm, while attributing the misdeclaration to supplier error. I find that the Bill of Entry and the supporting documents filed before the Customs Authorities were false and incorrect in this material particular and were used in the transaction of business under the Customs Act, 1962. M/s. Tirupati Coal Company has accordingly rendered itself liable to penalty under **Section 114AA** of the Customs Act, 1962.

ORDER

19. In view of the foregoing Discussion and Findings, I pass the following Order:

(i) I hold that 9.581 MTs of 'Color Coated Aluminium Coils' imported by M/s. Tirupati Coal Company under Bill of Entry No. 4222955 dated 28.06.2024 are liable to be assessed with Anti-Dumping Duty @ 449 USD/MT under Notification No. 68/2021-Customs (ADD) dated 6th December, 2021, amounting to **Rs. 3,62,648/-** (Rupees Three Lakh Sixty-Two Thousand Six Hundred and Forty-Eight Only), along with applicable interest thereon;

(ii) I hold that the mis-declared goods i.e. **9.581 MTs** of 'Color Coated Aluminium Coils' imported under Bill of Entry No. 4222955 dated 28.06.2024 having assessable value of **Rs. 27,29,165/-** (Rupees Twenty-Seven Lakh Twenty-Nine Thousand One Hundred and Sixty-Five Only) are liable to confiscation under Sections 111(f) and 111(m) of the Customs Act, 1962. However, I give an option to M/s. Tirupati Coal Company to redeem the confiscated goods on payment of Redemption Fine of **Rs. 2,75,000/-** (Rupees Two Lakh Seventy Five Thousand Only) under Section 125 of the Customs Act, 1962;

(iii) I hold that the remaining goods i.e. **15.899 MTs** of 'Color Coated Aluminium Coils' imported under Bill of Entry No. 4222955 dated 28.06.2024 having assessable value of **Rs. 45,28,858/-** (Rupees Forty-Five Lakh Twenty-Eight Thousand Eight Hundred and Fifty-Eight Only) are liable to confiscation under Section 119 of the Customs Act, 1962. However, I give an option to M/s. Tirupati Coal Company to redeem the confiscated goods on payment of Redemption Fine of **Rs. 4,50,000/-** (Rupees Four Lakh Fifty Thousand Only) under Section 125 of the Customs Act, 1962;

(iv) I impose a penalty of **Rs. 35,000/-** (Rupees Thirty Five Thousand Only) on M/s. Tirupati Coal Company under Section 112(a)(ii) of the Customs Act, 1962;

(v) I impose a penalty of **Rs. 1,00,000/-** (Rupees One Lakh Only) on M/s. Tirupati Coal Company under Section 114AA of the Customs Act, 1962.

20. This order is issued without prejudice to any other action that may be taken 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.

21. Show Cause Notice No. 37/2025-26/ADC/ZDC/ADJ/MCH dated 26.06.2025 stands disposed of in the above terms.

Digitally signed by Dipakbhai Zala
Date: 12-06-2026 13:27:02

(Dipak Zala)
Additional Commissioner of Customs,
Custom House, Mundra

To,

M/s. Tirupati Coal Company (IEC: AOLPP6229F),
14, Maruti Avenue Complex, Opp. Sabar Dairy, Talod Road,
Himatnagar, District-Sabarkantha, Gujarat – 383 001
(import.tirupaticoal@gmail.com, import.tcc1707@gmail.com)

Copy to:

1. The Additional Director General, DRI, Ahmedabad
2. The Additional Director, DRI, Regional Unit, Gandhidham (Kutch)
3. The Deputy Commissioner, Review, Custom House, Mundra
4. The Deputy Commissioner, TRC, Custom House, Mundra
5. The Assistant Commissioner, EDI, Custom House, Mundra
6. Office Copy