



प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद

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

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

PREAMBLE

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|------|---|---|--|
| A | फाइल संख्या / File No. | : | VIII/10-205/ICD Khodiyar/O&A/HQ/2024-25 |
| B | कारणबता ओनोटिस संख्या-तारीख / Show Cause Notice No. and Date | : | Waiver of SCN by the Importer |
| C | मूल आदेश संख्या / Order-In-Original No. | : | 121/ADC/VM/O&A/2024-25 |
| D | आदेश तिथि / Date of Order-In-Original | : | 16.08.2024 |
| E | जारी करने की तारीख / Date of Issue | : | 16.08.2024 |
| F | द्वारा पारित / Passed By | : | Vishal Malani, Additional Commissioner, Customs, Ahmedabad. |
| G | आयातक का नाम और पता / Name and Address of Importer / Passenger | : | M/s. OM Trading, 853, Vishwakarma Shopping Centre, Near Punjab National Bank, Sector - 21, Gandhinagar. |
| (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 प्राप्ति की तारीख के 60 दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क (अपील), 4वीं मंजिल, हुड़को भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है। | | |
| (3) | अपील के साथ केवल पांच (5.00) 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 साथ केवल पांच (5.00) रुपये पे न्यायलय शुल्क टिकिट लगा होना चाहिए। | | |
| (4) | इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को 7.5% अधिकतम 10 करोड़ शुल्क हम करना होगा जहां शुल्क या इयूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने में असफल रहने पर सीमा शुल्क अधिनियम, 1962 के धरा 129 के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा। | | |

Brief Facts of the Case:

M/s. Om Trading has filed Bill of Entry No. 4633764 dated 22.07.2024, through Customs Broker Polar Shipping Service, at ICD-Khodiyar for import of Copper Clad Laminates falling under Customs Tariff Item 74102100.

2. Whereas the Import Policy in respect of Non-Ferrous Metal, including goods falling under the Customs Tariff Item 76020010, has been revised from "Free" to "Free subject to compulsory registration under Non-Ferrous Metal Import Monitoring System (NFMIMS)" vide Notification No. 61/2015-2020 dated 31.03.2021 issued by the Directorate General of Foreign Trade, Department of Commerce, Ministry of Commerce & Industry, Government of India.

2.1. Subsequently, it has been inter-alia provided vide Notification No. 26/2015-2020 dated 10.08.2022 issued by the Directorate General of Foreign Trade, Department of Commerce, Ministry of Commerce & Industry, Government of India that the importer shall apply for registration before the arrival of import consignment.

3. In the present case, import consignment (LCL Cargo in Container No. TRLU-7181192) has arrived on 23.07.2024. The importer has not applied for registration under Non-Ferrous Metal Import Monitoring System (NFMIMS) before the arrival of import consignment.

4. In view of the foregoing, it appears that the goods have been imported vide aforesaid Bill of Entry No. 4633764 dated 22.07.2024 in contravention of the provisions of Section 46(4)(c) of the Customs Act, 1962 inasmuch as the importer has failed to ensure compliance with the restriction imposed vide DGFT Notification No. 61/2015-2020 dated 31.03.2021, as amended vide Notification No. 26/2015-2020 dated 10.08.2022, in respect of goods imported under the said Bill of Entry. As the said goods have been imported contrary to prohibition imposed vide aforesaid Notifications issued by the DGFT, the said goods appear liable for confiscation under the provisions of Section 111(d) of the

Customs Act, 1962 and the importer appears liable to penalty under Section 112(a) of the Customs Act, 1962.

Written Submission:

5. The importer M/s. Om Trading, vide letter dated 08.08.2024 has submitted that this is a mistake of CHA for not obtaining Registration; that during last import, their CHA obtained the Registration; that it was not their intention to not obtain Registration; that they are ready to pay fine/ penalty whatever imposed by the Customs authority, though they have requested for lenient view. It has also been submitted that they don't want any personal hearing, show cause notice or speaking order in the matter.

Discussion and findings:

6. I have carefully gone through the facts of the case and documents and evidences available on record. The importer's request for waiver of written Show Cause Notice in terms of the proviso to Section 124 is allowed. I also find that the importer has waive the requirement of any personal hearing in the matter.

7. I find that the Import Policy in respect of Non-Ferrous Metal, including goods falling under Customs Tariff Item 76020010, has been revised from "Free" to "Free subject to compulsory registration under Non-Ferrous Metal Import Monitoring System (NFMIMS)" vide Notification No. 61/2015-2020 dated 31.03.2021 issued by the Directorate General of Foreign Trade, Department of Commerce, Ministry of Commerce & Industry, Government of India. Subsequently, it has been inter-alia provided vide Notification No. 26/2015-2020 dated 10.08.2022 issued by the Directorate General of Foreign Trade, Department of Commerce, Ministry of Commerce & Industry, Government of India that the importer shall apply for registration before the arrival of import consignment.

7.1 In the present case, the import consignment (LCL Cargo in Container No. TRLU-7181192) has arrived on 23.07.2024. The

importer has not applied for registration under Non-Ferrous Metal Import Monitoring System (NFMIMS) before the arrival of import consignment. The importer obtained registration on 09.08.2024.

8. In view of the foregoing, it appears that the importer has contravened the provisions of Section 46(4)(c) of the Customs Act, 1962 inasmuch as the importer has failed to ensure compliance with the restriction imposed vide DGFT Notification No. 61/2015-2020 dated 31.03.2021, as amended vide Notification No. 26/2015-2020 dated 10.08.2022, in respect of goods imported under the said Bill of Entry No. 4633764 dated 22.07.2024 have assumed the character of prohibited goods. As the said goods have been imported contrary to prohibition imposed vide aforesaid Notifications issued by the DGFT, the said goods are liable for confiscation under the provisions of Section 111(d) of the Customs Act, 1962 and the importer is liable to penalty under Section 112(a) of the Customs Act, 1962.

9. I also find that the importer has also waived the requirement of any personal hearing or speaking order in the matter. Since its a procedural issue, I am taking a lenient view in the matter.

10. In view of the foregoing, I pass the following order :-

ORDER

(i) I order confiscation of impugned goods under question, imported vide Bill of Entry No. 4633764 dated 22.07.2024 in terms of the provisions of Section 111(d) of the Customs Act, 1962. However, the importer is given an option to redeem the said goods on payment of fine in lieu of confiscation amounting to **Rs.35,000/-** (Rupees Thirty-Five Thousand Only) in terms of the provisions of Section 125(1) of the Customs Act, 1962.

(ii) I impose penalty of **Rs.5,000/-** (Rupees Five Thousand only) on the importer in terms of the provisions of Section 112(a)(i) of the Customs Act, 1962.

Vishal
16/8/24

(Vishal Malani)

Additional Commissioner
Customs : Ahmedabad

DIN : 20240871MN0000719842

F. No. VIII/10-205/ICD-Khodiyar/O&A/HQ/2024-25 Date : 16.08.2024

By SPEED POST/ E-MAIL/ Hand Delivery

To,

M/s. OM Trading, (Through ICD – Khodiyar)
853, Vishwakarma Shopping Centre,
Near Punjab National Bank,
Sector – 21, Gandhinagar.

Copy to :

- (i) The Principal Commissioner of Customs, Ahmedabad Commissionerate, Ahmedabad. (Kind Attn : RRA Section).
- (ii) The Deputy Commissioner of Customs, ICD – Khodiyar, Ahmedabad.
- (iii) The Superintendent, Customs, H.Q. (Systems), Ahmedabad, for uploading on website of Customs Commissionerate, Ahmedabad.
- (iv) Guard File.