

	<b>OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE: MUNDRA, KUTCH MUNDRA PORT &amp; SPL ECONOMIC ZONE, MUNDRA-370421</b> <u>Phone No.02838-271423/271426</u>	
A. File No.	:	CUS/ECFS/MISC/12/2025-Docks Examn-O/o Pr Commr-Cus-Mundra
B. Order-in- Original No.	:	MCH/ADC/MK/269/2024-25 dated 28.01.2025
C. Passed by	:	Mukesh Kumari, Additional Commissioner of Customs, Customs House, AP & SEZ, Mundra
D. Date of order / Date of issue	:	28.01.2025 / 29-01-2025
E. Show Cause Notice No. & Date	:	Exporter has requested for Waiver of SCN and PH vide letter dated 27.01.2025
F. Noticee(s)/Party/ Exporter	:	M/s Sagar Switch Gears Limited, Plot No.190 C&D, G.I.D.C., Road-F, Por, Contact No: 02652830255, Dist. Vadodara, Gujarat-391243.
G. DIN	:	20250171MO000000C652

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),  
 Having his office at 7<sup>th</sup> 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 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 सभी अन्य के ,अधिनियम शुल्क सीमा और 1982,अपील) नियम) । चाहिए जाना किया पालन का मामलों सभी तहत के प्रावधानों  
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.

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#### **BRIEF FACTS OF THE CASE:**

The exporter M/s. Sagar Switch Gears Limited, Plot No.190 C&D, G.I.D.C., Road-F, Por, Contact No: 02652830255, Dist. Vadodara, Gujarat-391243, filed the Shipping Bill No. 7255283 dated 13.01.2025 through their CHA M/s. Damji Kanji & Co. for the export of miscellaneous goods i.e Wire Making Machine with accessories 03 Set, BOPP White/Transparent/PP Film and Slitting Rings having FOB value of Rs.1,65,30,669/-.

2. The aforesaid Shipping Bill was filed against the Invoice No. SSGL/EXP/2425/03 dated 12.01.2025. Total 05 items were declared in the said Shipping Bill. Out of these 05 items, 03 items mentioned at Sr. No. 1-3 were filed under scheme Code “43” i.e. Drawback and Zero Duty EPCG and rest of the 02 items were filed under Scheme code “19”. Further during the examination of the goods it was noticed that EPCG license No. 3430002779 dated 01/04/2015 having Export Obligation Period of 06 years from the date of issuance of license, is already expired in 2021. However, the exporter has filed the said Shipping Bill for 03 items mentioned at Sr. No. 1-3 under the above mentioned license which is already expired in 2021.

3. The exporter vide their letter dated 27.01.2025 has submitted that they are manufacturer exporter and the said Shipping Bill was inadvertently filed under expired EPCG License No. 3430002779 instead of the regular Drawback scheme due to a clerical oversight during documentation. They also submitted that this occurred as a result of human error and it was unintentional, with no intent to misrepresent or claim inappropriate benefits. Further, they submitted that they have no malafide intention for claiming benefit under said EPCG License as the same is already expired in 2021 and DGFT also may not consider the same for Export Obligation. They have also requested to release the cargo for export as they have order cancellation pressure from overseas buyer.

4. Therefore, from the above facts it appeared that the exporter has contravened the provisions of the Section 50 of the Customs Act, 1962 by filing shipping bill under expired EPCG license and made himself liable for penal action under Section 117 of the Customs Act, 1962.

5. The Custom Broker, M/s. Damji Kanji & Co., who filed Shipping Bill on behalf of the exporter, has not verified the validity of License before filing of the Shipping Bill and also has not advised their client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, contravened the provisions of the Customs Act, 1962.

6. Therefore, from the above facts it appeared that the Custom Broker, M/s. Damji Kanji & Co., who filed Shipping Bill on behalf of the exporter, has not verified the validity of License before filing of the Shipping Bill and also has not advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, contravened the provisions of

the Customs Act, 1962, making them liable for penal action under Section 117 of the Customs Act, 1962.

### **RECORDS OF PERSONAL HEARING**

7. The Exporter and Custom Broker have requested for waiver of Show Cause Notice and Personal Hearing vide their office letters dated 27.01.2024. They also submitted that they will pay nominal fine and penalties imposed by adjudicating authority as the mistake was a human error. They also requested to allow the goods for export as they have cancellation pressure from overseas buyer.

#### **8. Discussions and Findings**

8.1. I have carefully gone through the brief facts of the case as mentioned above and the applicable provisions of the law under Customs Act/Rules. As per Section 124 of Customs Act, 1962, whenever a confiscation is proposed, an SCN has to be issued to the exporter and opportunity for furnishing written reply to the noticee has to be provided. In addition, opportunity for personal hearing is required to be given. In this case, the Exporter and the Custom Broker have requested for waiver of Show Cause Notice and Personal Hearing vide letter dated 27.01.2025. As such the SCN and Personal Hearing may not be required to be issued as a Penalty has to be imposed under Section 117 of Customs Act, 1962. I find that the exporter M/s. Sagar Switch Gears Limited, Plot No.190 C&D, G.I.D.C., Road-F, Por, Contact No: 02652830255, Dist. Vadodara, Gujarat-391243, filed the Shipping Bill No. 7255283 dated 13.01.2025 through their CHA M/s. Damji Kanji & Co. miscellaneous goods i.e Wire Making Machine with accessories 03 Set, BOPP White/Transparent/PP Film and Slitting Rings having FOB value of Rs.1,65,30,669/-. The aforesaid Shipping Bill was filed against the Invoice No. SSGL/EXP/2425/03 dated 12.01.2025.

8.2. I find that the exporter has filed shipping bill no. 7255283 dated 13.01.2025 against the invoice no. SSGL/EXP/2425/03 dated 12.01.2025. Total 05 items were declared by the exporter in the said Shipping Bill. Out of these 05 items, 03 items mentioned at Sr. No. 1-3 were filed under scheme Code “43” i.e. Drawback and Zero Duty EPCG and rest of the 02 items were filed under Scheme code “19”. Further I find that during the examination of the goods it was noticed that EPCG license No. 3430002779 dated 01/04/2015 having Export Obligation Period of 06 years from the date of issuance of license is already expired in 2021. However, the exporter has filed the said Shipping Bill for the said 03 items mentioned at Sr. No. 1-3 under the above mentioned license which is already expired in 2021.

8.3. I find that the goods declared in Shipping Bill No. 7255283 dated 13.01.2025 are permitted free for export as per Schedule-II of Export Policy. Further, The exporter vide their letter dated 27.1.2025 has submitted that they are manufacturer exporter and the said Shipping Bill was inadvertently filed under expired EPCG License No. 3430002779 instead of the regular Drawback scheme due to a clerical oversight during documentation. They also submitted that this occurred as a result of human error and it was unintentional, with no intent to misrepresent or claim inappropriate benefits. Further, they submitted that they have no malafide intention for claiming benefit under said EPCG License as the same is already expired in 2021 and DGFT also may not consider the same for Export Obligation. They have also requested to release the cargo for export as they have cancellation pressure from overseas buyer.

8.4 I find that the Custom Broker, M/s. Damji Kanji & Co., who filed Shipping Bill on behalf of the exporter, has not verified the validity of License before filing of the Shipping Bill and also has not advised his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, contravened the provisions of the Customs Act, 1962.

8.6. In view of the above facts, I find that the exporter have contravened the provisions of the Section 50 of the Customs Act, 1962 by filing shipping bill under expired EPCG license

and made himself liable for penal action under Section 117 of the Customs Act, 1962. Further, I find that the Custom Broker, M/s. Damji Kanji & Co., who filed Shipping Bill on behalf of the exporter, has not verified the validity of License before filing of the Shipping Bill and also has not advised his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, contravened the provisions of the Customs Act, 1962, making them liable for penal action under Section 117 of the Customs Act, 1962.

8.7. Further I find that:

**Section 50. Entry of goods for exportation. –**

*(1) The exporter of any goods shall make entry thereof by presenting electronically on the customs automated system] to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export in such form and manner as maybe prescribed.*

*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 on the customs automated system, allow an entry to be presented in any other manner.*

*(2) The exporter of any goods, while presenting a shipping bill or bill of export, shall make and subscribe to a declaration as to the truth of its contents.*

*(3) The exporter who presents a shipping bill or bill of export under this section 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.”.*

**Section 117. Penalties for contravention, etc., not expressly mentioned-**

*Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding 1[four lakh rupees].*

9. In view of the above discussion and findings, I pass the following order:

**Order**

9.1. In light of the above discussion and findings, I hereby impose a penalty of Rs.100000/- (Rupees One Lakhs Only) under Section 117 of the Customs Act, 1962 on the exporter for the contravention of Section 50 of the Customs Act, 1962.

9.2. In light of the above discussion and findings, I hereby impose a penalty of Rs. 100000/- (Rupees One Lakhs Only) under Section 117 of the Customs Act, 1962 on the Custom Broker, M/s. Damji Kanji & Co.

**MUKESH KUMARI  
ADDITIONAL  
COMMISSIONERADC/JC-I-O/o Pr  
Commissioner-Customs-Mundra**

**F. No. CUS/ECFS/MISC/12/2025-Docks Examn-O/o Pr Commr-Cus-Mundra**

**Date: 29-01-2025**

**Copy to:-**

- 1. M/s. Sagar Switch Gears Limited, Plot No.190 C&D, G.I.D.C., Road-F, Por,  
Contact No: 02652830255, Dist.Vadodara, Gujarat-391243.**
- 2. CB M/s. Damji Kanji & Co.**
- 3. The Deputy/Assistant Commissioner of Customs, RRA/TRC/EDI/CB Section,  
Custom House Mundra.**
- 4. Guard File.**