



सीमाशुल्क(अपील) आयुक्तकाकार्यालय,

OFFICE OF THE COMMISSIONER OF CUSTOMS(APPEALS),अहमदाबाद AHMEDABAD,

चौथी मंज़िल 4th Floor, हडको बिल्डिंग HUDCO Building, ईश्वर भुवन रोड Ishwar Bhuvan Road,

नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009

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DIN- 20250771MN0000777BFC

क	फाइल संख्या FILE NO.	CAPPL/COM/CUSP/1325/2023
ख	अपील आदेश संख्या ORDER-IN- APPEAL NO. (सीमाशुल्कअधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	MUN-CUSTM-000-APP-116-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	02.07.2025
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN- ORIGINAL NO.	MCH/ADC/MK/95/2023-24 dated 30.06.2023 issued by the Additional Commissioner of Customs, Mundra.
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	02.07.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Thousand Oak Innovation LLP, Plot No. 11 to 14, Survey No. 23/1 At Lakhdhir Nagar, Near Navagam Gate Lilapar Road, Morbi – 363641 Gujarat

1. यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है.
This copy is granted free of cost for the private use of the person to whom it is issued.

2. सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (भोजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते हैं.

Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.



	लिखित सम्बन्धित आदेश/Order relating to :
(क)	बैगेज के रूप में आयातित कोई माल.
(a)	any goods imported on baggage.
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो.
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट, 1870 के मद सं.6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए.
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/- (रुपए दो सौ मात्र) या रु. 1000/- (रुपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां. यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रुपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु. 200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु. 1000/-
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.
4.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :
	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपील अधिकरण, पश्चिमी क्षेत्रीय पीठ
	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench
	लक्ष्मी मंजिल, बहुमाली भवन, निकट गिरधरनगर बुल, असारवा, अहमदाबाद-380016
	2 nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016

5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -
(क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रुपये या उससे कम हो तो एक हजार रुपये.
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;
(ख)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रुपये से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पाँच हजार रुपये
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;
(ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रुपये से अधिक हो तो; दस हजार रुपये.
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10% अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के 10% अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा।
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.
6.	उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal- (a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or (b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.



ORDER-IN-APPEAL

M/s. Thousand Oak Innovation LLP, Plot No. 11 to 14, Survey No. 23/1, At Lakhdhir Nagar, Near Navagam Gate, Lilapar Road, Morbi - 363641 (hereinafter referred to as 'appellant') have filed the present appeal against Order – in - Original (OIO) No. MCH/ADC/MK/95/2023-24, dated 30.06.2023 (hereinafter referred to as 'impugned order') passed by the Additional Commissioner of Customs, Mundra (hereinafter referred to as 'adjudicating authority').

2. Briefly stated, the relevant facts of the case are that the appellant imported 'PVC Resin SG5 (Suspension Grade) vide Bill of Entry No. 3707651 and 3708262, both dated 26.04.2021, which, inter-alia, attracted anti-dumping duty in terms of Notification No. 32/2019-Customs (ADD), dated 10.08.2019. The SIIB officers of Customs, Mundra, acting on some information about improper levying of anti-dumping duty by some importers, examined the cargo and found that the name CNSG Jilantai Chor-Alkali Chemical Co.Ltd. (Inner Mangolia Alashan Economic Development Area) was imprinted on the bags of the subject goods, which is other than seven producers listed at S. No. 1 of the said notification. Therefore, it appeared that the appellant was required to pay anti-dumping duty at the rate of USD 147.96 PMT in terms of Sl. No. 2 of the Notification No. 32/2019-Customs (ADD), dated 10.08.2019. However, it appeared that the appellant had not assessed Anti - dumping duty on the imported goods. Further it also appeared that the appellant was also required to pay Customs Duty at the rate of 10% instead of 7.5% self-assessed by the appellant. The original adjudicating authority vide OIO No. MCH/ADC/SK/43/2021-22, dated 28.07.2021, accordingly passed the order wherein he ordered to re-assess the goods at higher rate of ADD as per S. No. 2 of Notification No. 32/2019-Customs (ADD) as well as levy and payment of BCD @10% and to recover the differential duty of Rs. 8,73,816/- before clearance of goods; confiscated the goods under section 111(m) of the Customs Act, 1962 with an option to redeem the same on payment of redemption fine equal to the differential duty; and imposed a penalty of 10% of the differential duty under section 112(a) of the Customs Act, 1962.



Being aggrieved with the then impugned order, the appellant had filed the appeal before the Commissioner Appeals, who vide OIA No. MUN-CUSTM-000-APP-757-22-23 dated 03.02.2023 remanded the matter back to the adjudicating authority for passing afresh order by following the principles of natural justice for not giving the opportunity of personal hearing. Thereafter, the adjudicating authority following the order of the Commissioner Appeals,

gave the opportunity for PH to the appellant, which was held on 28.04.2023 and thereafter, the adjudicating authority vide the impugned order passed the following order:

- 1) Refrained from commenting/deciding recovery of the differential duty and ADD ordered in the original OIO.
 - 2) Upheld the Redemption fine and Penalty imposed vide original OIO considering the same to be justified, true and fair as per provisions of the Customs Act, 1962 and appropriated the redemption fine and Penalty paid by the Appellant while obtaining out of charge.
4. Being aggrieved with the impugned order, the appellant have filed the present appeal and mainly contended that;

- That the impugned order wrongly assumed that customs duty and anti-dumping duty can be recovered by way of debit from an Advance Authorisation, ignoring the fact that Notification No. 18/2015-Cus. exempts such duties altogether, not permits debit.
 - That the learned adjudicating authority ignored that the goods were imported under a valid Advance Authorisation complying with all conditions of Notification No. 18/2015-Cus. dated 01.04.2015, and hence, no customs duty, ADD, or IGST was payable.
- That the customs department re-assessed the bills of entry and imposed penalty and fine even though goods had not been cleared, thereby negating the concept of short levy under Section 28 of the Customs Act.
- That the error of entering 7.5% instead of 10% BCD in the check list was admitted by the appellant and voluntarily brought to the department's attention. Hence, no mala fide or suppression can be attributed and the goods were never seized. As per judgments including *Finesse Creation Inc.* and *Shivkripa Ispat Pvt. Ltd.*, no fine in lieu of confiscation can be imposed when goods are not physically seized. Goods cannot be confiscated merely for an incorrect rate entry in the bill of entry when no other mis-declaration exists. Hence, application of Section 111(m) is wholly unjustified.
 - That the adjudicating authority did not record any finding that conditions of Notification No. 18/2015-Cus. were violated. Therefore, denial of exemption from ADD and IGST lacks legal basis.
 - That the Commissioner (Appeals) had remanded the matter for fresh decision under Section 17(5). However, the learned adjudicating authority simply reiterated previous findings without fresh adjudication, defeating the purpose of remand.



- That the adjudicating authority admits that reassessment was done at nil duty after allowing benefit of the notification but still upholds fine and penalty, which is self-contradictory.
- They have relied upon the various case laws, few of which are as under:
 - *Finesse Creation Inc. v. Commissioner of Customs 2009 (248) ELT 122 (Bom)*
 - *Shivkripa Ispat Pvt. Ltd. v. Commissioner of Central Excise & Customs, Nasik 2009 (235) ELT 623 (Tri. - LB)*
 - *Commissioner of Customs, Kandla v. M.S. International Ltd. 2004 (174) ELT 101 (Tri. - Del)*
 - *Commissioner v. Weston Components Ltd. 2000 (115) ELT 278 (SC)* – though distinguished in *Finesse Creation*

PERSONAL HEARING

5. Shri P. D. Rachchh, Advocate, appeared for personal hearing on 25.11.2024 on behalf of the Appellant. He reiterated the submission made in the appeal memorandum and submitted a written submission as well.

5.1 Further, due to change in Appellate authority, a fresh PH was given to the Appellant to which Shri P. D. Rachchh, Advocate appeared on 29.05.2025 on behalf of the Appellant. He reiterated the submission made in the appeal memorandum.


DISCUSSION & FINDINGS

6. I have gone through the appeal memorandum filed by the appellant, records of the case and submissions made during personal hearing. The main contention in the appeal is that goods were imported under a valid Advance Authorization issued by the DGFT and were fully eligible for exemption from customs duty, IGST, and anti-dumping duty under Notification No. 18/2015-Cus. dated 01.04.2015. whereas the Department is of the view that the exemption is not available to the appellant. Therefore, the main issue to be decided is that whether the impugned order for the recovery of differential duty after re-assessment of the impugned BOEs, confiscating the goods under Section 111(m) of the Customs Act, 1962, imposing redemption fine under Section 125 of the Customs Act, 1962 and imposing penalty under Section 112(a) of the Customs Act, 1962, in the facts and circumstances of the case, is legal and proper or otherwise.



6.1 Before going into the merits of the case, I find that as per CA-1 Form of the Appellant, the present appeal has been filed on 18.08.2023 against the impugned order dated 30.06.2023, which is within the statutory time limit of 60 days prescribed under Section 128(1) of the Customs Act, 1962. As the appeal has been filed within the stipulated time-limit, it has been admitted and being taken up for disposal in terms of Section 128A of the Customs Act, 1962.

6.2 I find that the appellant imported PVC Resin from China under Bills of Entry No. 3707651 and 3707862, both dated 26.04.2021. The original adjudicating authority had observed that the appellant had not paid the anti-dumping duty in terms of Sl. No. 2 of the Notification No. 32/2019 - Customs (ADD), dated 10.08.2019. Further, the appellant had self-assessed the Basic Customs Duty (BCD) at the concessional rate of 7.5% by availing the benefit under Sl. No. 267 of Notification No. 50/2017-Cus dated 30.06.2017. However, it is observed that the applicable rate of customs duty on the impugned goods was 10%, as prescribed under Notification No. 32/2019-Cus (ADD), which imposes anti-dumping duty on the subject goods originating in, and exported from, China. Accordingly, anti-dumping duty was also payable at rates specified in the said notification, depending upon the producer/exporter combination. Therefore, the appellant had short paid total duty to tune of Rs.8,73,816/-. I find that the appellant has contended that recovery of differential duty vide the impugned order is wholly unjustified, as the goods were imported under a valid Advance Authorization and rightly assessed at Nil duty under Notification No. 18/2015-Cus dated 01.04.2015.



In this regard, I find that the Department had informed the appellant's custom broker regarding the exemption availment in term of incorrect Notification resulted in the short payment of duty and ADD to which they had agreed and requested for recalling and re assessment of the Bills of Entry and was ready to pay the differential duty and ADD. Thereafter, the impugned BOEs were filed in terms of applicable Sl. No. 2 of the Notification No. 32/2019 -Customs (ADD), dated 10.08.2019. Since, the imports were made under Advance Authorization, therefore, the appellant had availed the exemption on the basis of Advance Authorization and had executed a valid Bond and Bank Guarantee at the time of import, as mandated under Notification No. 18/2015-Customs, dated 01.04.2015 and there was no requirement to deposit any amount towards differential duty and ADD as the same were paid through debit from Advance Authorization as the goods imported under Advance Authorization Scheme are exempted from various duties, including Basic Customs Duty (BCD), Additional Customs Duty (CVD), Education Cess, Anti-Dumping Duty, Safeguard Duty, Integrated Goods and Services Tax (IGST), and Compensation Cess. Therefore, when the differential duty and ADD, if any, stood already secured through the executed bond, any further demand or recovery of such duties is not legally maintainable.

6.3 With regard to confiscation and imposition of redemption fine and penalty, the appellant's main argument is that there is no deliberate or intentional mis-declaration considering the fact that goods were not seized under Section 110 of the Customs Act, 1962, and were imported under a valid Advance Authorization with full exemption, thus no mis-declaration or intent to evade duty existed. Further, they have contended that in the instant case though the goods were available for seizure prior to out of charge but were never seized, however, the adjudicating authority proceeded to order confiscation under Section 111(m) of the Customs Act, 1962 and imposed a redemption fine under Section 125 of the Customs Act, 1962 and penalty under Section 112(a) of the Customs Act, 1962 without issuing any Show Cause Notice (SCN) under Section 124 of the Customs Act, 1962, thereby violating the principles of natural justice. It is a settled position in law that where the goods have not been seized, nor any notice issued proposing confiscation with an opportunity to respond, the order of confiscation and consequent imposition of fine and penalty is illegal and unsustainable.

In this regard, I have perused the relevant Section 111(m) of the customs Act, 1962 and the same is reproduced hereunder:

"111. Confiscation of improperly imported goods, etc.

- The following goods brought from a place outside India shall be liable to confiscation: -

....

(m) [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 [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].



It is observed that the imported goods were not found to be mis-declared in terms of valuation, description, classification, quantity, or any other material particulars. The appellant, upon realizing the inadvertent error of claiming benefit under an incorrect notification in one of the Bills of Entry, had proactively approached the proper officer requesting recall and reassessment of the Bills of Entry and expressed willingness to discharge the differential duty, which was to be secured through the bond executed under the Advance Authorization scheme. These facts clearly establish that there was no

deliberate intent to evade duty, nor was there any willful suppression or misstatement. In the absence of mis-declaration or fraudulent intent, the essential ingredient for invoking Section 111(m) of the Customs Act, 1962 is not fulfilled. Therefore, merely citing an incorrect exemption notification or not reflecting the appropriate duty rate without any mala fide intention cannot be equated with mis-declaration warranting confiscation under Section 111(m) of the Customs Act, 1962. Hence, the confiscation of goods is not sustainable in law.

6.4 In this regard, I rely upon the decision of Hon'ble Tribunal, Mumbai in the case of LEXMARK INTERNATIONAL (I) P. LTD Vs C.C. (IMPORTS), NHAVA SEHVA [2011 (274) E.L.T. 556 (Tri. - Mumbai)] wherein the Hon'ble Tribunal while interpreting Section 111(m) of the Customs Act, 1962, held that the goods can be confiscated only when there is any mis-declaration of the goods as declared in the bill of entry or for any valuation mismatch. The relevant paras are reproduced as under:

"6. Section 111(m) of the Customs Act provides for confiscation of the goods only if the goods declared in the bill of entry do not correspond in respect of the value or in any other material particular with the entry (bill of entry) made under the Act. In this case, the appellants had declared the goods correctly as laser printers and parts and also classified them under Heading 8471.60 in respect of printers and Heading 8473.30 in respect of parts of printers of the Customs Tariff which has also been accepted by the Customs. Further, the Customs have also accepted the transaction value declared by the appellants in the bill of entry for determination of the basic Customs duty. Only in respect of computation of CVD, there is a dispute between the importer/appellant and the department. The department was of the view that the CVD assessment should be done on MRP basis whereas, the importer appellant felt that it should not be on that basis. Finally, the Customs assessed the goods to CVD on MRP basis, which importer accepted and discharged the liability accordingly. Merely because the appellant had sought an exemption from RSP based assessment in respect of CVD, it does not amount to any misdeclaration on the part of the importer. Therefore, in the instant case, the provisions of Section 111(m) are not attracted at all.

7. In view of the above legal and factual position, confiscation under Section 111(m) of the Customs Act, 1962 is not justified and consequential imposition of fine in lieu of confiscation under Section 125 of the said Customs Act, is also not correct. Accordingly, I set aside the confiscation and consequent imposition of fine in lieu of confiscation. Imposition of penalty under Section 112(a) is attracted only when the goods are liable to confiscation. As discussed above, since confiscation of goods has been set aside, penalty under Section 112 of the Customs Act is also not sustainable and is set aside.



8. *The appeal is allowed, with consequential relief, if any, on the above terms."*

6.5 I also rely upon the decision of Hon'ble Tribunal, Mumbai, in the case of LSML Pvt. Ltd. Vs Principal Commissioner of Customs, Chennai [2023 (383) E.L.T. 75 (Tri. - Chennai)] wherein, the ADD was imposed on the appellant, however confiscation, redemption fine and penalties were set aside. The relevant paras are reproduced as under:

"20. However, we find that confiscation and imposition of redemption fine are not warranted as here was nothing that the appellant-importers have consciously suppressed or misrepresented. If ADD escaped assessment, the department is free to demand the same as per provisions of Customs Act, 1962. However, for the same reason, goods cannot be confiscated and penalty cannot be imposed. Therefore, we set aside the confiscation of the goods, imposition of redemption fine and various penalties. For this reason, we find that department appeal has no merit and needs to be rejected except on levy of interest under Section 28AA on ADD of Rs.79,55,066/- in respect of goods cleared vide BE No.3056014 dt. 31.08.2017 which we have already upheld."


7. In view of the statutory provisions and respectfully following the decisions of Hon'ble Tribunals as discussed above, I am of the considered view that confiscation of the imported goods in the impugned order is not legally sustainable. Since the primary condition, i.e. confiscation of goods, to impose the Redemption fine under Section 125 and penalty under Section 112(a) of the Customs Act, 1962, is not sustained, therefore, the impugned order imposing Redemption fine under Section 125 and penalty under Section 112(a) of the Customs Act, 1962 are also liable to be set aside.

8. In view of the discussions made above, I set aside the impugned order and allow the appeal with consequential relief, if any.



સત્યાપિત/ATTESTED

 અધીક્ષક/SUPERINTENDENT
 સીમા શુલ્ક (અપીલ), અમદાવાદ.
 CUSTOMS (APPEALS), AHMEDABAD.


 (AMIT GUPTA)
 Commissioner (Appeals)
 Customs, Ahmedabad

F. No. CAPPL/COM/CUSP/1325/2023
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Date: 02.07.2025

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 M/s. Thousand Oak Innovation LLP,
 Plot No. 11 to 14, Survey No. 23/1,
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 Lilapar Road, Morbi - 363641

Copy to :

- ✓ 1. The Chief Commissioner of Customs Gujarat, Customs House, Ahmedabad.
2. The Commissioner of Customs, Custom House, Mundra.
3. The Additional Commissioner of Customs, Custom House, Mundra.
4. Guard File.

