



प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद

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

दूरभाष : (079) 2754 4630 E-mail: cus-ahmd-adj@gov.in फैक्स : (079) 2754 2343

DIN: 20251071MN00006656AC

PREAMBLE

| | | | |
|------|--|---|---|
| A | फाइल संख्या/ File No. | : | GEN/ADJ/ADC/356/2023-ICD-SRT-CUS-COMMRTE-AHMEDABAD |
| B | कारण बताओ नोटिस संख्या एवं तारीख / Show Cause Notice No. and Date | : | VIII/10-13/O&A/ADC/Max/2022-23 dated: 25.05.2022 |
| C | मूल आदेश संख्या/ Order-In-Original No. | : | 150/ADC/SR/O&A/2025-26 |
| D | आदेश तिथि/ Date of Order-In-Original | : | 30.10.2025 |
| E | जारी करने की तारीख/ Date of Issue | : | 30.10.2025 |
| F | द्वारा पारित/ Passed By | : | Shravan Ram Additional Commissioner Customs, Ahmedabad |
| G | आयातक का नाम और पता / Name and Address of Importer / Passenger | : | M/s. Max Impex, 4, Anand Nagar Society, A/P. Saniya Hemad, Puna Kumbariya Road, Surat-395010 M/s. Max Impex, 133, Kamal Park Society, Kapodara, Surat-395010 |
| 1 | यह प्रति व्यक्ति के उपयोग के लिए निःशुल्क प्रदान किया जाता है जिन्हे यह जारी किया जाता है। | | |
| 2 | कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्त किया तारीख के ६० दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क (अपील), ४वीं मंजिल, हुड़को भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है। | | |
| 3 | अपील के साथ केवल पांच (५.००) रुपये पे न्यायलय 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 साथकेवल पांच (५.००) रुपये पे न्यायलय शुल्क टिकिट लगा होना चाहिए। | | |
| 4 | इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को ७.५% अधिकतम १० करोड़ शुल्क हम करना होगा जहां शुल्क या ड्यूटी 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, १९६२ के धरा १२९ के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा। | | |

BRIEF FACTS OF THE CASE:

M/s. Max Impex, 4, Anand Nagar Society, A/P. Saniya Hemad, Puna Kumbariya Road, Surat-395010 (hereinafter referred as "the importer"), holding Import Export Code No. 5210034976 had imported **8 sets of capital goods viz. Computerized Embroidery Machine** under **EPCG Licence No. 5230008430 dated 15.03.2011** by saving duty of Rs. 5,96,234/- (Actual Duty Utilized of **Rs. 5,98,486/-**) and had cleared the same vide below mentioned Bill of Entries at a concessional rate of duty @ 3% while availing the benefit of exemption available under Notification No. 103/2009 dated 11.09.2009. The details of import are as under:

| S. N. | B/E No. & Date | Number of machineries cleared | Duty Saved/ available as per EPCG Licence | Total Duty Foregone/Debited at the time of clearance | BG Amount (Rs.) |
|---|---------------------------|-------------------------------|---|--|-----------------|
| 1 | 24/11-12 dated 07.04.2011 | 4 | 5,96,234/- | 2,99,243/- | 95,000/- |
| 2 | 61/11-12 dated 12.04.2011 | 4 | | 2,99,243/- | |
| TOTAL | | 8 sets | 5,96,234/- | 5,98,486/- | |
| As per para 5.10 of Handbook of Procedures, 10% enhancement in CIF value of duty saved amount is admissible. | | | | | |

2. The importer had executed Bond dated 11.04.2011 for Rs.15,00,000/- backed by Bank Guarantee No. 11726BG000036 dated 04.04.2011 for Rs.95,000/- issued by the Karnataka Bank Ltd., Ring Road, Surat for EPCG License No. 5230008430 dated 15.03.2011. They had also given an undertaking to fulfill the conditions of the Bond, EPCG License and the relevant Customs Notification at the time of registration of the EPCG License at ICD-Sachin, Surat.

3. The 8 sets of Computerized Embroidery Machine were to be installed at M/s. Max Impex, 133, Kamal Park Society, Kapodara, Surat395010, the importer in this regard produced Installation Certificate dated 22.06.2011 issued by Chartered Engineer Shri B. K. Goel, Surat certifying the receipt of the goods imported and their installation.

4. As per Notification No. 103/2009-Cus dated 11.09.2009 the importer was required to fulfill the export obligation on FOB basis equivalent to six times/eight times of the duty saved on the goods imported as may be specified on the licence or authorization. The relevant portion of the said notification is produced herein below for reference:

Notification No. 103 /2009-CUSTOMS

New Delhi, the 11 September, 2009.

G.S.R. 669 (E) - In exercise of the powers conferred by subsection (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts goods specified in the Table annexed hereto, from,-

- (i) so much of the duty of customs leviable thereon which is specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) as is in excess of the amount calculated at the rate of three percent ad-valorem, and
- (ii) the whole of the additional duty leviable thereon under section 3 of the said Customs Tariff Act, when specifically claimed by the importer.

2. The exemption under this notification shall be subject to the following conditions, namely:-

(1) that the goods imported are covered by a valid authorization issued under the Export Promotion Capital Goods (EPCG) Scheme in terms of Chapter 5 of the Foreign Trade Policy permitting import of goods at the rate of three percent duty and the said authorization is produced for debit by the proper officer of customs at the time of clearance:

Provided that for import of spare parts specified at Sr.No.4 of the said Table, the validity period of the authorization shall be deemed to be the period permitted for fulfillment of the export obligation in full:

Provided further that the import of motor cars, sports utility vehicles or all purpose vehicles shall be allowed only to hotels, travel agents, tour operators or tour transport operators and companies owning or operating golf resorts, subject to the condition that,-

(i) the total foreign exchange earnings from hotel, travel and tourism and golf tourism sectors in current and preceding three licensing years is rupees one crore fifty lakhs or more;

(ii) the duty saved amount on all EPCG authorizations issued in a licensing year for import of motor cars, sports utility vehicles or all-purpose vehicles shall not exceed 50% of average foreign exchange earnings from hotel, travel and tourism and golf tourism sectors in preceding three licensing years; and

(iii) the vehicles imported shall be so registered that the vehicle is used for tourist purpose only and a copy of the registration certificate shall be submitted to the concerned Customs authorities as a confirmation of import of vehicle within six months from the date of import:

Provided also that the benefit of import of capital goods at concessional duty under this notification for creation of modern infrastructure shall be extended only to such retailers who have a minimum area of 1000 square meters.

(2) that the goods imported shall not be disposed of or transferred by sale or lease or any other manner till export obligation is completed.

(3) that the importer executes a bond in such form and for such sum and with such surety or security as may be specified by the Deputy Commissioner of Customs or Assistant Commissioner of Customs binding himself to comply with all the conditions of this notification as well as to fulfill export obligation on **FOB basis equivalent to eight times the duty**

saved on the goods imported as may be specified on the authorization, or for such higher sum as may be fixed or endorsed by the Licensing Authority or Regional Authority in terms of Para 5.10 of the Handbook of Procedures Vol I, issued under para 2.4 of the Foreign Trade Policy, within a period of eight years from the date of issue of Authorization, in the following proportions, namely :-

| S.N. | Period from the date of issue of Authorization | Proportion of total export obligation |
|------|--|---------------------------------------|
| (1) | (2) | (3) |
| 1 | Block of 1st to 6th year | 50% |
| 2 | Block of 7th to 8th year | 50% |

It is thus evident from the above notification that the importer was required to execute a bond in such form and for such sum and with such surety or security as may be specified by the Deputy Commissioner of Customs or Assistant Commissioner of Customs binding himself to fulfill export obligation on FOB basis equivalent to 8 times the duty saved on the goods imported as may be specified on the licence or authorization, or for such higher sum as may be fixed or endorsed by the licencing Authority or Regional Authority, **within a period of eight years from the date of issuance of licence or authorization i.e. complete 50% export obligation within first block of 1st to 6th years and remaining 50 % in second block of 7th to 8th years .**

5. The aforesaid EPCG License No. 5230008430 dated 15.03.2011 was issued to the importer for a period of 8 years **valid up to 14.03.2019** and the Bond dated 11.04.2011 was executed for a period of 10 years. Accordingly, the Importer was required to fulfill the export obligation within a period of 8 years from the date of EPCG Licence as per the condition laid down in the Notification and EPCG Licence itself and submit the Export Obligation Discharged Certificate issued by the DGFT Authority to the department.

6. On completion of block 1-6 years, a letter dated 09.03.2018 was issued to the importer requesting them to submit evidence regarding export to the extent of 50% of the total export obligation which was returned undelivered by postal authority. Further, letters dated 07.02.2020, 18.02.2020 and 22.02.2021 were issued to the importer to either furnish the EODC issued by DGFT, Surat or any extension granted by DGFT, Surat for fulfillment of Export Obligation which were also returned undelivered by postal authority.

6.1 As no reply was received from importer, a letter dated 22.11.2021 was written to the Foreign Trade Development officer, DGFT, Surat with a request to intimate the department whether the importer has been issued EODC against EPCG License No. 5230008430 dated 15.03.2011 issued to them or any documents showing the fulfillment of the export obligation have been submitted by the aforesaid importer. The Assistant Director, Directorate General of Foreign Trade, Surat vide their letter F. No. EPCG/Mis. /2020-21 dated 23.11.2021 intimated that the importer had submitted documents to them.

Again, vide letter dated 18.05.2022, the Assistant Director, DGFT, Surat was requested to let the department know whether the importer has been issued EODC against EPCG License No. 5230008430 dated 15.03.2011 issued to them. In turn, the Assistant Director, DGFT, Surat vide their letter F. No. EPCG/Mis. /2020-21 dated 25.05.2022 intimated that the importer has been issued Demand Notice, against EPCG License No. 5230008430 dated 15.03.2011 in the matter.

Thus, it is evident from the above that the importer has failed to fulfill the export obligation as specified in the Licence and has not complied with the mandatory conditions of the Customs Notification No.103/2009 dated 11.09.2009, EPCG Licence and Bond dated 11.04.2011.

7. As per the provisions of Section 143 of the Customs Act, 1962, the aforesaid capital goods were allowed clearance by the proper officer on execution of bond by the importer wherein the importer bound themselves to discharge liability within a specified period in certain manner, which they have failed to do, by not fulfilling the export obligation. Therefore, the department is entitled to recover the duty less paid by raising a demand and appropriating the Bank Guarantee furnished by the importer against this demand. The said section is produced herein below for reference:

SECTION 143. Power to allow import or export on execution of bonds in certain cases. - (1) *Where this Act or any other law requires anything to be done before a person can import or export any goods or clear any goods from the control of officers of customs and the Assistant Commissioner of Customs or Deputy Commissioner of Customs is satisfied that having regard to the circumstances of the case, such thing cannot be done before such import, export or clearance without detriment to that person, the Assistant Commissioner of Customs or Deputy Commissioner of Customs may, notwithstanding anything contained in this Act or such other law, grant leave for such import, export or clearance on the person executing a bond in such amount, with such surety or security and subject to such conditions as the Assistant Commissioner of Customs or Deputy Commissioner of Customs approves, for the doing of that thing within such time after the import, export or clearance as may be specified in the bond.*

(2) *If the thing is done within the time specified in the bond, the Assistant Commissioner of Customs or Deputy Commissioner of Customs shall cancel the bond as discharged in full and shall, on demand, deliver it, so cancelled, to the person who has executed or who is entitled to receive it; and in such a case that person shall not be liable to any penalty provided in this Act or, as the case may be, in such other law for the contravention of the provisions thereof relating to the doing of that thing.*

(3) ***If the thing is not done within the time specified in the bond, the Assistant Commissioner of Customs or Deputy Commissioner of Customs shall, without prejudice to any other action that may be taken under this Act or any other law for the time being in force, be entitled to proceed upon the bond in accordance with law.***

8. In view of the above, the importer failed to fulfill the conditions laid down under Notification No. 103/2009-Cus dated 11-09-2009 in as much as they failed to export goods manufactured from 8 sets of Computerized Embroidery Machine imported under EPCG License No. 5230008430 dated 15.03.2011 which was equivalent to six times/eight times of the duty saved amount on the goods imported and also did not produce EODC issued by DGFT, Surat or any extension granted by DGFT, Surat for fulfillment of Export Obligation. They are therefore liable to pay duty of **Rs.5,98,486/- (Rupees Five Lakh Ninety-Eight Thousand Four Hundred and Eighty-Six only)** in respect of the said imported goods along with interest at the applicable rate, in terms of conditions of the said Notification read with condition of Bond executed by the importer and Section 143 of the Customs Act,1962.

8.1 The importer had executed Bond dated 11.04.2011 for Rs.15,00,000/- backed by Bank Guarantee No. 11726BG000036 dated 04.04.2011 for Rs.95,000/- issued by the Karnataka Bank Ltd., Ring Road, Surat for EPCG License No. 5230008430 dated 15.03.2011, therefore the Bank Guarantee is required to be appropriated against the aforesaid recovery.

8.2 It also appears that the imported capital goods were not used for intended purpose for which the exemption from payment of duty was claimed and therefore, the aforesaid Capital goods are liable for confiscation under Section 111(o) of the Customs Act, 1962. It therefore appears that importer has rendered themselves liable for penal action under Section 112 (a) and 117 of the Customs Act, 1962.

9. In view of the above, M/s. Max Impex, 4-Anand Nagar Society, A/P Saniya Hemad, Puna Kumbariya Road, Surat-395010, was issued a Show Cause Notice bearing F. No. VIII/10-13/O&A/ADC/Max/2022-23 dated 25.05.2022 by the Additional Commissioner of Customs, Surat, requiring them to show cause as to why:

i. The benefit of concessional rate of duty @ 3% for EPCG Scheme under Notification No. 103/2009 dated 11.09.2009 on the imported Computerized Embroidery Machine imported in the name of M/s. Max Impex should not be denied.

ii. Customs duty total amounting to **Rs.5,98,486/- (Rupees Five Lakh Ninety Eight Thousand Four Hundred and Eighty Six only)** being the duty foregone at the time of import under EPCG Licence, should not be demanded and recovered from them in terms of Notification No 103/2009 dated 11.09.2009 as amended, read with the Conditions of Bond executed and furnished by them in term of Section 143 of the Customs Act,1962 by enforcing the terms of the said Bond. Further, why the Bank Guarantee No. 11726BG000036 dated 04.04.2011 for Rs. 95,000/- backed against the Bond, should not be appropriated and adjusted towards the duty liability as mentioned above.

iii. The Imported Capital Goods should not be held liable for confiscation under Section 111(o) of the Customs Act, 1962 read with conditions of Bond executed, in terms of Section 143 of the Customs Act, 1962 read with Notification No. 103/2009-Cus dated 11.09.2009 as amended from time to time.

iv. Interest at the applicable rate should not be recovered from them on the Customs duty as mentioned at (ii) above in term of Notification No 103/2009-Cus dated 11.09.2009 as amended from time to time read with Conditions of Bond executed in term of Section 143 of Customs Act,1962.

v. Penalty should not be imposed on the importer under Section 112 (a) of the Customs Act, 1962 for the acts of omission & commission mentioned above.

vi. Penalty should not be imposed on the importer under Section 117 of the Customs Act, 1962 for the acts of omission & commission mentioned above.

10. The Show Cause Notice was adjudicated by the then Adjudicating Authority vide Order-in-Original No. 67/AR/ADC/ICD-SACHIN/SRT/2022-23 dated 14.02.2023, wherein the Adjudicating Authority passed the following order: -

(i) disallowed the benefit of concessional rate of duty @ 3% for EPCG Scheme under Notification No. 103/2009-Cus dated 11.09.2009 for the subject imported capital goods.

(ii) confirmed the demand of customs duty amounting **Rs.5,98,486/- (Rupees Five Lakh Ninety Eight Thousand Four Hundred Eighty Six only)** being the Duty forgone at the time of import of Capital Goods under EPCG Licence, in terms of Notification No. 103/2009-Cus dated 11.09.2009 as amended, read with the Conditions of Bond executed and ordered for recovery from M/s. Max Impex in terms of the Section 143 of the Customs Act, 1962 by enforcing the terms of the above mentioned Bond.

(iii) ordered to appropriate the amount of Rs.95,000/-, by encashment of the Bank Guarantee No. 11726BG000036 dated 04.04.2011 for Rs.95,000/- issued by the Karnataka Bank Ltd., Ring Road, Surat submitted by the noticee. As the said amount has been encashed vide TR-6 Challan No.65/19-20 dated 05.03.2020 and the amount of Rs. 95,000/- has been deposited in Government exchequer, the amount may be adjusted against the duty liability confirmed at Sr. No (ii) above.

(iv) Ordered for confiscation of impugned capital goods under Section 111(o) of Customs Act, 1962 read with conditions of Bond executed in terms of Section 143 of the Customs Act, 1962 and read with Customs Notification No. 103/2009-Cus dated 11.09.2009 as amended. However, allowed the noticee an option to redeem the said goods on payment of redemption fine of Rs.16,76,341/- under Section 125(1) of Customs Act, 1962.

(v) Ordered for recovery of Interest at the applicable rate from M/s. Max Impex on the Customs Duty as mentioned at (ii) above in term of Notification No. 103/2009-Cus dated 11.09.2009 as amended from time to time read with Conditions of the Bond executed in term of Section 143 of the Customs Act, 1962 by enforcing the Bond.

(vi) Imposed penalty of **Rs.59,849/-**(Rupees Fifty-Nine Thousand Eight Hundred and Forty-Nine Only) under Section 112(a) (ii) of Customs Act, 1962.

(vii) Imposed penalty of **Rs.1,00,000/-**(Rupees One Lakh Only) under Section 117 of Customs Act, 1962.

11. Being aggrieved with the Order-in-Original No. 67/AR/ADC/ICDSACHIN/SRT/2022-23 dated 14.02.2023 issued by the Additional Commissioner of Customs, Surat, the noticee filed an appeal with the Commissioner of Customs (Appeals), Ahmedabad. The Commissioner of Customs (Appeals), Ahmedabad, vide Order-in-Appeal No. AHD-CUSTM000-APP-299-24-25 dated 14.02.2025, allowed the appeal by way of remand to the adjudicating authority for passing fresh order after taking the submissions made by the appellant in the present appeal on record and pass fresh order.

11.1 During the course of the personal hearing, the Appellate Authority observed that the appellant had not fulfilled the export obligation under the said EPCG Licence. It was further noted that the appellant had paid a duty amount of Rs.3,50,000/- to the Customs authorities and had additionally paid the balance amount of Rs.2,21,000/- towards the unfulfilled export obligation pertaining to EPCG Licence No. 5230008430 dated 15.03.2011, under the Amnesty Scheme.

11.2 The Appellate Authority further observed that the submissions now made by the appellant were being presented for the first time before the Appellate Authority and had not been raised before the Adjudicating Authority. Consequently, the Appellate Authority allowed the appeal of the noticee by way of remand to the Adjudicating Authority for passing a fresh order after duly considering the submissions made by the appellant in the present appeal, as well as examining the eligibility of the Amnesty Scheme. The Adjudicating Authority was directed to examine all available facts, documents, and submissions, and to issue a speaking order afresh, in accordance with the principles of natural justice and relevant legal provisions.

In compliance with the directions of the Appellate Authority, the case has accordingly been taken up for fresh adjudication.

DEFENSE SUBMISSION AND PERSONAL HEARING:

12. As per the submissions made by the Noticee before the Commissioner (Appeals), they had applied under the Amnesty Scheme; however, issuance of the Export Obligation Discharge Certificate (EODC) was pending at that time. Consequently, the case was transferred to the Call Book on 04.08.2025. Subsequently, vide letter dated 03.10.2025 (received through e-mail dated 07.10.2025), the Noticee informed that they had applied for regularization under the Amnesty Scheme and submitted the requisite application to the DGFT, Surat. They further stated that they had paid Customs duty amounting to Rs. 5,98,486/along with interest of Rs.67,054/-. The DGFT, after considering the said payment under the Amnesty Scheme, issued the EODC/Final Duty Paid Regularization Letter against EPCG Licence No. 5230008430 dated 15.03.2011. The Noticee submitted a copy of the Final Duty Paid Regularization Letter dated 26.08.2025, issued vide F. No. 52EEEPC01770AM24 by the DGFT, Surat, and requested that a fresh order be passed accordingly and the demand be dropped.

12.1 Since, the Noticee submitted Final Duty Paid Regularization Letter, the case is taken up for adjudication and Personal Hearing was offered to the noticee on 28.10.2025 vide letter dated 15.10.2025. In response, the advocate of the Noticee vide e-mail dated 27.10.2025 submitted that they have received EODC from the office for the Jt. DGFT, RA Surat against this EPCG authorization and they have also submitted a letter through E-mail dated 07.10.2025. **He further informed that they don't want further PH in this case and requested to consider their e-mail dated 07.10.2025 and dropped the demand.**

DISCUSSIONS AND FINDINGS:

13. I have carefully gone through the Show cause notice, records, submissions and facts in the present case.

14. I find that in the present case, a Show Cause Notice bearing F. No. VIII/10-13/O&A/ADC/Max/2022-23 dated 25.05.2022 was issued to the Noticee/Importer, holding EPCG Licence No. 5230008430 dated 15.03.2011, by the Additional Commissioner of Customs, Surat, for nonfulfillment of export obligations as prescribed under Notification No. 103/2009-Cus dated 11.09.2009 and for non-submission of the Export Obligation Discharge Certificate (EODC) issued by the DGFT authorities. As per Notification No. 103/2009-Cus dated 11.09.2009, the importer was required to fulfill the export

obligation on an FOB basis equivalent to eight times the duty saved on the imported goods within eight years from the date of authorization, as specified in the License.

14.1 I also note that the case was transferred to the Call Book in terms of paragraph 5 of Board Circular No. 16/2017-Customs dated 02.05.2017, after the Noticee informed that they had opted for the Amnesty Scheme before the DGFT, Surat, issued vide Public Notice No. 02/2023 dated 01.04.2023, and that the EODC was pending. Now, in view of the email dated 07.10.2025, wherein the Noticee forwarded their letter dated 03.10.2025, along with the Final Duty Paid Regularization Letter dated 26.08.2025 issued by DGFT, Surat, the case has been taken out of the Call Book with the approval of the competent authority and is being taken up for fresh adjudication.

14.2 The issues for consideration before me are as follows:

(i) Whether the Noticee has fulfilled the export obligation under EPCG scheme under the Notification No. 103/2009Cus dated 11.09.2009, and whether the Amnesty Scheme criteria for the EPCG Licence issued to them, have been met.

(ii) Whether the Noticee is liable for confiscation of capital goods and penalties as proposed in the Show Cause Notice.

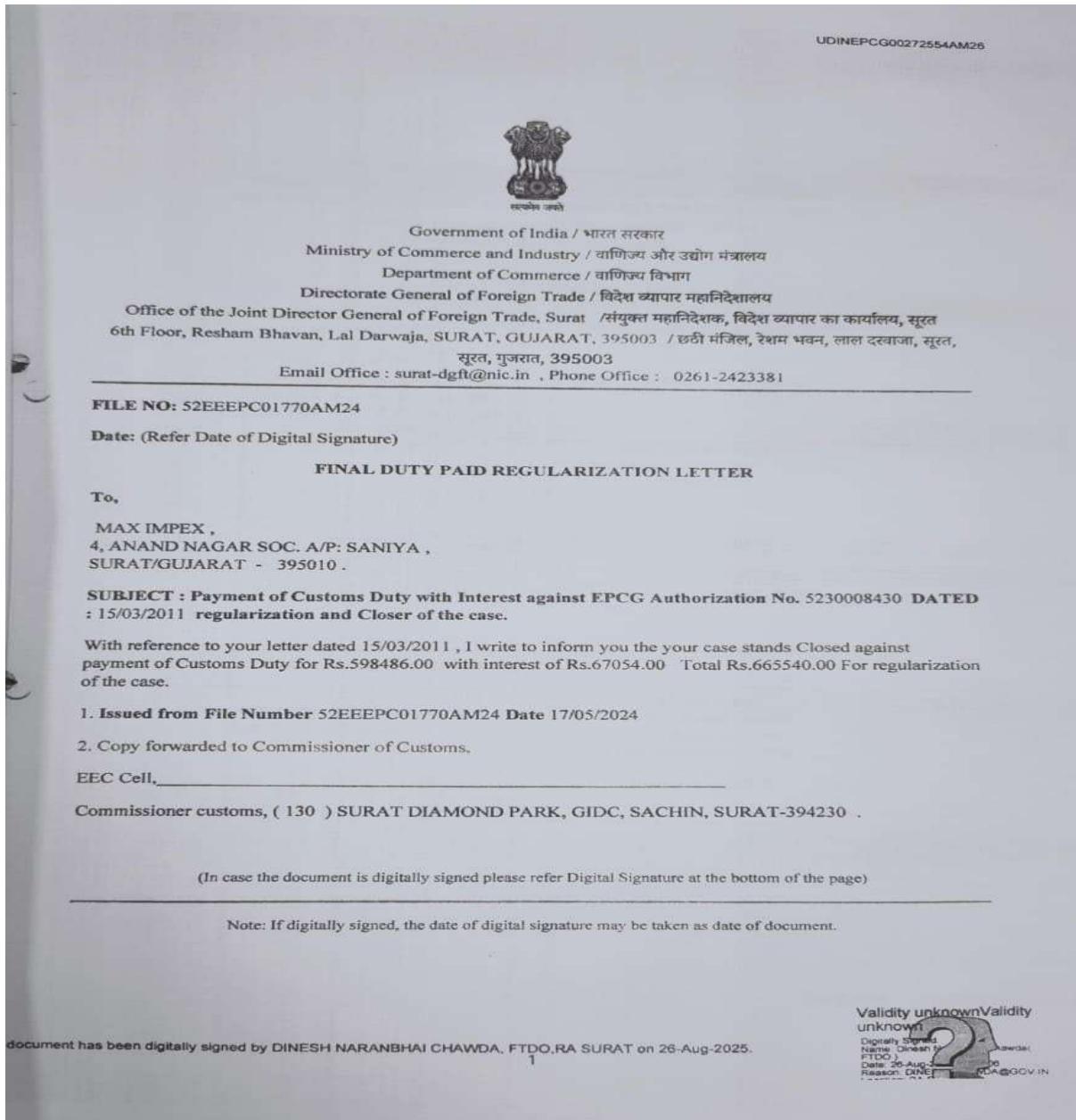
15. Now I proceed to decide whether the Noticee has fulfilled the export obligation under EPCG scheme under the Notification No. 103/2009-Cus dated 11.09.2009, and whether the Amnesty Scheme criteria for the EPCG Licence issued to them, have been met.

15.1 I find that present recovery proceeding was initiated for non-submission of proof of fulfillment of export obligation and no submission of Export obligation discharge certificate (EODC) in respect of the EPCG authorization No. 5230008430 dated 15.03.2011 against which concessional rate of duty @ 3 % during import was availed by the noticee. The aforesaid EPCG Licence No. 5230008430 dated 15.03.2011 was issued to the importer for a period of eight years, valid up to 14.03.2019. Accordingly, the importer was required to fulfill the export obligation within eight years from the date of the EPCG Licence, in accordance with the conditions specified in the Notification and the Licence itself, and to submit the Export Obligation Discharge Certificate (EODC) issued by the DGFT to the department. However, despite the expiry of the export obligation period, the importer neither furnished the EODC issued by DGFT, Surat, nor obtained any extension from DGFT, Surat, for the fulfillment of the export obligation. I further note that the Assistant Director, Directorate General of Foreign Trade, Surat, intimated that a Demand Notice had been issued against the importer in respect of EPCG Licence No. 5230008430 dated 15.03.2011. Thus, it is evident from the above that the importer has failed to fulfill the export obligation as specified in the Licence and has not complied with the mandatory conditions of Customs Notification No. 103/2009 dated 11.09.2009, the EPCG Licence, and the Bond dated 11.04.2011.

15.2 I find that the Noticee, vide letter dated 03.10.2025, has submitted that the DGFT, Surat, has issued the Final Duty Paid Regularization Letter dated 26.08.2025 under the Amnesty Scheme, vide F. No. 52EEEPC01770AM24, in respect of the impugned EPCG Authorization No. 5230008430 dated 15.03.2011. I also note that neither the Noticee's application for EODC under

the Amnesty Scheme nor the Final Duty Paid Regularization Letter dated 26.08.2025 issued by DGFT, Surat, was available at the time of issuance of the impugned Show Cause Notice.

15.3 I also find from the records that the Noticee applied for the Amnesty Scheme before DGFT. The DGFT, vide Public Notice No. 2/2023 dated 01.04.2023, introduced the “Amnesty Scheme for one-time settlement of default in export obligation by Advance and EPCG authorization holders.” I find that as per the records and the Final Duty Paid Regularization Letter dated 26.08.2025 issued by DGFT under the Amnesty Scheme, the Noticee was required to pay **Customs duty of Rs. 5,98,486/- along with interest of Rs. 67,054/- (total Rs. 6,65,540/-)** in terms of Public Notice No. 2/2023 dated 01.04.2023. The Noticee made payments as follows: Rs. 3,50,000/- vide TR-6 Challan No. 101/22-23 dated 13.03.2023; Rs. 2,21,000/- vide TR-6 Challan No. 179/23-24 dated 21.03.2024; and Rs. 95,000/- vide TR-6 Challan No. 65/19-20 dated 05.03.2020 towards Customs duty and interest, amounting to a total of **Rs.6,66,000/-** (rounded figure). The said Final Duty Paid Regularization Letter dated 26.08.2025, issued from F. No. 52EEPC01770AM24 by DGFT, Surat, in respect of EPCG Authorization No. 5230008430 dated 15.03.2011, is produced below:



15.4 I find that as per Sub Para (vi) of Para II of the said Public Notice No. 2/2023 dated 01.04.2023, reads as- The applicant thereafter can pay Customs duty plus interest with the Jurisdictional Customs Authorities concerned and submit proof thereof to the regional authority of DGFT concerned. The Noticee has complied with the procedure laid down by DGFT under the “Amnesty

Scheme" introduced vide Public Notice No. 2/2023 dated 01.04.2023 for EPCG Authorization No. 5230008430 dated 15.03.2011, and has paid the Customs duty along with interest within the prescribed time frame for regularization of their case. Accordingly, I find that customs duty amounting Rs. 5,98,486/- is required to be confirmed and the custom duty paid by the Noticee is required to be appropriated against the demand confirmed in terms of Public Notice No. 2/2023 dated 01.04.2023 read with CBIC circular 11/2023-cus dt.17.05.2023. Further, Interest of Rs. 67,054/- paid by the noticee under amnesty scheme is also required to be appropriated against the demand of interest.

16. Now I proceed to decide whether the noticee is liable for confiscation of Capital Goods and penalties as proposed in the Show Cause Notice.

16.1 Since the Noticee has complied with the conditions of the "Amnesty Scheme for one-time settlement of default in export obligation" in respect of EPCG Authorization No. 5230008430 dated 15.03.2011, in accordance with Public Notice No. 2/2023 dated 01.04.2023 issued by DGFT, read with CBIC Circular No. 11/2023-Cus dated 17.05.2023, I do not find it appropriate to hold the goods liable for confiscation under Section 111(o) of the Customs Act, 1962, as proposed in the Show Cause Notice. Accordingly, I also find that no penalty is imposable on the Noticee under Sections 112(a) and 117 of the Customs Act, 1962.

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

ORDER

- i** I confirm the demand of Customs duty amounting to **Rs.5,98,486/-** (Rupees Five Lakh Ninety-Eight Thousand Four Hundred Eighty-Six only), being the duty foregone at the time of import of Capital Goods under the aforesaid EPCG Licence, in terms of Notification No. 103/2009-Cus dated 11.09.2009, as amended, read with the conditions of the Bond executed. The same shall be recovered from M/s. Max Impex in accordance with Section 143 of the Customs Act, 1962, by enforcing the terms of the aforementioned Bond. I further order that the Customs duty of **Rs.5,98,486/-** and interest of **Rs.67,054/-** already paid by M/s. Max Impex in terms of Public Notice No. 2/2023 dated 01.04.2023 issued by DGFT, read with CBIC Circular No. 11/2023-Cus dated 17.05.2023, shall be appropriately appropriated.
- ii** Since M/s. Max Impex has paid the recoverable Customs duty along with interest, as detailed in the preceding paragraphs, in terms of Public Notice No. 2/2023 dated 01.04.2023 for the "Amnesty Scheme for one-time settlement of default in export obligation," and has obtained the "Final Duty Paid Regularization Letter under Amnesty Scheme" issued by DGFT, Surat vide F. No. 52EEEPC01770AM24 dated 26.08.2025, I do not find the Capital Goods liable for confiscation under Section 111(o) of the Customs Act, 1962. Consequently, no redemption fine under Section 125(1) of the Customs Act, 1962, is leviable.

iii In view of the foregoing, I do not propose to impose any penalty upon M/s. Max Impex, 4, Anand Nagar Society, A/P. Saniya Hemad, Puna Kumbariya Road, Surat-395010, under Sections 112(a) and 117 of the Customs Act, 1962.

18. The Show Cause Notices F. No. VIII/10-13/O&A/ADC/Max/2022-23 dated 25.05.2022 is disposed off in above terms.

(Shravan Ram)
Additional Commissioner
Customs, Ahmedabad

DIN: 20251071MN00006656AC

F. No. CUS/EPCG/MISC/171/2024-ICD-SRT-CUS-COMMRTE-AHMEDABAD Dated: 30.10.2025

By Speed Post A.D./E-mail /Hand Delivery/Through Notice Board

To,
M/s. Max Impex,
4, Anand Nagar Society,
A/P. Saniya Hemad,
Puna Kumbariya Road,
Surat-395010

M/s. Max Impex,
133, Kamal Park Society,
Kapodara, Surat-395010

Copy to:-

1. The Principal Commissioner, Customs, Ahmedabad.
2. The Deputy Commissioner of Customs, ICD-Sachin, Surat.
3. The System In-Charge, Customs HQ, Ahmedabad for uploading on the official website i.e. <http://www.ahmedabadcustoms.gov.in>
4. The Joint Director General, DGFT, 6th Floor, Resham Bhavan Lal Darwaja, Surat-395003 for information and necessary action.
5. Guard File/Office copy.
6. Notice Board