

	OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS CUSTOM HOUSE, MUNDRA, KUTCH MUNDRA PORT & SPL ECONOMIC ZONE, MUNDRA-370421 Phone No. 02838-271029/423 FAX No. 02838-271425 Email : group4-mundra@gov.in	
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A	File No.	CUS/APR/BE/65/2025-Gr 4
B	Order-in-Original No.	MCH/ADC/AKM/267/2024-25
C	Passed by	AMIT KUMAR MISHRA ADDITIONAL COMMISSIONER IMPORT ASSESSMENT
D	Date of Order	27.01.2025
E	Date of issue	27.01.2025
F	Noticee/Party/ Importer/ Exporter	M/s. Welspun Di Pipes Limited, S. No. 615P,616P,617-1-2,618P,619P, Welspun City, Versamedi Village, Anjar- 370110
G	DIN No.	20250171MO0000555B26

1. यह अपील आदेश संबन्धित को निःशुल्क 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 3 के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 128 A के अंतर्गत प्रपत्र सीए- 1- में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है।

Any person aggrieved by this Order - in - Original may file an appeal under Section 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

“ सीमा शुल्क आयुक्त (अपील),
 7 वीं मंजिल, मृदुल टावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड, अहमदाबाद 380 009”
“THE COMMISSIONER OF CUSTOMS (APPEALS), MUNDRA
Having his office at 7th Floor, Mridul Tower, Behind Times of India,
Ashram Road, Ahmedabad-380 009.”

3. उक्त अपील यह आदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए।

Appeal shall be filed within sixty days from the date of communication of this order.

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 –

i. उक्त अपील की एक प्रति और
A copy of the appeal, and

ii. इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।

This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.

5. अपील ज्ञापन के साथ ड्यूटी/ ब्याज/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।

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

6. अपील प्रस्तुत करते समय, सीमा शुल्क (अपील) नियम, 1982 और सीमा शुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.

7. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (A) के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।

An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

Brief Facts of the Case:

M/s. Welspun Di Pipes Limited, S. No. 615P,616P,617-1-2,618P,619P, Welspun City, Versamedi Village, An Anjar- 370110 holding IEC – AACCW7129H (hereinafter referred to as 'the Importer' for the sake of brevity) filed Bill of Entry No. **7793517 dated 15.01.2025** through their CB, **M/s. JAI SHIPPING LOGISTICS CORPORATION** for clearance of **1,54,140 Kgs (G.W.) of INOPIPE E04/16 (AS PER INV, PL & BL) (CTH: 72022100)** having total assessable value of **Rs. 3,59,10,454/-**.

2. The cargo was examined under the supervision of Superintendent, Docks Examination, Custom House, Mundra and in presence of Customs Broker's representative. During the examination of the cargo, the CFS weight of goods was found to be **1,62,610 Kgs** which is **8,470 Kgs** in excess of the declared net weight of Cargo **1,54,140 Kgs**, which is **5.49%** of the declared quantity.
3. In view of the above, total differential assessable value for the item INOPIPE E04/16 (AS PER INV, PL & BL) found to be in excess comes to **Rs. 19,73,281/-** and the differential duty comes to **Rs. 3,84,592/-**.

4. RELEVANT LEGAL PROVISIONS IN THE CASE

SECTION-46(4) of the Customs Act, 1962- Entry of Goods on importation- The importer while presenting a bill of entry shall at the foot thereof 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.

SECTION 111(l) of the Customs Act, 1962- Confiscation of improperly imported goods, etc. - Any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77.

SECTION 111(m) of the Customs Act, 1962- Confiscation of

improperly imported goods, etc.

1. 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.
2. 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 112(a)(ii) of the Customs Act, 1962- Penalty for improper importation of goods, etc.- In the case of dutiable goods, other than prohibited goods, to a penalty 217 [not exceeding the duty sought to be evaded on such goods or five thousand rupees], whichever is the greater.

SECTION 122A of the Customs Act, 1962- Adjudication

Procedure-

1. The adjudicating authority shall, in any proceeding under this Chapter or any other provision of this Act, give an opportunity of being heard to a party in a proceeding, if the party so desires.
2. The adjudicating authority may, if sufficient cause is shown, at any stage of proceeding referred to in sub-section (1), grant time, from time to time, to the parties or any of them and adjourn the hearing for reasons to be recorded in writing. Provided that no such adjournment shall be granted more than three times to a party during the proceeding.
3. Thus, the importer mis-declared the quantity of goods to the tune of **8,470 Kgs** valued at **Rs. 19,73,281/-** and the duty involved in respect of mis-declared goods is **Rs. 3,84,592/-**. The importer failed to observe the conditions of Section 46(4) of the Customs Act, 1962 and made the goods liable for confiscation under the provisions of Section 111(l) and 111(m) of the Custom Act 1962. For the said act of omission and commission, the importer appears liable to the penal action under the provisions of Section 112(a)(ii) of the Customs Act, 1962.

Personal Hearing and Written Submission

6. The importer M/s. Welspun Di Pipes Limited vide their letter dated 22.01.2025 submitted that they do not want Personal Hearing & Show Cause Notice in the matter and are ready to pay fine/penalty and differential duty on subject excess quantity of goods.

Discussion & Findings

7. I have carefully gone through the facts of the case and records & evidences submitted before me. I find that the importer vide their letter dated 21.01.2025 have requested for the waiver of the Personal Hearing & Show Cause Notice in the matter. Therefore, I find that the principle of natural justice as provided in section 122A of the Customs Act, 1962, has been satisfied. Hence, I proceed to decide the case on the basis of the documentary evidence available on records.

8. I find that on examination of the goods, the gross weight of cargo is found to be **1,62,610 Kgs** against the declared gross weight of **1,54,140 Kgs**. Thus, the importer mis-declared the quantity of goods **8,470 Kgs** valued at **Rs. 19,73,281/-** and differential duty thereof comes to **Rs. 3,84,592/-**. Section 46(4) of the Customs Act, 1962 requires that an importer while presenting shall make and subscribe to a declaration as to the truth of the contents of such bill of entry. I find that the importer has failed in his truthfulness in as much as he mis-declared the quantity of imported goods in contravention to section 46(4) of the Customs Act, 1962.
9. I find that the importer has mis-declared the quantity of goods to the tune of **8,470 Kgs** valued at **Rs. 19,73,281/-** in the above mentioned Bill of Entry. Therefore, I hold that the goods found in excess are liable for confiscation under section 111(l) & 111(m) of the Customs Act, 1962. The importer by mis-declaring the quantity of goods has rendered himself liable for penal action under section 112(a) of the Customs Act, 1962. I find that the goods in the instant case are dutiable goods, other than the prohibited goods, I hold the importer liable to penalty in terms of Section 112(a)(ii) of the Customs Act, 1962. These proceedings are only limited to the excess weight found and this order per se cannot restrict any other action.
10. Whereas, Section 125(1) of the Customs Act, 1962 provides that:

"Whenever confiscation of any goods is authorised by the Customs Act, 1962, the officer adjudging may, in the case of any goods, the importation or exportation whereof is prohibited under the 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 an option to pay in lieu of confiscation such redemption fine as the said officer thinks fit".

I find that the said provision makes it mandatory to grant an option to the owner of confiscated goods to pay fine in lieu of confiscation in case the goods are not prohibited. Further, in case of prohibited goods, it provides discretion to the officer adjudicating the case which has to be exercised in view of facts and circumstances of the case. Considering these facts, I find it appropriate to grant an option to pay fine in lieu of confiscation on the subject to clearance of goods for Home Consumption with condition to assessment of goods as per the assessed import price of the manifested quantity.

11. In view of the foregoing discussion and findings, I pass the following Order:

Order

- i. I order to confiscate the goods viz. **8,470 Kgs** valued at **Rs. 19,73,281/-** imported against **Bill of Entry No. 7793517 dated 15.01.2025** under section 111(l) and 111(m) of the Customs Act, 1962, However, I give an option to the importer to redeem the same on payment of Redemption Fine of **Rs. 1,90,000/- (Rupees One lakh ninety thousand only)** in lieu of confiscation under Section 125 of the Customs Act, 1962.
- ii. I order to assess the value of **8,470 Kgs** of the excess quantity of goods viz. **INOPipe E04/16 (AS PER INV, PL & BL at Rs. 19,73,281/-** as per the declared unit price of the manifested goods imported under Bill of entry no. 7793517 dated 15.01.2025 and I demand and confirm applicable differential duty of **Rs. 3,84,592/- (Three Lakh Eighty Two Thousand Six Hundred and Seventy Seven Only)** by way of re-assessment under section 17 of the Customs Act, 1962.

iii. I also impose a Penalty of **Rs. 38,000/- (Rupees Thirty eight thousand only)** on the importer **M/s. Welspun Di Pipes Limited, S. No. 615P,616P,617-1-2,618P,619P, Welspun City, Versamedi Village, An Anjar 370110** under Section 112(a)(ii) of the Customs Act, 1962.

12. This order is issued without prejudice to any other action which may be required to be taken against any person as per the provisions of the Customs Act, 1962 or any other law for the time being in force.

AMIT KUMAR MISHRA
ADDITIONAL COMMISSIONER
Import Assessment
Custom House, Mundra

To,
M/s. Welspun Di Pipes Limited,
S. No. 615P,616P,617-1-2,618P,619P,
Welspun City, Versamedi Village, An
Anjar- 370110

Copy to:

1. The Deputy Commissioner of Customs (RRA/TRC/EDI), CH, Mundra.
2. CB M/s. Jai Shipping Logistics Corporation
3. Guard File.

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