



प्रधान आयुक्त का कार्यालय, सीमा शुल्क,अहमदाबाद

“सीमाशुल्कभवन ,”पहलीमंजिल ,पुरानेहाईकोर्टकेसामने ,नवरंगपुरा ,अहमदाबाद – 380 009.

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DIN: 20260171MN0000222FFC

PREAMBLE

A	फाइलसंख्या/ File No.	:	VIII/10-27/ICD-Khod/O&A/HQ/2025-26
B	कारणबताओनोटिससंख्या-तारीख / Show Cause Notice No. and Date	:	F. No. VIII/10-27/ICD-KHOD/O&A/HQ/2025-26 dated 23.07.2025
C	मूलआदेशसंख्या/ Order-In-Original No.	:	194/ADC/SR/O&A/2025-26
D	आदेशतिथि/ Date of Order-In-Original	:	05.01.2026
E	जारीकरनेकीतारीख/ Date of Issue	:	05.01.2026
F	द्वारापारित/ Passed By	:	Shravan Ram, Additional Commissioner, Customs Ahmedabad.
G	आयातक का नामऔरपता / Name and Address of Importer / Passenger	:	1. M/S. STACKARROW IMPEX PVT. LTD., SHOP NO.2, SHYAM COMPLEX, PARIVAR PARK, MAIN ROAD, AARYA SAMAJ CHOWK, RAJKOT- 360004
(1)	यह प्रति उन व्यक्तियों केउपयोग के लिए निःशुल्क प्रदान की जाती है जिन्हें यह जारी की गयी है।		
(2)	कोई भी व्यक्ति इस आदेश सेस्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्तिकी तारीख के 60 दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क(अपील), चौथी मंज़िल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।		
(3)	अपील के साथ केवल पांच (5.00) रुपयेका न्यायालय शुल्क टिकिट लगा होना चाहिए और इसके साथ होना चाहिए:		
(i)	अपील की एक प्रति और;		
(ii)	इस प्रति या इस आदेश की कोईप्रति के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिटलगा होना चाहिए।		
(4)	इस आदेश के विरुद्ध अपीलकरने इच्छुक व्यक्ति को 7.5 % (अधिकतम 10 करोड़) शुल्कअदा करना होगा जहां शुल्क या इयूटी और जुर्माना विवाद में है या जुर्माना जहां इसतरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने मेंअसफल रहने पर सीमा शुल्क अधिनियम, 1962 की धारा 129 के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दियाजायेगा।		

BRIEF FACTS OF THE CASE:

M/S. STACKARROW IMPEX PVT. LTD., Shop No.2, Shyam Complex, Parivar Park, Main Road,Aarya Samaj Chowk, Rajkot- 360004 (herein after referred to as “M/s. Stackarrow” or “the importer”, for the sake of brevity), having Import Export Code

Number **ABHCS163F** and have imported goods through Inland Container Depot, Khodiyar, Ahmedabad.

2. Whereas, it was pointed out by the Revenue Risk Report 39/2023-24, it has been observed that vide Bill of Entry No. 4806236 dated 25.02.2023 (**RUD-1 of the SCN**), M/s. Stackarrow Impex Pvt. Ltd., imported goods viz. “Assorted Crockery Part-I” as per packing List No.137520-B And “Assorted Crockery Part-II” as per packing list No.137520-C classifying under Sub-Heading 6912 in r/o item No. 02 & 03 respectively. The importer had paid Basic Customs Duty @ 20% + Social Welfare Surcharge @ 10% of Basic Customs Duty + IGST @ 12%. In the Revenue Risk Report No.39/2023-24, the Directorate General of Analytics and Risk management, Mumbai observed that Anti-Dumping Duty was not paid on “Ceramic Tableware and Kitchenware, excluding knives and toilet items”, falling under headings 6911 and 6912 in the above said Bill of Entry.

2.1 Whereas, it had also been observed that Anti-Dumping Duty is levied on specific commodities and is source specific. Notification of Anti-Dumping Duty provides conditions for levy of Anti – Dumping Duty, which are mainly the country of origin/ country of export, name of the manufacturer, classification of imported commodity and nature of the imported goods. Imports which meet the conditions, as laid down in the notifications, are leviable to Anti – Dumping Duty. The levy of Anti – Dumping Duty is both exporter specific and country specific. It extends to imports from those countries in respect of which duty has been notified by the Customs on recommendation by the designate authority.

2.2 Whereas, as per Notification No. 16/2022-Customs (ADD) dated 24.05.2022, “Ceramic Tableware and Kitchenware, excluding knives and toilet items”, falling under headings 6911 and 6912 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), originating in, or exported from the People’s Republic of China, and imported into India **attracts** Antidumping duty.

3. Whereas, it had been observed that as per Notification No. 16/2022-Customs (ADD) dated 24.05.2022, an antidumping duty is leviable on “Ceramic Tableware and Kitchenware, excluding knives and toilet items”, falling under headings 6911 and 6912 originating in or exported from China. The relevant portion of above referred notification reproduced below:

Sr. No.	Sub-Heading	Description of Goods	Country of Origin	Country of Export	Producer	Amount	Unit of Measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	6911 and 6912	Ceramic Table-wares and Kitchen-wares*	People’s Republic of China**	Any country including People’s Republic of China	Any	1075	MT	US Dollar
2.	6911 and 6912	Ceramic Table-wares and Kitchen-wares*	Any country other than People’s Republic of China**	People’s Republic of China	Any	1075	MT	US Dollar

**Description of the subject goods is “Ceramic table wares and kitchen wares, excluding knives and toilet items”. Bone china, stoneware and porcelain-ware all constitute ceramic products.*

*** In case the goods are declared as ‘originating in Malaysia’, the anti-dumping duty as per rates mentioned above shall apply.*

4. It, therefore appeared that imported goods “Assorted crockery Part-I” as per packing list No.137520-B and “Assorted crockery Part-II” as per packing list no.137520-C, falling under Sub-Heading 6912 originating from China and exported from Osia Hypermarket LLC, 504 Al Khaleej Center, Bur Dubai, Dubai-UAE, United Arab Emirates, imported by M/s. Stackarrow attracted Anti-Dumping Duty as per Notification No. 16/2022-Customs (ADD) dated 24.05.2022, and M/s. Stackarrow is liable for applicable Anti-Dumping Duty and applicable IGST on ADD on the said imported goods as per Table-1 below:-

Table-1

Goods Details	CTH	Qty.	Anti-Dumping Duty	IGST on ADD	Total Duty Payable
Assorted crockery Part-I” as per packing list No.137520-B	69120090	5854.64 Kgs.	526471	63177	589648
“Assorted crockery Part-II” as per packing list no.137520-C	69120090	4904.23 Kgs.	441007	52921	493928
Total			967478	116097	1083575

5. Whereas, M/s. Stackarrow was requested vide letters F. No. VIII/48-52/RRR-48/GR-2G/2024 dated 16.05.2024, F. No. VIII/48-52/RRR-48/GR-2G/2024 dated 15.07.2024 and F. No. VIII/48-52/RRR-48/GR-2G/2024 dated 19.12.2024 **(RUD-2 of the SCN)** with a request to pay Anti-Dumping Duty along with applicable interest and submit the payment particulars. No reply had been received from M/s. Stackarrow till date.

6. RELEVANT LEGAL PROVISIONS:

6.1 Section 17(1) of the Customs Act, 1962:

“An importer entering any imported goods under section 46 or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on Such goods.”

6.2 Section 28(4) of the Customs Act, 1962:

“Where any duty has not been [levied or not paid or has been short levied or short paid, or erroneously refunded, or interest payable has not been paid, part paid or erroneously refunded, by reason of,

(a) Collusion; or

(b) Any willful mis-statement; or

(c) Suppression of facts

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or not paid/ or which has been so short levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.”

6.3 Section 28AA of the Customs Act, 1962 states that:

“Interest on delayed payment of duty—

“[(1) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2), whether such payment is made voluntarily or after determination of the duty under that section.

(2) Interest at such rate not below ten per cent. and not exceeding thirty-six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

(3) Notwithstanding anything contained in sub-section (1), no interest shall be payable where,—

(a) the duty becomes payable consequent to the issue of an order, instruction or direction by the Board under section 151A; and

(b) such amount of duty is voluntarily paid in full, within forty-five days from the date of issue of such order, instruction or direction, without reserving any right to appeal against the said payment at any subsequent stage of such payment.”

6.4 Section 46 of the Customs Act, 1962:

Entry of goods on importation.

“

(4) The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods as may be prescribed.

...

(4A) The importer who presents a bill of entry shall ensure the following, namely:

the accuracy and completeness of the information given therein;

the authenticity and validity of any document supporting it; and

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.”

6.5 Section 111 of the Customs Act, 1962:

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 trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-section (1) of section 54;

...”

6.6 Section 112 of the Customs Act, 1962:

Penalty for improper importation of goods, etc.-

“Any person, -

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111, shall be liable, -

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not

exceeding the value of the goods or five thousand rupees, whichever is the greater;

(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher :

Provided that where such duty as determined under sub-Section (8) of Section 28 and the interest payable thereon under Section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this Section shall be twenty-five per cent of the penalty so determined;"

6.7 Section 114A of the Customs Act, 1962:

"Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any willful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-section of Section 28 shall also be liable to pay a penalty equal to the duty or interest so determined."

6.8 Section 114AA of the Customs Act, 1962:

Penalty for use of false and incorrect material. -

"If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods."

6.9 Section 117 of the Customs Act, 1962:

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 four lakh rupees."

7. After introduction of self-assessment through amendment in Section 17 of the Customs Act, 1962 vide Finance Act, 2011, it is the responsibility of the importer to correctly declare the description, classification, applicable exemption notification, applicable duties, rate of duties and its relevant notifications etc. in respect of said imported goods and pay the appropriate duty accordingly, whereas, the importer has failed to declare the applicability of anti-dumping duty, the relevant ADD Notification No.16/2022-Customs (ADD) dated 24.05.2022 in the Bills of Entry of the said

imported goods and suppressed the said material fact with an intent to evade payment of duty and thereby they have not paid the appropriate anti-dumping duty on said imported goods.

7.1 It, therefore, appeared that M/s. Stackarrow has willfully contravened the provisions of Section 17(1) of the Customs Act, 1962 in as much as they have failed to correctly self-assess the goods in question and have also contravened the provisions of sub-sections (4) and (4A) of Section 46 of the Customs Act, 1962 in as much as they have failed to ensure the accuracy and completeness of the information given therein.

7.2 The import of goods has been defined in the Integrated Goods and Service Tax Act, 2017 (herein after referred to as the “IGST Act, 2017”) as bringing goods in India from a place outside India. All import shall be deemed as inter-state supplies and accordingly integrated tax shall be levied in addition to the applicable Customs duties. The IGST Act, 2017 provides that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of Customs are levied on the said goods under the Customs Act, 1962. Section 5 of the Integrated Goods and Service Tax Act, 2017 stipulates that “Provided that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of Section 3 of the Customs Tariff Act, 1975 (51 of 1975) on the value as determined under the said Act at the point when duties of customs are levied on the said goods under Section 12 of the Customs Act, 1962.

7.3 As per Sub-Section 7 of Section 3 of the Customs Tariff Act, 1975, any article which has been imported into India shall, in addition, be liable to Integrated tax at such rate not exceeding forty percent, as is leviable under Section 5 of the Integrated Goods and Service Tax, 2017 on a like article on its supply in India, on the value of the Imported article as determined under sub-section 8 or sub-section 8A as the case may be.

8. From the above, it appeared that the importer had intentionally not declared the applicability of anti-dumping duty, the relevant ADD Notification No. 16/2022-Customs (ADD) dated 24.05.2022 in the Bill of Entry No. 4806236 dated 25.02.2023 of the said imported goods and suppressed the said material fact with an intent to evade payment of appropriate Anti-dumping duty and cleared the said imported goods without paying appropriate anti-dumping duty. Even after pointing out / communicating thrice that they have not paid appropriate anti-dumping duty on the said imported goods, they have not paid the same, which also shows that they had clear intention to evade payment of ADD. Therefore, extended period is invokable under the provisions of Section 28(4) of the Customs Act, 1962 for demand of appropriate anti-dumping duty not paid in the instant case.

8.1 The aforesaid facts show that the importer had resorted to willful non-declaration of the applicability of anti-dumping duty, the relevant ADD notification

number and its serial number in the Bill of Entry of the said imported goods by suppressing the said material facts, which shows the ulterior motive of the importer to evade payment of applicable anti-dumping duty in respect of said imported goods cleared for home consumption vide Bills of Entry mentioned in Annexure-A to the show cause notice. The details of anti-dumping duty required to be paid in respect of said imported goods was detailed in Annexure-A to the show cause notice. Thus, Anti-dumping duty of **Rs. 9,67,478/- and applicable differential IGST Rs. 1,16,097/- = Total duty of Rs. 10,83,575/-**, on the said imported goods cleared under Bill of Entry mentioned in Annexure-A to the show cause notice appeared liable to be demanded under Section 28(4) of the Customs Act, 1962, by invocation of extended period five years, along with appropriate interest at applicable rate under Section 28AA of the Customs Act, 1962.

8.2 As per clause (m) of Section 111 of the Customs Act, 1962, any goods brought from a place outside India which do not correspond in respect of value or in any other particular with the entry made under this Act, shall be liable to confiscation. Therefore, the goods valued at **Rs.26,14,584/-** imported under the said Bills of Entry appeared to be liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962 in as much as the same have been imported by not declaring the Serial Number of the ADD Notification.

8.3 The aforesaid acts of omission and commission on the part of M/s. Stackarrow appeared to have rendered them liable to penalty as provided under Section 112(a)(ii) of the Customs Act, 1962.

8.4 As already discussed, the Customs duty in the present case appeared to have been short levied and short paid by reason of willful mis-statement and suppression of facts on the part of M/s. Stackarrow, which appeared to have made them liable for penalty under Section 114A of the Customs Act, 1962.

8.5 The importer had resorted to willful mis-declaration of the said imported goods in the Bills of Entry of the said imported goods in spite of being fully aware of the products purchased/imported. Hence, for the said act of contravention on their part, M/s. Stackarrow appeared to be liable for penalty under Section 114AA of the Customs Act, 1962.

8.6 M/s. Stackarrow was communicated the observations vide letters F. No. VIII/48-52/RRR-48/GR-2G/2024 dated 16.05.2024, F. No. VIII/48-52/RRR-48/GR-2G/2024 dated 15.07.2024 and F. No. VIII/48-52/RRR-48/GR-2G/2024 dated 19.12.2024, with a request to pay the differential Customs duty along with applicable interest and to submit the payment particulars. However, they did not even reply to the said letter. Therefore, it appears that M/s. Stackarrow failed to comply with the Customs Act, 1962 and the Rules thereof and liable for penalty under Section 117 of the Customs Act, 1962.

9. In view of above , M/s. Stackarrow Impex Pvt. Ltd.,Shop No.2,Shyam Complex, Parivar Park, Main Road, Aarya Samaj Chowk, Rajkot- 360004, were

called upon to show cause to the Additional Commissioner of Customs, having his office at 2nd Floor, Custom House, Navrangpura, Ahmedabad, as to why:

- (a) The Anti-dumping duty amounting to **Rs.10,83,575/- (Rupees Ten Lakh Eighty Three Thousand Five Hundred Seventy Five only)** (Rs.9,67,478/- Anti-Dumping Duty and IGST Rs. 1,16,097/-) as detailed in Annexure-A to the Show Cause Notice, leviable on the said imported goods should not be demanded and recovered from them under Section 28(4) of the Customs Act, 1962;
- (b) Interest at applicable rate under Section 28AA of the Customs Act, 1962, on Customs Duty mentioned at (a) above, should not be charged and recovered from them;
- (c) The imported goods having assessable value of **Rs. 26,14,584/- (Rupees Twenty Six Lakh Fourteen Thousand Five Hundred and Eighty Four only)** as detailed in **Annexure-A** to the Show Cause Notice, should not be held liable for confiscation under Section 111(m) of the Customs Act 1962, and as the said goods had already been cleared, Redemption Fine in lieu of confiscation should not be imposed under Section 125 of the Customs Act, 1962;
- (d) Penalty should not be imposed on them under the provisions of Section 112(a)(ii) of the Customs Act, 1962;
- (e) Penalty should not be imposed on them under Section 114A of the Customs Act, 1962;
- (f) Penalty should not be imposed on them under Section 114AA of the Customs Act, 1962;
- (g) Penalty should not be imposed on them under Section 117 of the Customs Act, 1962.

10. WRITTEN SUBMISSION AND PERSONAL HEARING

The Noticee has not submitted any reply to the Notice. In view of this No defense reply or written submission is available on records as on this date.

11 PERSONAL HEARING:

Sr. No of PH	Letter f.No and date of letter intimating PH scheduled date	Scheduled PH Date

1	F.no. GEN/ADJ/ADC/1340/2025-ADJN-O/o Pr COMM-R-CUS-Ahmedabad dtd 06.10.2025	16.10.2025	To
2	F.no. GEN/ADJ/ADC/1340/2025-ADJN-O/o Pr COMM-R-CUS-Ahmedabad dtd 04.11.2025	12.11.2025	
3	F.no. GEN/ADJ/ADC/1340/2025-ADJN-O/o Pr COMM-R-CUS-Ahmedabad dtd 01.12.2025	09.12.2025	

follow the principles of Natural Justice, opportunities to be heard in person were given to Noticee M/s. STACKARROW IMPEX PVT. LTD and PH's were scheduled on 16.10.2025, 12.11.2025, and 09.12.2025 in compliance with Principle of Natural Justice. All the letters of Personal Hearing were sent to the last Known address available with this office by speed post, however, the noticee did not attend any of the Personal Hearing.

From the aforesaid facts, it is observed that sufficient opportunity has been granted to the noticee, but they chose not to join the personal hearing.

12 DISCUSSION AND FINDINGS:-

I have carefully gone through the show cause notice, records and facts in the present case. I find that the noticee have failed to appear for Personal Hearing as well as also not submitted any written defense submission, inspite of being given opportunity to appear in person several times as detailed in forgoing para for defending their case. Under such circumstance, there is no option left for me but to proceed with the adjudication proceedings ex-parte in terms of merit of the case.

12.1 With regard to proceeding to decide the case ex-parte, support is drawn from the following case laws:

12.1.1 Hon'ble High Court of Kerala in the case of **UNITED OIL MILLS VS. COLLECTOR OF CUSTOMS & C.EX. COCHIN REPORTED IN 2000 (124) ELT 53 (KER.)** has held that:

“19.No doubt hearing includes written submissions and personal hearing as well but the principle of Audi Alteram Partem does not make it imperative for the authorities to compel physical presence of the party concerned for hearing and go on adjourning the proceeding so long the party concerned does not appear before them. What is imperative for the authorities is to afford the opportunity. It is for the party concerned to avail the opportunity or not. If the opportunity afforded is not availed of by the party concerned, there is no violation of the principles of natural justice. The fundamental principles of natural justice and fair play are safeguards for the flow of justice and not the instruments for delaying the proceedings and thereby obstructing the flow of justice. In the instant case as stated in detail in preceding paragraphs, repeated adjournments were granted to the petitioners, dates after dates were fixed for personal hearing,

petitioners filed written submissions, the administrative officer of the factory appeared for personal hearing and filed written submissions, therefore, in the opinion of this Court there is sufficient compliance of the principles of natural justice as adequate opportunity of hearing was afforded to the petitioners.

*21. It may be recalled here that the requirement of natural justice varies from cases to cases and situations to situations. Courts cannot insist that under all circumstances personal hearing has to be afforded. Quasi-judicial authorities are expected to apply their judicial mind over the grievances made by the persons concerned but it cannot be held that before dismissing such applications in all events the quasi-judicial authorities must hear the applicants personally. When principles of natural justice require an opportunity before an adverse order is passed, it does not in all circumstances mean a personal hearing. The requirement is complied with if the person concerned is afforded an opportunity to present his case before the authority. Any order passed after taking into consideration the points raised in such applications shall not be held to be invalid merely on the ground that no personal hearing had been afforded. This is all the more important in the context of taxation and revenue matters. See *Union of India and Another v. M/s. Jesus Sales Corporation* [1996 (83) E.L.T. 486 (S.C.) = J.T. 1996 (3) SC 597].”*

12.1.2 Hon’ble Tribunal of Mumbai in the case of **SUMIT WOOL PROCESSORS V. CC, NHAVA SHEVA REPORTED IN 2014 (312) E.L.T. 401 (TRI. - MUMBAI)** has observed as under:

“8.3 We do not accept the plea of Mr. Sanjay Kumar Agarwal and Mr. Parmanand Joshi that they were not heard before passing of the impugned orders and principles of natural justice has been violated. The records show that notices were sent to the addresses given and sufficient opportunities were given. If they failed in not availing of the opportunity, the mistake lies on them. When all others who were party to the notices were heard, there is no reason why these two appellants would not have been heard by the adjudicating authority. Thus the argument taken is only an alibi to escape the consequences of law. Accordingly, we reject the plea made by them in this regard.”

12.2 The issues for consideration before me in these proceedings are as under:-

- i. Whether the Anti-dumping duty amounting to **Rs.10,83,575/- (Rupees Ten Lakh Eighty Three Thousand Five Hundred Seventy Five only)** (Rs. 9,67,478/- Anti-Dumping Duty and IGST Rs. 1,16,097/-) as detailed in Annexure-A to the Show Cause Notice, is leviable on the said imported goods.

- ii. Whether the impugned goods having assessable value of **Rs. 26,14,584/- (Rupees Twenty Six Lakh Fourteen Thousand Five Hundred and Eighty Four only)** as detailed in **Annexure-A** to the Show Cause Notice, are liable for confiscation under Section 111(m) of the Customs Act 1962 .
- iii. Whether penalty should be imposed upon M/S. STACKARROW IMPEX PVT. LTD. under Section 112(a)(ii) of the Customs Act, 1962.
- iv. Whether Penalty should be imposed upon them under Section 114A, Section 114AA & Section 117 of the Customs Act, 1962.

Now I take up all the above mentioned issues and discuss the same.

13 (i) The first issue to decide is Whether the Anti-dumping duty amounting to Rs.10,83,575/- (Rupees Ten Lakh Eighty Three Thousand Five Hundred Seventy Five only) (Rs. 9,67,478/- Anti-Dumping Duty and IGST Rs. 1,16,097/-) as detailed in Annexure-A to the Show Cause Notice, is leviable on the said imported goods.

In this context I find that Anti-Dumping Duty is levied on specific commodities and is source specific. Notification of Anti-Dumping Duty provides conditions for levy of Anti – Dumping Duty, which are mainly the country of origin/ country of export, name of the manufacturer, classification of imported commodity and nature of the imported goods. Imports which meet the conditions, as laid down in the notifications, are leviable to Anti – Dumping Duty. The levy of Anti – Dumping Duty is both exporter specific and country specific. It extends to imports from those countries in respect of which duty has been notified by the Customs on recommendation by the designate authority. I find as per Notification No. 16/2022-Customs (ADD) dated 24.05.2022, “Ceramic Tableware and Kitchenware, excluding knives and toilet items”, falling under headings 6911 and 6912 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), originating in, or exported from the People’s Republic of China, and imported into India **attracts** Antidumping duty.

I also find here worth mentioning that as per Notification No. 16/2022-Customs (ADD) dated 24.05.2022, an antidumping duty is leviable on “Ceramic Tableware and Kitchenware, excluding knives and toilet items”, falling under headings 6911 and 6912 originating in or exported from China. The relevant portion of above referred notification reproduced below:

Sr. No.	Sub-Heading	Description of Goods	Country of Origin	Country of Export	Producer	Amount	Unit of Measurement	Currency

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	6911 and 6912	Ceramic Table-ware and Kitchen-ware*	People’s Republic of China **	Any country including People’s Republic of China	Any	1075	MT	US Dollar
2.	6911 and 6912	Ceramic Table-ware and Kitchen-ware*	Any country other than People’s Republic of China **	People’s Republic of China	Any	1075	MT	US Dollar

**Description of the subject goods is “Ceramic table wares and kitchen wares, excluding knives and toilet items”. Bone china, stoneware and porcelain-ware all constitute ceramic products.*

I also find that it is an undisputed fact that vide Bill of Entry No. 4806236 dated 25.02.2023, the Noticee had imported goods viz. “Assorted Crockery Part-I” as per packing List No.137520-B And “Assorted Crockery Part-II” as per packing list No.137520-C classifying under Sub-Heading 6912 in r/o item No. 02 & 03 respectively.

I view of above undisputed fact of import , I find that these imported goods “Assorted crockery Part-I” as per packing list No.137520-B and “Assorted crockery Part-II” as per packing list no.137520-C, falling under Sub-Heading 6912 originating from China and exported from Osia Hypermarket LLC, 504 Al Khaleej Center, Bur Dubai, Dubai-UAE, United Arab Emirates, imported by Noticee attracted Anti-Dumping Duty as per Notification No. 16/2022-Customs (ADD) dated 24.05.2022, and I hold that the noticee is liable for applicable Anti-Dumping Duty and applicable IGST on ADD alongwith applicable interest on the said imported goods as per Table below:-

Goods Details	CTH	Qty.	Anti-Dumping Duty	IGST on ADD	Total Duty Payable
Assorted crockery Part-I” as per packing list No.137520-B	69120090	5854.64 Kgs.	526471	63177	589648

“Assorted crockery Part-II” as per packing list no.137520-C	69120090	4904.23 Kgs.	441007	52921	493928
Total			967478	116097	1083575

The aforesaid facts show that the importer had resorted to willful non-declaration of the applicability of anti-dumping duty, the relevant ADD notification number and its serial number in the Bill of Entry of the said imported goods by suppressing the said material facts, which shows the ulterior motive of the importer to evade payment of applicable anti-dumping duty in respect of said imported goods cleared for home consumption vide Bills of Entry mentioned in Annexure-A to the show cause notice. Thus, I find that the importer is liable for paying the Anti-dumping duty of **Rs. 9,67,478/- and applicable differential IGST Rs. 1,16,097/- = Total duty of Rs. 10,83,575/-**, on the said imported goods cleared under impugned Bill of Entry under Section 28(4) of the Customs Act, 1962, by invocation of extended period five years, along with appropriate interest at applicable rate under Section 28AA of the Customs Act, 1962.

13(ii) The Second issue is Whether the impugned goods having assessable value of **Rs. 26,14,584/- (Rupees Twenty Six Lakh Fourteen Thousand Five Hundred and Eighty Four only)** as detailed in **Annexure-A** to the Show Cause Notice, are liable for confiscation under Section 111(m) of the Customs Act 1962 and whether redemption fine is imposable. I find that as per clause (m) of Section 111 of the Customs Act, 1962, any goods brought from a place outside India which do not correspond in respect of value or in any other particular with the entry made under this Act, shall be liable to confiscation. Therefore, I hold the goods valued at **Rs.26,14,584/-** imported under the said Bills of Entry liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962 in as much as the same have been imported by not declaring the Serial Number of the ADD Notification. I also find and hold that since the impugned goods had already been cleared, Redemption Fine in lieu of confiscation is also imposable under Section 125 of the Customs Act, 1962. Here it is worth mentioning here that in cases where the goods are not physically available for confiscation redemption fine is imposable in light of the judgment in the case of **M/s Visteon Automotive Systems India Ltd. reported at 2018 (009) GSTL 0142 (Mad)** wherein the *Hon’ble High Court of Madras* has observed as under:

“The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields. The fine under Section 125 is in lieu of confiscation of the goods. The payment of fine followed

up by payment of duty and other charges leviable, as per sub-section (2) of Section 125, fetches relief for the goods from getting confiscated. By subjecting the goods to payment of duty and other charges, the improper and irregular importation is sought to be regularised, whereas, by subjecting the goods to payment of fine under sub-section (1) of Section 125, the goods are saved from getting confiscated. Hence, the availability of the goods is not necessary for imposing the redemption fine. The opening words of Section 125, "Whenever confiscation of any goods is authorised by this Act ..", brings out the point clearly. The power to impose redemption fine springs from the authorisation of confiscation of goods provided for under Section 111 of the Act. When once power of authorisation for confiscation of goods gets traced to the said Section 111 of the Act, we are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing from Section 111 only. Hence, the payment of redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act. We accordingly answer question No. (iii)."

Hon'ble High Court of Gujarat by relying on this judgment, in the case of **Synergy Fertilchem Ltd. Vs. Union of India [2020 (33) G.S.T.L. 513 (Guj.)]**, held that even in the absence of the physical availability of the goods or the conveyance, the authority can proceed to pass an order of confiscation and also pass an order of redemption fine in lieu of confiscation. In other words, even if the goods or the conveyance has been released under Section 129 of the Act and, later, confiscation proceedings are initiated, then even in the absence of the goods or the conveyance, the payment of redemption fine in lieu of confiscation can be passed. The ratio of the above case law is squarely applicable to the facts of the instant case and as such I hold that redemption fine is imposable on the subject goods under Section 125 of the Act.

13(iii) Whether penalty under Section 114A and 112(a) is imposable

Section 112(a) reads as follows:

"Section 112. Penalty for improper importation of goods, etc.-

Any person, -

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under [section 111](#), or abets the doing or omission of such an act, or

...

shall be liable, -

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty ¹ [not exceeding the value of the goods or five thousand rupees], whichever is the greater;"

Section 114A reads as follows:

"Section 114A. Penalty for short-levy or non-levy of duty in certain cases. -

*Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has 2 [***]been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under 3 [sub-section (8) of section 28] shall also be liable to pay a penalty equal to the duty or interest so determined"*

I find that the noticee was communicated the observations vide letters F. No. VIII/48-52/RRR-48/GR-2G/2024 dated 16.05.2024, F. No. VIII/48-52/RRR-48/GR-2G/2024 dated 15.07.2024 and F. No. VIII/48-52/RRR-48/GR-2G/2024 dated 19.12.2024, with a request to pay the differential Customs duty along with applicable interest and to submit the payment particulars. However, they did not even reply to the said letter. Therefore, I find that M/s. Stackarrow failed to comply with the Customs Act, 1962 and the Rules thereof. I hold that due to suppression of facts and wilful mis-statement by, M/s Stackarrow Impex Pvt. Ltd. had led to short levy of Customs duty thus rendering them liable for penalty under Section 114A of the Customs Act, 1962. The SCN also proposed imposition of penalty under Section 112(a) of the Customs Act, 1962, on the Noticee. In the instant case, I have already found that the Noticee is liable to penalty under Section 114A of the Customs Act, 1962 and therefore penalty under Section 112 is not imposable in terms of the 5th proviso to Section 114A of the Customs Act, 1962. the same reads as under:

"Provided. also that where any penalty has been levied under this Section, no penalty shall be levied under Section 112 or Section 114."

As already discussed, the Customs duty in the present case had been short levied and short paid by reason of willful mis-statement and suppression of facts on the part of M/s. Stackarrow, which have made them liable for penalty under Section 114A of the Customs Act, 1962.

13(iv) Whether penalty under Section 114AA and 117 is imposable

I find that in the Show Cause Notice penalty under Section 114AA of the Customs Act, 1962 has been proposed to be imposed in importer. Section 114AA of the Customs Act, 1962 says as under:

SECTION. [114AA. Penalty for use of false and incorrect material- If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.]

I find that after introduction of self-assessment through amendment in Section 17 of the Customs Act, 1962 vide Finance Act, 2011, it is the responsibility of the importer to correctly declare the description, classification, applicable exemption notification, applicable duties, rate of duties and its relevant notifications etc. in respect of said imported goods and pay the appropriate duty accordingly, whereas, the importer had failed to declare the applicability of anti-dumping duty, the relevant ADD Notification No.16/2022-Customs (ADD) dated 24.05.2022 in the Bills of Entry of the said imported goods and suppressed the said material fact with an intent to evade payment of duty and thereby they have not paid the appropriate anti-dumping duty on said imported goods.

As discussed in the foregoing paras, it is evident that despite knowing the actual facts of the imported product and its actual duty liability, the importer, M/s Stackarrow Impex Pvt. Ltd. had knowingly and intentionally made, signed or used the declaration, statements and /or documents and presented them to the Customs Authorities which were incorrect in as much as they were not representing the true, correct and actual duty of the imported goods. The importer had resorted to willful mis-declaration of the said imported goods in the Bills of Entry of the said imported goods in spite of being fully aware of the products purchased/imported. Hence, for the said act of contravention on their part I hold, M/s. Stackarrow liable for penalty under Section 114AA of the Customs Act, 1962.

I also find that in the Show Cause Notice penalty under Section 117 of the Customs Act, 1962 has been proposed to be imposed on importer .

Section 117 of the Customs Act, 1962:

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 four lakh rupees.”

I find that since express penalties have already been imposed under Section 114A and 114 AA, in view of this, I Refrain to impose penalty under Section 117.

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

::ORDER::

- i. I Confirm the demand of Anti-dumping duty amounting to **Rs.10,83,575/- (Rupees Ten Lakh Eighty Three Thousand Five Hundred Seventy Five only)** (Rs. 9,67,478/- Anti-Dumping Duty and IGST Rs. 1,16,097/-) as detailed in Annexure-A to the Show Cause Notice, leviable on the said imported goods and order for recovery of same from M/S. STACKARROW IMPEX PVT. LTD., under Section 28(4) of the Customs Act, 1962;
- ii. I confirm the demand of Interest at applicable rate under Section 28AA of the Customs Act, 1962, on Customs Duty mentioned at (a) above, and order for recovery of same from M/s STACKARROW IMPEX PVT. LTD.
- iii. I order for confiscation of the impugned goods with the assessable value of **Rs. 26,14,584/- (Rupees Twenty Six Lakh Fourteen Thousand Five Hundred and Eighty Four only)**, imported by M/s. STACKARROW IMPEX PVT. LTD. under the provisions of section 111(m) and section 119 of the Customs Act, 1962. However, I give the importer an option under provision of Section 125(1) of the Customs Act, 1962, to redeem the said goods on payment of redemption fine of **Rs.2,00,000/-(Rupees Two Lakhs Only)**.
- iv. I **refrain** from imposing Penalty under the provisions of Section 112(a) (ii) of the Customs Act, 1962.
- v. I order to impose Penalty of **Rs.10,83,575/- (Rupees Ten Lakh Eighty Three Thousand Five Hundred Seventy Five only)** on the noticee under Section 114A of the Customs Act, 1962. I give an option, under proviso 114A to the noticee to pay 25% of the amount of total penalty imposed, subject to the payment of total duty amount and interest confirmed and the amount of **25% of penalty imposed within 30 days of receipt of this order.**

- vi. I order to impose Penalty of **Rs.3,00,000/- (Rupees Three Lakhs Only)** on them under Section 114AA of the Customs Act, 1962.
- vii. I **refrain** from imposing Penalty under Section 117 of the Customs Act, 1962.

15. The Show Cause Notice bearing **F. No. VIII/10-27/ICD-KHOD/O&A/HQ/2025-26 dated 23.07.2025** is disposed of in above terms.

(SHRAVAN RAM)

Additional Commissioner

DIN: 20260171MN0000222FFC

F. No. VIII/10-27/ ICD-KHOD/O&A/HQ/2025-26

Date: **05.01.2026**

BY SPEED POST / E-MAIL / HAND DELIVERY / THROUGH NOTICE BOARD

To,

TO,
M/S. STACKARROW IMPEX PVT. LTD.,
SHOP NO.2, SHYAM COMPLEX, PARIVAR PARK,
MAIN ROAD, AARYA SAMAJ CHOWK,
RAJKOT- 360004

Copy to:

- (i) The Commissioner of Customs, Ahmedabad. (Kind Attn : RRA Section)
- (ii) The Dy. Commissioner of Customs, ICD Khodiyar .
- (iii) The Deputy Commissioner of Customs (Task Force), Ahmedabad.
- (iv) The System In-Charge, Customs, HQ, Ahmedabad for uploading on the official web-site.
- (V) Guard File.