



प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद
,"सीमाशुल्कभवन" पहली मंजिल, पुराने हाईकोर्ट के सामने, नवरंगपुरा, अहमदाबाद – 380 009.
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PREAMBLE

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| A | फाइलसंख्या/ File No. | : VIII/10-109/ICD Khodiyar/O&A/HQ/2024-25 |
| B | कारणबताओनोटिससंख्या-तारीख / Show Cause Notice No. and Date | : Waiver of SCN by the Importer |
| C | मूलआदेशसंख्या/ Order-In-Original No. | : 72/ADC/VM/O&A/2024-25 |
| D | आदेशतिथि/ Date of Order-In-Original | : 21.06.2024 |
| E | जारीकरनेकीतारीख/ Date of Issue | : 21.06.2024 |
| F | द्वारापारित/ Passed By | : Vishal Malani, Additional Commissioner, Customs, Ahmedabad. |
| G | आयातककानामऔरपता / Name and Address of Importer / Passenger | : To, M/s. Nakoda Impex, GF, B-101, Astavinayak Complex, Opp. Bardolpura Gate, Ahmedabad – 380016 |
| (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), ४वि मंजिल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है। | |
| (3) | अपील के साथ केवल पांच ५.)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 साथकेवल पांच ५.)00) रुपये पे न्यायलय शुल्क टिकिट लगा होना चाहिए। | |
| (4) | इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को ७करोड़ शुल्क हम करना १० अधिकतम ४५. होगाजहां 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 :-

M/s. Nakoda Impex, GF, B-101, Astavinayak Complex, Opp. Bardolpura Gate, Ahmedabad – 380016 (herein after referred to as “M/s. Nakoda” or the “importer”) having Import Export Code 0808012975, is registered with Goods and Services Tax Department, with GSTIN 24AFVPG0355G1ZI.

2. M/s. Nakoda has filed Bill of Entry No. 3824877 dated 04.06.2024, through Customs Broker Dhanlabh Logistics LLP, at ICD Khodiyar for import of Dry Wall Screw Fine Thread Black Phosphated, Dry Wall Screw, Fine Thread NI Plated, Chipboard Screws Pozidrive with White Zinc, Dry Wall Screw Coarse Thread Black Phosphated, of different sizes, falling under Customs Tariff Item 73181400 of First Schedule to the Customs Tariff Act, 1975 at declared Assessable Value of Rs.32,72,341/-. The CIF (Cost, Insurance, Freight) value of per kg. of the said imported goods is Rs.120.04.

3. It has been observed that the Import Policy in respect of Screws covered under HS Code 7318 of Chapter 73 of Schedule – I (Import Policy) of ITC (HS) 2022, has been revised from “Free” to **“Prohibited”**, with revised Policy Condition **“however, import is “free” if CIF value is Rs.129/- or above per Kg and subject to Policy condition no. 2 and 3 of this Chapter”** vide Notification No. 55/2023 dated 03.01.2024 issued by the Directorate General of Foreign Trade, Department of Commerce, Ministry of Commerce & Industry, Government of India.

4.1 In the present case, the imported goods fall under CTI 73181400, hence the same are covered under aforesaid Notification No. 55/2023 dated 03.01.2024. Further, since the said imported goods are having CIF Value of Rs.120.04 per kg., the same appeared prohibited in view of “Revised Import Policy” vide Notification No. 55/2023 dated 03.01.2024. As such, the said imported goods appeared liable for confiscation under the provisions of Section 111(d) of the Customs Act, 1962.

4.2 It also appeared that the goods have been imported vide aforesaid Bill of Entry No. 3824877 dated 04.06.2024 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 prohibition imposed vide DGFT Notification No. 55/2023 dated 03.01.2024, in respect of goods imported under the said Bill of Entry. All the aforesaid acts of omission and commission on the part of the said importer appears to have rendered them liable for penalty as provided under Section 112(a) of the Customs Act, 1962.

WRITTEN SUBMISSION :-

5.1 M/s. Nakoda, vide letter dated 13.06.2024 has *inter-alia* submitted that as per Notification No. 55/2023 dated 03.01.2024, they accept value Rs.129 /- per kg. CIF and above, whereas their import value as per actual invoice is Rs.119.77 per Kg. It has been submitted that they don't have any objection to value load at Rs.129/- per kg. (CIF) instead of invoice value of Rs.119.77/- per kg.

5.2 M/s. Nakoda has submitted calculation showing difference in Basic Customs Duty at per Kg rate of Rs.119.77 and per Kg rate of Rs.129.05. It has also been requested to impose minimum penalty for their mistake. They have also requested to allow them to clear cargo.

5.3 M/s. Nakoda has submitted that they don't require any Show Cause Notice or Personal Hearing or Speaking Order in this matter.

DISCUSSION AND FINDINGS :-

6. I have carefully gone through the facts of the case and documents and evidences available on record.

7. 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 waived the requirement of any personal hearing in the matter.

8. It is undisputed that the imported goods viz. Dry Wall Screw Fine Thread Black Phosphated, Dry Wall Screw, Fine Thread NI Plated, Chipboard Screws Pozidrive with White Zinc, Dry Wall Screw Coarse Thread Black Phosphated, of different sizes, falling under Customs Tariff Item / HS Code 73181400, imported by M/s. Nakoda vide Bill of Entry No. 3824877 dated 04.06.2024, are covered under Notification No. 55/2023 dated 03.01.2024 issued by the Directorate General of Foreign Trade, Department of Commerce, Ministry of Commerce & Industry, Government of India. It is also undisputed that the CIF value of the said imported goods is Rs.120.04 per Kg., which is less than Rs.129/- per Kg., therefore, import of said goods is prohibited vide said Notification No. 55/2023 dated 03.01.2024. Though, M/s. Nakoda has submitted that they have no objection if the value of imported goods is enhanced to Rs.129/- per kg. or above, I find that it will not alter the legal position inasmuch the CIF value of imported goods will not change by loading the value imported goods at Rs.129/- per kg. or above for assessment purpose.

9. As per clause (d) of Section 111 of the Customs Act, 1962, any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under the Customs Act or any other law for the time being force, shall be liable to confiscation. As the said goods have been imported contrary to prohibition imposed vide Notification No. 55/2023 dated 03.01.2024 issued by the Directorate General of Foreign Trade, Department of Commerce, Ministry of Commerce & Industry, Government of India, I hold the said goods liable for confiscation under the provisions of Section 111(d) of the Customs Act, 1962.

10. As per sub-section (1) of Section 125 of the Customs Act, 1962, whenever confiscation of any goods is authorized by the this Act, the officer adjudging it may, in the case of any goods, the importation 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 an option to pay in lieu of confiscation such fine as the said officer thinks fit. Therefore, I propose to give option to the importer to redeem the said confiscated goods on payment of Redemption Fine under Section 125(1), on payment of which the goods may be cleared. Needless to mention that M/s. Nakoda shall be liable to pay duty and charges payable in respect of such goods, in addition to payment of Redemption Fine, as provided under sub-section (2) of said Section 125 of the Customs Act, 1962.

11. I also find that the said goods have been imported vide Bill of Entry No. 3824877 dated 04.06.2024 in contravention of the provisions of Section 46(4)(c) of the Customs Act, 1962 inasmuch as M/s. Nakoda has failed to ensure compliance with the prohibition imposed vide DGFT Notification No. 55/2023 dated 03.01.2024, in respect of goods imported under the said Bill of Entry. I hold that all the aforesaid acts of omission and commission on the part of M/s. Nakoda have rendered them liable for penalty as provided under Section 112(a) of the Customs Act, 1962.

12. M/s. Nakoda has submitted that they have no objection if the value of imported goods is enhanced to Rs.129/- per kg. or above. Therefore, the imported goods (Items 1 to 8) of Bill of Entry No. 3824877 dated 04.06.2024 may be assessed at Rs.129/- per kg.

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

ORDER

- (a) I order confiscation of "Dry Wall Screw Fine Thread Black Phosphated, Dry Wall Screw, Fine Thread NI Plated, Chipboard Screws Pozidrive with White Zinc, Dry Wall Screw Coarse Thread Black Phosphated, of different sizes", valued at Rs.32,72,341/-, imported vide Bill of Entry No. 3824877 dated 04.06.2024, in terms of the provisions of Section 111(d) of the Customs Act, 1962.

- (b) I give an option to redeem the said goods on payment of fine in lieu of confiscation, amounting to Rs. 1,00,000/- (Rupees One Lakh Only) in terms of the provisions of Section 125(1) of the Customs Act, 1962 to M/s. Nakoda Impex.
- (c) I impose penalty of Rs. 5,000/- (Rupees Five Thousand Only) on M/s. Nakoda Impex in terms of the provisions of Section 112(a)(i) of the Customs Act, 1962.
- (d) I order that the imported goods viz. "Dry Wall Screw Fine Thread Black Phosphated, Dry Wall Screw, Fine Thread NI Plated, Chipboard Screws Pozidrive with White Zinc, Dry Wall Screw Coarse Thread Black Phosphated, of different sizes (Items 1 to 8) imported vide Bill of Entry No. 3824877 dated 04.06.2024 are to be assessed at Rs.129/- per kg.


21/6/24
(Vishal Malani)
Additional Commissioner
Customs : Ahmedabad

DIN : **20240671MN000000B5B4**

F. No. VIII/10-109/ICD-Khod/O&A/HQ/2024-25 Date : 21/06/2024

To,
M/s. Nakoda Impex,
GF, B-101, Astavinayak Complex,
Opp. Bardolpura Gate,
Ahmedabad - 380016

Copy to:

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