

	<p style="text-align: center;"><b>प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, मुन्द्रा</b>  <b>OFFICE OF THE PRINCIPAL COMMISSIONER,</b>  <b>CUSTOM HOUSE, MUNDRA</b></p> <p style="text-align: center;">Port User Building (PUB), Mundra (Gujarat – 370421)  ईमेल: group4-mundra@gov.in</p>	
A	File No.	CUS/APR/SCN/255/2025-Gr 4-O/o Pr Commr-Cus-Mundra
B	OIO No.	MCH/ADC/AKM/329/2024-25
C	Order Date	04.03.2025
D	Passed by	Amit Kumar Mishra, Additional Commissioner of Customs, Customs House, AP & SEZ, Mundra.
E	SCN No. & Date	CUS/APR/SCN/255/2025-Gr 4-O/o Pr Commr-Cus-Mundra dated 27.02.2025
F	Noticee / Party / Importer	M/s Sheth Metal Industries, 11th Floor, 1102, Omkar Tower, 3rd Khethwadi Back Road, Girgaon, Mumbai-400004
G	DIN	20250371MO0000333B65

1. यह अपील आदेश संबंधित को निःशुल्क प्रदान किया जाता है।

This Order - in - Original is granted to the concerned free of charge.

2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 129A(1) के अंतर्गत प्रपत्र सीए3-में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

Any person aggrieved by this Order - in - Original may file an appeal under Section 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

“सीमा शुल्क आयुक्त) अपील(, चौथी मंजिल, हुडको बिल्डिंग, ईश्वर भुवन रोड, नवरांगपुरा, अहमदाबाद 380009”

**“The Commissioner of Customs (Appeals), Mundra, 4<sup>TH</sup> Floor, Hudco Building, Ishwar Bhuvan Road, Navrangpura, Ahmedabad-380009.”**

3. उक्त अपील यह आदेश भेजने की दिनांक से तीन माह के भीतर दाखिल की जानी चाहिए।

Appeal shall be filed within three months from the date of communication of this order.

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/-/रुपये का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए -

Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must accompanied by –

5. उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मदसं-6 के तहत निर्धारित 0.50

ऐसे की एक न्यायालय शुल्क स्टाम्प वहन करना चाहिए।

The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paisa only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.

6. अपील ज्ञापन के साथ ड्यूटी/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये। Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.

7. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और सीमा शुल्क अधिनियम, 1962 के सभी मामलों में पालन किया जाना चाहिए।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and the Customs Act, 1962 should be adhered to in all respects.

8. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (Appeals) के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।

An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty alone is in dispute.

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### **Brief facts of the Case:**

An Email dated 24.09.2024 has been received from M/s Guangdong Runxin Industrial Investment Co. Ltd. (Email id:- admin@runxinbis.com) that some importer and exporters from CHINA are creating fake/non genuine/illegal label of their mill BIS License and putting grades like 304/430/410 etc. whereas the actual material is 201/J3. This is disturbing their factory reputation and their business operation in Indian Market. Further, in order to control the non-genuine use of their BIS license, they provided list of all BIS certified shipment from their Mill on the website [www.runxinbis.com](http://www.runxinbis.com) for verification purpose and further requested to take immediate measures to stop practice of non-genuine/illegal method of importing J3/201 material under their license.

2. On checking this website provided by M/s Guangdong Runxin Industrial Investment Co. Ltd., there is an Excel Sheet which is being updated by them on consignment to consignment basis. In this Excel sheet, a consignment from their mill can be verified based on Export Invoice No., BL No., Shipment Date and Quantity.

3. Accordingly, scrutiny of EDI data for import of Stainless Steel Sheet/Coil of 304/430/410 grade using BIS license of M/s /s Guangdong Runxin Industrial Investment Co. Ltd. was done and it came to notice that M/s Seth Metal Industries (IEC AMDPJ0578K) having address at 11<sup>th</sup> floor, 1102, Omkar Tower, 3 Rd Khethwadi Back Road, Girgaon, Mumbai, Maharashtra-400004 (hereinafter referred to as 'importer' for the sake of brevity) have filed 01 Bill of Entry mentioned in Table-I for import of Cold Rolled Stainless Steel coil grade 430 using BIS license of M/s Guangdong Runxin Investment Co. Ltd (CM/L No. 4100047166) at Mundra Port through their Custom Broker M/s GNXT Logistics Pvt. Ltd. The Details of B/E are as under :-

### **Table-I**

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BE No. & Date	BL No. & Date	Container No.	CTH	Country of Origin	Supplier Name	Goods Description
5812452 dated:- 26.09.2024	SZAC40138200 dated 10.09.2024	PCIU1679787	72193510	CHINA	M/s MFY Metal Company Ltd.	Cold Rolled Stainless Steel Coil Grade 430

4 . However, on checking on their Excel Sheet, on the basis of Bill of Lading No., provided on website [www.runxinbis.com](http://www.runxinbis.com), BL No. of impugned B/E No. 5812452 dated 26.09.2024 were not found in excel sheet. Accordingly, goods covered under above mentioned Bill of Entry were kept on hold for ruling out possibility of any mis declaration within the declared goods.

5 . On scrutiny of the documents uploaded in E-Sanchit, it is noticed that goods are imported under cover of the MTC No. QT20240829018 dated 29.08.2024 said to be issued by the manufacturer, M/s GUANGDONG RUNXIN INDUSTRIAL INVESTMENT CO.,LTD., address at West Side of Street No. 4, South Provincial Road 335 Line, High Tech Zone, Jieyang City Guangdong District, China which is BIS license holder for certification Mark No. CM/L-4100047166 for IS 6911:2017. Further, as per BIS license for certification Mark No. CM/L-4100047166 uploaded in e Sanchit, it is noticed that Shri Sachin Jain, 110, Navshakti Sadan Apartment Sector-13, Rohini, Delhi-110085 is the authorised Indian representative of the manufacturer for BIS matters.

6. Further, to check the authenticity of the MTC accompanied with the above consignments, the MTCs were forwarded to Shri Sachin Jain, authorised Indian representative of M/s Guangdong Runxin Industrial Investment Co. Ltd vide email dated 21.10.2024 for verification of MTCs whether these were issued by manufacturer or otherwise.

7. In response, Shri Sachin Jain vide email dated 22.10.2024 confirmed that the MTC for the consignment imported by M/s Seth Metal Industries was not issued by M/s Guangdong Runxin Industrial Investment Co. Ltd. The extract of the clarification received is as under:

*" Dear Sir, with reference to your mail dated Oct 21, 2024, Pls note that the goods imported under the said licence for the details attached in the mail are not bis certified by the bis licensee and the test certificate is also not issued by the bis licensee as informed by the manufacturer vide their mail dated 22 oct 2024 forwarded herewith. "*

8 . Further, goods imported vide Bills of Entry No. 5812452 dated 26.09.2024, stuffed in 01 container no. PCIU1679787 was examined vide examination report dated 09.10.2024.

9. The examination of the goods covered under B/E No. 5812452 dated 26.09.2024 was carried out at Saurashtra CFS, Mundra on 09.10.2024 in the presence of Shri Radheshyam Gupta, Sr. Executive, Operation in Saurashtra CFS and Shri Deepak Ojha, Authorised representative of M/s GNXT Logistics Pvt. Ltd. Before beginning of the

examination, the weightment slip of the containers generated at CFS weighbridge were cross checked. The weight mentioned on the slips as well as Bill of Lading are as under: -

Sr. No.	B/E No. and Date	Container No.	B/L Weight( in Kgs)	CFS Weight (in Kgs.)	Difference
1	5812452 dated 26.09.2024	PCIU1679787	27968	27790	178

10. Further, during examination vide examination reports dated 09.10.2024, Positive Metal Identification (PMI) test was conducted with the help of PMI gun. During the PMI test proceeding, the test results were taken and the same is reproduced below container wise in tabular form: -

**Container No. PCIU1679787**

Coil No.	Fe	Cr	Mn	Ni	Si	Cu	V	Zn	Co	P	Mo
1	75.35	12.09	10.23	1.09	0.36	0.60	0.10	0.07	0.04	0.06	--
2	75.08	12.16	10.57	1.00	0.49	0.50	0.08	0.06	--	0.05	0.01
3	74.99	12.00	10.66	1.07	0.50	0.50	0.11	0.07	0.05	0.04	--
4	75.29	12.11	10.25	1.08	0.53	0.53	0.10	0.07	--	0.04	0.01
5	75.53	12.06	10.24	0.99	0.37	0.60	0.10	0.05	--	0.04	0.01
6	75.07	12.30	10.46	1.00	0.43	0.52	0.11	0.05	--	0.04	0.02

11. From the PMI test conducted above, it is seen that in all coils stuffed in 01 container, Nickel content is found in the range of 1-1.5% and chromium content is found in the range of 12.0-12.5%. As per IS 6911:2017, 430 Grade Stainless Steel coil should contain Chromium in the range of 16-18% and nickel should be less than .75%. Hence, prima facie, it appears that goods covered under above mentioned Bill of Entry are not of 430 grade and documents i.e. MTC, BIS certificate etc. uploaded in e Sanchit appears to be fake.

12. Further, from the open source available on internet, the Stainless Steel Coil J3 grade should contain following chemical composition: -

Grade	C	Mn	P	Cr	Ni	S	Si
J3	≤ 0.15	7.5-13	≤ 0.045	13.0-15.0	0.8-1.5	≤ 0.03	≤ 1.0

13. As per container wise PMI test result mentioned above in tabular form, Nickel content is found in the range of 0.8-1.5%, Chromium content is in nearby range of 13-15%, Manganese is in the range of 7.5-13%, Silicon is less than 01%. Hence, it is clear that all major component i.e. Nickel, Chromium, Manganese etc. of imported goods vide above mentioned impugned Bill of Entry is in line of chemical composition of Stainless Steel Coil J3 Grade. Hence, prima facie, goods appear to be of J3 grade. Further, as per directive issued by the convenor of the NAC Metal

Product vide letter dated 11.07.2024 and Review meeting recommendations for CAVR order No. 02/2023, value of the goods is higher than precautionary price of 1.295 USD/Kgs. Hence, Value of the goods appears to be fair.

14. Further, Ministry of Steel vide circular dated 20.10.2023 made mandatory for all the steel importers to apply and seek clarification on the TCQCO Portal for each and every steel consignment which is imported in the country without BIS license/certification.

15. In view of above, *prima facie*, it appears that importer M/s Sheth Metal Limited has tried to clear Cold Rolled Stainless Steel coil of J3 grade in guise of SS coil of 430 grade using forged MTC and BIS license of M/s Guangdong Runxin Industrial Investment Co. Ltd. (CM/L No. 4100047166 for IS 6911:2017) and the goods are found to be without valid NOC issued from Ministry of Steel and hence, found to be imported in violation of Circular dated 20.10.2023 which makes the goods restricted/prohibited for import of goods.

16. Further, a statement of Shri Anil Kumar Siyal, Authorized Representative of M/s Sheth Metal Industries has been recorded on 21.11.2024, wherein, he, *inter-alia* stated that they ordered the grade 430 material from their supplier of CHINA and in proof of same, they are submitting copy of sales contract. Due to supplier mistake, wrong material has been sent to them. From the PMI report conducted during examination vide examination reports dated 09.10.2024, goods do not appear to be of Stainless Steel 430 grade.

16.1 Further, importer vide letter dated 20.01.2025 accepted that goods are of J3 grade not 430 grade and their value is true transaction value and submitted copy of invoice, packing list and MTC of grade J3.

17. In view of the above, it appears that importer M/s Sheth Metal Limited vide their 01 Bills of Entry mentioned above have tried to clear the Cold Rolled Stainless Steel Coil grade J3 goods using fake MTC and BIS license of M/s Guangdong Runxin Industrial Investment Co. Ltd (CM/L-4100047166) declaring goods as Cold Rolled Stainless Steel coil of 430 Grade as Ministry of Steel vide letter dated 20.10.2023 mandated all steel importer to seek NOC from Ministry of Steel for each product which is imported in country without BIS license. Hence, in absence of NOC from Ministry of Steel mandated vide circular dated 20.10.2023, goods imported vide impugned B/E No. 5812452 dated 26.09.2024 became restricted/prohibited in nature and hence, due to above mentioned mis declaration of grade, fake MTC and BIS Certification and absence of NOC from Ministry of Steel, goods appears to be liable for confiscation under section 111(d), (f), (l) and (m) of the Customs Act, 1962, hence, impugned goods imported vide 01 Bill of Entry mentioned above are Seized vide Seizure Memo dated 27.11.2024 under section 110(1) of the Customs Act, 1962, and goods has been handed over to the custodian i.e. M/s Saurashtra CFS, Mundra vide Supurtanama dated 27.11.2024 respectively and in compliance of Board Instruction No. 02/2024- Customs dated 15.02.2024, Incident report no. 22/2024-25 dated 28.11.2024 has been issued accordingly.

## **18. LEGAL PROVISIONAS:**

**18.1      Section 2(22):** "goods" includes (a) vessels, aircrafts and vehicles; (b) stores; (c) baggage; (d) currency and negotiable instruments; and (e) any other kind of movable property;

**18.2      Section 2(23):** "import", with its grammatical variations and cognate expressions, means bringing into India from a place outside India;

**18.3      Section 2(25):** "imported goods", means any goods brought into India from a place outside India but does not include goods which have been cleared for home consumption;

**18.4      Section 2(26):** "importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes [any owner, beneficial owner] or any person holding himself out to be the importer;

**18.5      Section 2(33)** of the Customs Act, 1962 'Prohibited goods' means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with.

**18.6      Section 46.** Entry of goods on importation:

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**(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, relating to the imported goods.

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

- (a) The accuracy and completeness of the information given therein;
- (b) The authenticity and validity of any document supporting it; and
- (c) 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.

**18.7      Section 111** of the Act, prescribes the Confiscation of improperly imported goods, etc. as under

*The following goods brought from a place outside India shall be liable for confiscation:*

(d) 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 this Act or any other law for the time being in force;

(f) any dutiable or prohibited goods required to be mentioned under the regulations in an (arrival manifest or import manifest) or import report which are not so mentioned;

- (l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this act, or in the case of baggage in the declaration made under section 77;
- (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 transhipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54.

**18.8** Further, Section 112 of the Act provides the penal provisions for improper importation of goods, etc. which read as under:

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;]

- (iii) in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty not exceeding the difference between the declared value and the value thereof or five thousand rupees], whichever is the greater;

- (iv) in the case of goods falling both under clauses (i) and (iii), to a penalty not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest;
- (v) in the case of goods falling both under clauses (ii) and (iii), to a penalty not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees, whichever is the highest.

### **18.9 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*

*(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.*

### **18.10 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 the goods.*

19. M/s Sheth Metal Industries (IEC AMDPJ0578K) filed 01 Bill of Entry No. 5812452 dated 26.09.2024 for import of Cold Rolled Stainless Steel Coils Grade 430 (HSN-721935910). The MTC uploaded on E-Sanchit said to be issued by M/s Guangdong Runxin Industrial Investment Co. Ltd (CM/L-4100047166) (BIS certificate holder) have been found to be fake as per verification report received from the manufacturer, M/s Guangdong Runxin Industrial Investment Co. Ltd China through their authorised

representative in India.

20. Thus, the imported goods declared as Cold Rolled Stainless Steel Coils Grade 430 which on examination are found to be Cold Rolled Stainless Steel Coil Grade J3 are found to be without valid BIS Certificate and MTC and hence, found attempted to be imported in cover of fake MTC and in violation of circular dated 20.10.2023 issued by Ministry of Steel of Steel which makes the goods restricted/prohibited for import. Accordingly, the goods imported vide impugned 01 Bill of Entry mentioned above having declared total Qty of 27.848 MTs and declared value of Rs. 31,33,401/- have been found liable for confiscation under Section 111 (d), (f), (l) & (m) of the Customs Act, 1962.

21. The authorized representative Sh. Anil Siyal of importer M/s Sheth Metal Industries in his statement recorded on 21.11.2024 has agreed with the fact that the MTCs said to be issued by M/s Guangdong Runxin Industrial Investment Co. Ltd., China are not the valid document which make the imported goods as restricted/prohibited. They placed an order for genuine Cold Rolled Stainless Steel Coil 430 grade but have been cheated by their supplier in this process. He further accepted the report of PMI Test conducted during examination. He stated that BIS license mentioned in the MTC was sent to them by their Supplier from CHINA. The importer has requested that they be considered innocent and lenient view may be taken.

22. After introduction of self-assessment vide Finance Act, 2011, the onus lies on the importer for making true and correct declaration in all aspects in the Bills of Entry and to pay the correct amount of Duty. In terms of Section 17 & 46 (4) of the Customs Act, 1962, the importers are required to make a declaration as to the truth of the contents of the Bills of Entry submitted for assessment of Customs duty. The relevant portion of the said provisions are as under: -

### ***Section 17. Assessment of duty. –***

***(1) 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.***

..

***(4) Where it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.***

### ***Section 46. Entry of goods on importation. –***

***(1) The importer of any goods, other than goods intended for transit or transhipment, shall make entry thereof by presenting electronically on the customs automated system to the proper officer a bill of entry for home consumption or warehousing in such form and manner as may be prescribed:***

In terms of Section 46 (4) of the Customs Act, 1962, the importers are required to make a declaration as to the truth of the contents of the Bills of Entry submitted for assessment of Customs duty. In the present case, the importer submitted MTCs said to be issued by the BIS holder for certification Mark License No. - CM/L-4100047166 for IS 6911:2017 and uploaded the same in e-Sanchit with intent to clear goods with Forged MTCs of the BIS holder bypassing mandatory restriction of NOC from Ministry of Steel. In view of the above, it appears that M/s Sheth Metal Industries attempted to clear Cold Rolled Stainless Steel Coil Grade-J3 in guise of Cold Rolled Stainless Steel Coil Grade-430 valued at Rs. 31,33,401/- vide 01 Bills of Entry No. 5812452 dated 26.09.2024 without valid mandatory NOC issued by the Ministry of Steel as mandated vide circular dated 20.10.2023 issued from Ministry of Steel. Hence, it appears that the importer had knowingly involved themselves in the suppression of the material facts and also indulged in mis-statement of facts. The importer by their acts of omission and commission renders imported goods liable for confiscation under Section 111(d), (f), (l) and 111(m) of the Customs Act, 1962.

23. From the above discussion and evidences available on record, it appears that the importer, M/s Sheth Metal Industries (IEC AMDPJ0578K) mis declared goods "Cold Rolled Stainless Steel Coil Grade J3" as "Cold Rolled Stainless Steel Coil Grade 430" and produced fake Mill test certificate said to be issued by the BIS holder by M/s Guangdong Runxin Industrial Investment Co. Ltd., China in contravention of various provisions of the Customs Act and Rules made thereunder as discussed above with intent to clear goods without valid NOC from Ministry of Steel as mandated vide circular dated 20.10.2023. The said acts of omission and commission on the part of the M/s Sheth Metal Industries have rendered themselves liable for penalty under the provisions of Section 112(a) of the Customs Act, 1962.

24. Further, importer during his statement and letter dated 20.01.2025 stated that due to supplier mistake, wrong material of grade J3 has been shipped instead of grade 430. This appears to be well hatched conspiracy to shift the burden of mistake from himself to supplier to avoid legal action against importer as they communicated via email and supplier replied that due to oversight, wrong material has been shipped. Since importer was well aware about the fact that Ministry of Steel is not issuing NOC at that time, hence, they used the modus of importing goods vide above mentioned 01 Bill of Entry by declaring them as "Cold Rolled Stainless Steel Coil Grade 430" and used forged MTC said to be issued by M/s Guangdong Runxin Industrial Investment Co. Ltd., China for clearance of the goods in guise of SS Sheet/coil grade 430. And as and when, if shipment gets hold by any agency, the burden of mistake will be passed on to supplier and email conversation regarding shipping of wrong mistake would be done. Hence, the said acts of omission and commission on the part of the M/s Sheth Metal Industries have rendered themselves liable for penalty under the provisions of Section 114AA of the Customs Act, 1962.

25. Accordingly, Show Cause Notice vide F. No.

CUS/APR/SCN/255/2025-Gr 4-O/o Pr Commr-Cus-Mundra dated 27.02.2025 was issued to M/s Sheth Metal Industries wherein they were called upon to show cause within thirty days from the date of receipt of this notice to the Additional Commissioner of Customs, Customs House Mundra, First Floor, Port User Building, Custom House Mundra, Kutch, Gujarat-370421, as to why: -

- i. The Mill Test Certificates used for import consignment of BE No. 5812452 dated 26.09.2024 should not be considered as fake on the basis of verification received from the manufacturer and BIS holder M/s Guangdong Runxin Industrial Investment Co. Ltd., China through their authorised representative in India for BIS matter.
- ii. The declared description i.e. Cold Rolled Stainless Steel Coil grade 430 of goods imported vide 01 impugned Bill of Entry no. 5812452 dated 26.09.2024 is liable to be rejected and same to be re determined as Cold Rolled Stainless Steel Coil grade J3.
- iii. The imported goods vide BE No. 5812452 dated 26.09.2024 having declared weight of 27.848 MTs and declared assessable value of Rs. 31,33,401/- should not be considered as prohibited in as much as these goods have been attempted to import without valid mandatory NOC from Ministry of Steel as mandated vide circular dated 20.10.2023.
- iv. The imported goods found as Cold Rolled Stainless Steel Coil Grade-J3 having declared weight of 27.848 MTs and declared assessable value of Rs. 31,33,401 /- should not be liable for confiscation under Section 111 (d), (f), (l) & (m) of the Customs Act, 1962.
- v. Penalty under Section 112 (a) of the Customs Act, 1962 should not be imposed upon them for the reasons discussed in para supra.
- vi. Penalty under Section 114AA of the Customs Act, 1962 should not be imposed upon them for the reasons discussed in para supra.

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### **Written Submission**

**26. Importer M/s Sheth Metal Industries submitted written submission vide their letter dated 28.02.2025.**

26.1 It is respectfully submitted that the Noticee, a Partnership firm having registered office having registered office at 11th Floor, 1102, Omkar Tower, 3rd Khetwadi Back Road, Girgaon, Mumbai -400004 is reputed importer and had all along unblemished record and had never attempted to breach any of the provisions of the Customs Act, 1962 and/or the Rules/regulations framed there under.

**THE MILL TEST CERTIFICATES USED FOR IMPORT CONSIGNMENT OF BE NO. 5812452 dated 26.09.2024 SHOULD NOT BE CONSIDERED AS FAKE ON THE BASIS OF VERIFICATION RECEIVED FROM THE MANUFACTURER AND BIS HOLDER M/S GUANGDONG RUNXIN INDUSTRIAL INVESTMENT CO. LTD. CHINA THROUGH THEIR**

**AUTHORISED REPRESENTATIVE IN INDIA FOR BIS MATTER.**

26.1.1. The department has relied upon the mail of the Indian representative of M/s. Guangdong Runxin Industrial Investment Co. Ltd and the same was conveyed by the mail dated 21.10.2024. On going through the mail, the reply sounds to be vague and not concrete evidence to confirm that the said MTC certificate are fake. The certificates are properly stamped and also signed by the authorised person of the said Company.

26.1.2. The MTC certificate being properly stamped and signed cannot be overlooked and or brushed aside by the customs department without any evidence of same being not authentic and the same is cancelled or the same is proclaimed as fake by the issuing authority. The department cannot go beyond the said MTC certificate as held by Hon'ble Supreme Court in the case of Zuari Industries Vs Commissioner of Customs 2007 (210) E.L.T. 648 (S.C).

**THE DECLARED DESCRIPTION I.E. COLD ROLLED STAINLESS STEEL COIL/SHEET GRADE 430 OF GOODS IMPORTED VIDE IMPUGNED BILL OF ENTRY NO. 5812452 dated 26.09.2024 IS LIABLE TO BE REJECTED AND SAME TO BE RE DETERMINED AS COLD ROLLED STAINLESS STEEL COIL/SHEET GRADE J3.**

26.2.1 The Noticee had imported the goods i.e. Cold rolled stainless steel coil/sheet grade 430 of goods imported vide impugned bill of entry no. 5812452 dated 26.09.2024 which is as per the requirement of the Noticee. however, the foreign supplier has sent the goods which has been found to be cold rolled stainless steel coil/sheet grade J3, which was beyond the control of the noticee. However, the Noticee has accepted the said goods.

26.2.2 The Noticee has obtained the NOC from the Ministry of Steel i.e No. NOC2024004448 \_A dated 16-12-2024 for the said product and hence there is no question of any rejection of the goods. Copy of the said NOC is enclosed for reference.

**THE GOODS IMPORTED VIDE B/E NO. 5812452 dated 26.09.2024 FOUND AS COLD ROLLED STAINLESS STEEL COIL/SHEET GRADE-J3 HAVING DECLARED WEIGHT OF 27.848 MTS AND DECLARED ASSESSABLE VALUE OF RS. 31,33,401/- IS NOT BE LIABLE FOR CONFISCATION UNDER SECTION 111 (D), (F), (L) & (M) OF THE CUSTOMS ACT, 1962**

26.3.1 It was alleged that the Noticee had imported of Stainless Steel Coils/Strips through Bill of Entry No 5812452 dated 26.09.2024 having total Assessable Value of RS. 31,33,401/- by submitting on e-Sanchit, as their import documents, a BIS License for IS 6911:2017 with CM/L No 4100040960, held by M/s Guangdong Runxin Industrial Investment Co. Ltd. and also Mill Test Certificates purported to be issued by M/s Guangdong Runxin Industrial Investment Co. Ltd. In the said investigation, the department has forwarded the said certificate to Shri Sachin Jain, the representative of the M/s Guangdong Runxin Industrial

Investment Co. Ltd., to ascertain the veracity of the Mill test certificate and BIS license submitted by the Noticee. Shri Sachin Jain vide his email letter dated 21.10.2024 informed that the Mill test Certificate for the said import are not BIS certified by the BIS licensee. There after the subject consignments were put on hold for examination and the same was seized by the department vide Seizure Memo dated 03-12-2024.

26.3.2 The Noticee is the importer of the goods and has correctly imported and the impugned goods were imported from the Foreign Supplier viz. M/s Guangdong Runxin Industrial Investment Co. Ltd, China which is mentioned in the import documents under a valid contract/agreement. The Mills Test Certificate was provided by the Foreign Supplier to the Noticee. The Noticee had no reason to doubt the authenticity of the certificate as it was issued by the supplier, who is a reputed entity. The Noticee has acted in good faith, relying on the documents provided by the supplier, without any intent to evade duty or commit any misrepresentation. It is further submitted that the certificate was submitted as received from the foreign supplier, and the Noticee had no means to independently verify its authenticity beyond the face value. The Noticee has always complied with customs laws and regulations and have no history of any violations or non-compliance in the past. The Noticee had no role in the alleged fake certificate or any misrepresentation, and if there has been any lapse, it is solely attributable to the foreign supplier. The Noticee have was merely a recipient of the certificate and had no involvement in its issuance, alteration, or any misrepresentation therein. The Noticee has complied with all the rules, regulations of the Customs Act 1962 and there is no violations of any of the provisions of the Customs Act 1962 by the Noticee.

26.3.3 Noticee relies upon the judgment dated 14<sup>th</sup> Jan 2025 in the case M/s. S S Overseas vs. Principal Commissioner of Customs passed by the CESTAT, New Delhi in the Customs Appeal No 51433 of 2022, *wherein the importer, S S Overseas, was accused of availing customs duty exemption based on a certificate provided by a foreign supplier. The customs authorities alleged that the certificate was invalid and demanded the payment of customs duty. The court held that unless the certificate is officially canceled or declared invalid by the competent authority, the customs authorities cannot impose customs duty based solely on allegations. The seizure of the equipment was deemed unjustified without proper validation of the certificate's authenticity.*

26.3.4 This judgment supports the argument that, as an importer, you should not be held liable for customs duty if you have relied on a certificate provided by a foreign supplier in good faith, and there is no official cancellation or invalidation of that certificate. It emphasizes the principle that the burden of proof lies with the customs authorities to establish the inauthenticity of the certificate before demanding duty or imposing penalties.

26.3.5 Thus, *prima facie*, the impugned goods imported vide Bills of Entry No. 5812452 dated 26.09.2024 are not liable for confiscation and no imposition of any penalties under the provisions of the Customs Act 1962.

26.4 In the impugned Show cause Notice, it is proposed that the

impugned goods are liable for confiscation under Section 111(d), (f), (l) and (m) of the Customs Act 1962.

26.4.1 With regard to the Section 111(d) of the Customs Act 1962, it is to state that the impugned goods are not imported to any contrary to any prohibition and hence the goods are not liable for confiscation under Section 111(d) of the Customs Act 1962. The goods are not wilfully mis-declared by the Notice. Therefore, the impugned goods are not liable to be confiscated under Section 111(d) of the Customs Act 1962.

26.4.2 With regard to the Section 111(f) and 111(l) of the Customs Act 1962, it is to state that the impugned goods are not imported to any contrary to any prohibition and hence the goods are not prohibited goods and the same is not liable for confiscation under Section 111(f) and 111(l) of the Customs Act 1962. The goods are not wilfully mis-declared by the Notice. Therefore, the impugned goods are not liable to be confiscated under Section 111(f) and 111(l) of the Customs Act 1962.

26.4.3 Further with regard to the proposal of confiscation of goods under section 111 (m) of the Customs Act, 1962 it is submitted that it can only be applied in case of any goods which do not correspond in respect of value or in any other particular with the entry made under this Act. The present case is related to classification of the goods. The description of the goods and value thereof is not objected in the notice. There is no specific allegation with regards to the description of goods and value thereof in the Show Cause Notice that the confiscation cannot be made under the clause (m) of the section 111 of the Customs Act, 1962.

26.4.4 Noticee relies on the judgment in the case of 2020-TIOL-1679-CESTAT-MUM CHANDAN STEEL LTD Vs. COMMISSIONER OF CUSTOMS (IMPORT) JAWAHARLAL NEHRU PORT TRUST, NHAVA.

26.4.5 Without prejudice to whatever stated above, it is respectfully submitted that the Ministry of steel has granted an NOC to the said consignment said imported goods vide NOC No. NOC2024004448\_A to release the said goods for consumption in FOOD industry. Thus it is clear that the same is not prohibited goods and also allowed for home consumption.

26.4.6 In view of above, it is ample clear that the imported goods vide Bill of Entry No. 5812452 dated 26.09.2024 are not liable for confiscation under Section 111(d) (f) (l) and 111(m) of the Customs Act 1962.

26.4.7 It is respectfully submitted that the imported goods seized vide Panchnama dated 27-11-2024 is liable for release as there are no any reasons to liable for confiscation under any of the proposed Sections of the Customs Act 1962 in the impugned show cause Notice.

**PENALTY UNDER SECTION 112(a) OF THE CUSTOMS ACT 1962 IS NOT IMPOSEABLE AGAINST THE NOTICEE.**

26.5.1 Since as explained above there has been no collusion, wilful mis-statement, suppression of facts or false declaration by the Noticee, no penalty can be imposed under Section 112(a) of the Customs Act 1962 against the Noticee. Further, since as explained above, the goods are not

liable to confiscation under Section 111 (d) (f) (l) and (m) of the Customs Act 1962, no penalty can be imposed under Section 112 (a) of the Customs Act 1962.

26.5.2 Ongoing through Section 112(a) of the Customs Act, it is seen that the said penal provisions are for penalty for improper importations of goods and anybody whoever by act or omission would render such goods liable to confiscation under Section 111 of the Customs Act 1962.

26.5.3 In this regard, the Noticee respectfully submits that the Noticee had filed Bills of Entry on the basis of the details and documents of the imports provided by the foreign supplier. There is no mis-declaration of the goods, the goods are rightly classified and properly declared. Thus, it appears that they have correctly classified as per the rule any the classification of the goods. The Assessment Officers haven't raised any doubts during the examination and assessment of the past consignments. It is merely mentioned that the Noticee has wilfully suppressed the facts which is baseless and absolutely incorrect.

26.5.4 Thus, it is very much clear that the Noticee is not liable to be imposed penalty under Section 112(a) of the Customs Act 1962. Further penalty under Section 112 (a) of the Customs Act, 1962 has been proposed without giving any reasons and justification.

26.5.5 Without prejudice to the above, the Noticee would also like to state that in the absence of Mensrea, the question of levy of penalty under sections 112 (a) of the Customs Act 1962 does not arise. Noticee submits that the existence of Mensrea is important for the levy of the penalty and in cases where the Mensrea cannot be established, no penalty can be levied.

26.5.6 The Supreme Court in a landmark case (*Hindustan Steel v State of Orissa 1978 (2) ELT (J159)*), has held that an order imposing penalty for failure to carry out the statutory obligation was the result of quasi - criminal proceedings and that penalty would not ordinarily be imposed unless the party obliged either acted deliberately in defiance of law or was guilty of conduct contumacious or dishonest or acted unconscious disregard of its obligations. Therefore, the impugned Show cause Notice dated 27-02-2024 should be dropped.

26.5.7 Noticee relies upon the following case laws under the Customs Act, 1962, which emphasizes the importance of intent (mensrea) in imposing penalties:

1. **Reliance Industries Ltd. vs. Commissioner of Customs****Citation:** 2006 (202) E.L.T. 23 (Tri. - Mumbai), wherein the, the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) held that penalties under Section 112(a) of the Customs Act, 1962, require the presence of mensrea (guilty mind). The Tribunal emphasized that if an importer acts in good faith and without any intention to evade duty, penalties may not be justified.
2. **Chaudhary International v. Collector of Customs****Citation:** 1995 (80) E.L.T. 647 (Tri. - Del.), wherein it is observed that for imposing penalties under the Customs Act, there must be evidence of deliberate misdeclaration or suppression of facts by the importer. Mere

negligence or lack of due diligence without intent to evade duty does not warrant penalties.

PENALTY UNDER SECTION 114AA OF THE CUSTOMS ACT 1962 IS NOT IMPOSEABLE ON THE NOTICEE FOR SUBMITTING FAKE /INVALID MILL TEST CERTIFICATE FOR IMPORTING VIDE BILL OF ENTRY NO. 5857931 dt. 28.09.2024.

26.6.1 Ongoing through the wording of the section 114AA of the Customs Act 1962 itself it is evident that the said section can be invoked only on establishment of the fact that the declaration, statement or document made/ submitted in transaction of any business for the purpose of the Act, is false or incorrect. The Noticee as an importer, relied on the supplier's certificate in good faith without any intent to defraud or evade customs duty. In this situation where an importer has acted in good faith, without knowledge of any falsification, and has exercised due diligence, the imposition of penalties may not be justified.

26.6.2 Without establishing that the document, statement or declaration made is false or incorrect in any material particular this section cannot have been invoked. The investigation is based only on the mail confirmation of on Shri Sachin Jain, who is stated as the representative of the said company. However, there is no clear evidence to confirm the veracity of the Mills Test Certificate relied upon by the department. It is once again submitted that the Noticee has acted in good faith without knowledge of any falsification. Further, in the past consignments, the authenticity of the Mills test certificate was verified by the Customs, same were accepted as genuine and the imported goods were cleared by the Customs after fulfilling the formalities as per the procedure and the rules of the Customs Act. Thus under the judicious belief that the said Mill Test Certificate is genuine, the Noticee has dealt with the said supplier. Thus, it clearly appears that the Noticee has not done any false declaration or any incorrect particular material. Hence invoking penal provisions under Section 114AA for imposition of penalty on Noticee is contrary to the investigations undertaken by the department hence the penalty under Section 114AA of the Customs Act is not imposable upon the Noticee.

26.7 In view of above submissions, it is prayed before the Learned adjudicating authority that the impugned Show cause Notice dated 27-02-2025 shall be dropped in entirety.

26.8 Further the noticee prayed that on the basis of the BIS NOC issued by Ministry of Steel, Government of India dated 16-12-2024 as mandated vide circular dated 20.10.2023, the seized goods vide Seizure Memo dated 27-11-2024 shall be released immediately and oblige.

#### **Personal Hearing**

27. The Importer vide letter dated 28.02.2025 has submitted that they do not want Personal Hearing in the subject matter and requested to take lenient view and release the goods at the earliest.

### **Discussion and findings**

28. I have carefully gone through the case records, Show Cause Notice dated 27.02.2025 and Importer's submission dt. 28.02.2025. I find that the condition of Principles of Natural Justice under Section 122A of the Customs Act, 1962 has been complied. Hence, I proceed to decide the case on the basis of facts and documentary evidences available on records.

29. The issues before me are to decide -

- i. Whether the Mill Test Certificates used for import consignment of BE No. 5812452 dated 26.09.2024 should be considered as fake on the basis of verification received from the manufacturer and BIS holder M/s Guangdong Runxin Industrial Investment Co. Ltd., China through their authorised representative in India for BIS matter or otherwise.
- ii. Whether the declared description i.e. Cold Rolled Stainless Steel Coil grade 430 of goods imported vide 01 impugned Bill of Entry no. 5812452 dated 26.09.2024 is liable to be rejected and same to be re determined as Cold Rolled Stainless Steel Coil grade J3 or otherwise.
- iii. Whether the imported goods vide BE No. 5812452 dated 26.09.2024 having declared weight of 27.848 MTs and declared assessable value of Rs. 31,33,401/- should be considered as prohibited in as much as these goods have been attempted to import without valid mandatory NOC from Ministry of Steel as mandated vide circular dated 20.10.2023 or otherwise.
- iv. Whether the imported goods found as Cold Rolled Stainless Steel Coil Grade-J3 having declared weight of 27.848 MTs and declared assessable value of Rs. 31,33,401/- should be liable for confiscation under Section 111 (d), (f), (l) & (m) of the Customs Act, 1962 or otherwise.
- v. Whether penalty under Section 112 (a) of the Customs Act, 1962 should be imposed upon them for the reasons discussed in para supra or otherwise.
- vi. Whether penalty under Section 114AA of the Customs Act, 1962 should be imposed upon them for the reasons discussed in para supra or otherwise.

30. I find that M/s Sheth Metal Industries (IEC- AMDPJ0578K) filed Bill of Entry No. 5812452 dated 26.09.2024 for import of Cold Rolled Stainless Steel Coils/sheets Grade 430. The MTCs uploaded on E-Sanchit said to be issued by M/s Guangdong Runxin Industrial Investment Co. Ltd (CM/L-4100047166) (BIS certificate holder) were actually not issued by M/s Guangdong Runxin Industrial Investment Co. Ltd as per verification report received from the manufacturer, M/s Guangdong Runxin Industrial Investment Co. Ltd China through authorised representative in India.

Thus, I find that the Mill Test Certificates used for import consignment of BE No. 5812452 dated 26.09.2024 have been found as fake on the basis of verification received from the manufacturer and BIS holder M/s Guangdong Runxin Industrial Investment Co. Ltd.,

31. Further, from the PMI test conducted during examination, it is seen that Nickel content is found in the range of 0.8-1.5%, Chromium content is in the range of 13-15%, Manganese is in the range of 7.5-13%, Silicon is less than 01%. Hence, it is clear that all major component i.e. Nickel, Chromium, Manganese etc. of imported goods vide above mentioned impugned Bill of Entry is in line of chemical composition of Stainless Steel Coil/sheet J3 Grade. In view of above, I find that importers have tried to clear Cold Rolled Stainless Steel coil/sheet of J3 grade in guise of SS coil/sheet of 430 grade using forged MTC and license of M/s Guangdong Runxin Industrial Investment Co. Ltd. (CM/L No. 4100047166 for IS 6911:2017).

In the view of the above, I find that the declared description i.e. Cold Rolled Stainless Steel Coil/sheet grade 430 of goods imported vide impugned Bill of Entry no. 5812452 dated 26.09.2024 is liable to be rejected and same to be re determined as Cold Rolled Stainless Steel Coil/sheet grade J3.

32. I find that the imported goods which were declared as Cold Rolled Stainless Steel Coils/Sheets Grade 430, are found to be Cold Rolled Stainless Steel Coil/Sheet Grade J3 on examination. Thus, the imported goods are found to be without valid BIS Certificate and MTC and hence, found attempted to be imported in cover of fake MTC and in violation of circular dated 20.10.2023 issued by Ministry of Steel of Steel which makes the goods restricted/prohibited for import.

32.1 In view of the above, I find that importer M/s Sheth Metal Industries vide their Bill of Entry mentioned above have attempted to clear the Cold Rolled Stainless Steel Coil/sheet grade J3 goods using fake MTC and BIS license of M/s Guangdong Runxin Industrial Investment Co. Ltd (CM/L-4100047166) declaring goods as Cold Rolled Stainless Steel coil/sheet of 430 Grade as Ministry of Steel vide letter dated 20.10.2023 mandated all steel importer to seek NOC from Ministry of Steel for each product which is imported in country without BIS license.

32.3 Further, I find that importer M/s Sheth Metal Industries vide letter dated 28.02.2025 submitted that they have obtained NOC dated 16.12.2024 from Ministry of Steel. The details of the NOC issued from Ministry of Steel are as under:

Sr. No.	Bill of Entry No. & Date	NOC Number	Quantity (MTS)
1	5812452 dt. 26.09.2024	NOC2024004448_A dated 16.12.2024	27.848

On perusal of the NOC Number NOC2024004448\_A dated 16.12.2024 submitted by importer, I find that the importer has been granted NOC from Ministry of Steel. Thus, importer has fulfilled the compliance as required vide letter dated 20.10.2023 issued by Ministry of Steel, therefore, I find that the imported goods i.e. Cold Rolled Stainless Steel Coil/sheet grade J3 becomes freely importable.

33. I find that importer M/s Sheth Metal Industries vide their Bill of

Entry mentioned above have tried to clear the Cold Rolled Stainless Steel Coil/sheet grade J3 goods using fake MTC and BIS license of M/s Guangdong Runxin Industrial Investment Co. Ltd (CM/L-4100047166) declaring goods as Cold Rolled Stainless Steel coil/sheet of 430 Grade.

Further, I find that the importer while filing impugned bill of entry has subscribed to a declaration regarding correctness of the contents of the Bill of Entry under Section 46(4) of the Act, ibid. Further, Section 46(4A) of the Act, ibid, casts an obligation on the importer to ensure accuracy of the declaration and authenticity of the documents supporting such declaration. In the instant case, the Importer has failed to discharge the statutory obligation cast upon him and made wrong declaration about the description of the imported goods and attempted to clear the Cold Rolled Stainless Steel Coil/sheet grade J3 goods using fake MTC and BIS license of M/s Guangdong Runxin Industrial Investment Co. Ltd (CM/L-4100047166). Hence, I find that the importer had knowingly involved themselves in the suppression of the material facts and also indulged in mis-statement of facts. Therefore, I hold that the importer by their acts of omission and commission renders imported goods liable for confiscation under 111(f), 111(l) and 111(m) of the Customs Act, 1962.

34. From the above discussion and evidences available on record, I find that the importer, M/s Sheth Metal Industries mis declared goods "Cold Rolled Stainless Steel Coil/Sheet Grade J3" as "Cold Rolled Stainless Steel Coil/Sheet Grade 430" and produced fake Mill test certificate said to be issued by the BIS holder by M/s Guangdong Runxin Industrial Investment Co. Ltd., China in contravention of various provisions of the Customs Act and Rules made thereunder as discussed above.

I find that Section 112(a)(ii) of the Customs Act, 1962 provides for the imposition of penalties for improper importation of goods. The importer mis-declared the goods and imported them using fake MTC and BIS license of M/s Guangdong Runxin Industrial Investment Co. Ltd, constituting a violation of customs regulations. As such, the importer is liable to be penalised. As the impugned goods are liable for confiscation under 111(f), 111(l) and 111(m) of the Customs Act, 1962 and therefore, M/s Sheth Metal Industries have rendered themselves liable for penalty under section 112(a)(ii) of the Customs Act, 1962.

35. I find that Penal Action under Section 114 AA of the Customs Act has also been proposed on M/s Sheth Metal Industries in the Notice dated 27.02.2025. From the facts of the case, I find that importer during his statement and letter dated 20.01.2025 stated that due to supplier mistake, wrong material of grade J3 has been shipped instead of grade 430. This appears to be well hatched conspiracy to shift the burden for mistake to supplier to avoid legal action against importer as they communicated via email and supplier replied that due to oversight, wrong material has been shipped. However, since importer was well aware about the fact that Ministry of Steel is not issuing NOC at that time, hence, they used the modus of importing goods vide above mentioned Bill of Entry by declaring them as "Cold Rolled Stainless Steel sheet/Coil Grade 430" and used forged MTC said to be issued by M/s Guangdong Runxin Industrial Investment Co. Ltd., China for clearance of the goods in guise of SS

Sheet/coil grade 430.

35.1 Thus, I find that the importer had knowingly used and caused to be used such particulars as mentioned above that were false for the transactions under the Customs Act as explained in the preceding paragraphs. The importer caused wrong declarations made in respective bill of entry and submitted falsified documents. I find that he had knowingly used and caused to be used such particulars as mentioned above that were false for the transactions under the Customs Act, 1962 as explained in hereinabove. In view of the foregoing discussions and on examination of the role of the M/s Sheth Metal Industries, I hold that M/s Sheth Metal Industries is also liable to penalty under Section 114AA of the Customs Act, 1962.

35.2 Further, I find that the importer has been granted NOC from Ministry of Steel as required vide letter dated 20.10.2023 issued by Ministry of Steel, therefore, the imported goods i.e. Cold Rolled Stainless Steel Coil/sheet grade J3 becomes freely importable as discussed in above paras. I also find that declared value of the goods is higher than precautionary price of 1.295 USD/Kgs as per directive issued by the convenor of the NAC Metal Product vide letter dated 11.07.2024 and Review meeting recommendations for CAVR order No. 02/2023. Hence, I find that the declared value of the goods is fair. In the view of the above discussion, I take the lenient view in imposing penalty under Section 114AA of the Customs Act, 1962.

36. Further, I find that as Cold Rolled Stainless Steel Coil/sheet grade J3 actually found during examination of the goods, have been held liable for confiscation under provisions of Section 111(f), (l) and (m) of Customs Act, 1962, I deem it fit to allow clearance of the same, on payment of Redemption Fine in terms of Section 125 of the Customs Act, 1962 which is reproduced below for ease of reference:

*Section 125. Option to pay fine in lieu of confiscation. -*

*(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation 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 or, where such owner is not known, the person from whose possession or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit:*

**Provided** that, without prejudice to the provisions of the proviso to sub-section (2) of section 115, such fine shall not exceed the market price of the goods confiscated, less in the case of imported goods the duty chargeable thereon.

*(2) Where any fine in lieu of confiscation of goods is imposed under sub-section (1), the owner of such goods or the person referred to in sub-section (1), shall, in addition, be liable to any duty and charges payable in respect of such goods.*

(3) Where the fine imposed under sub-section (1) is not paid within a period of one hundred and twenty days from the date of option given thereunder, such option shall become void, unless an appeal against such order is pending.

37. In view of foregoing discussion and findings, I pass the following order:

**Order**

- i. I order that the Mill Test Certificate used for import consignment of BE No. 5812452 dated 26.09.2024 be considered as fake on the basis of verification received from the manufacturer and BIS holder M/s Guangdong Runxin Industrial Investment Co. Ltd., China through their authorised representative in India for BIS matter.
- ii. I reject the declared description i.e. Cold Rolled Stainless Steel Coil grade 430 of goods imported vide 01 impugned Bill of Entry no. 5812452 dated 26.09.2024 and order to re determine the same as Cold Rolled Stainless Steel Coil grade J3.
- iii. I order that the imported goods vide BE No. 5812452 dated 26.09.2024 having declared weight of 27.848 MTs and declared assessable value of Rs. 31,33,401/- are freely importable as the importer has been granted NOC from Ministry of Steel as mandated vide circular dated 20.10.2023 issued by Ministry of Steel.
- iv. I order for confiscation of the imported goods found as Cold Rolled Stainless Steel Coil Grade-J3 having declared weight of 27.848 MTs and declared assessable value of Rs. 31,33,401/- under Section 111 (f), 111(l) and 111(m) of the Customs Act, 1962. However, I give an option to the Importer M/s Sheth Metal Industries to re-deem the said goods for home consumption under provisions of Section 125 of Customs Act, 1962 on payment of Redemption Fine of **Rs. 3,00,000/- (Rs. Three Lakhs only)**.
- v. I impose Penalty **Rs. 5,000/- (Rs. Five Thousand only)** under Section 112 (a)(ii) of the Customs Act, 1962 on the importer M/s Sheth Metal Industries.
- vi. I also impose penalty of **Rs. 1,50,000/- (Rs. One Lakhs Fifty Thousand only)** under Section 114AA of the Customs Act, 1962 on the importer M/s Sheth Metal Industries.

38. This order is issued without prejudice to any other action which may be contemplated against the importer or any other person under provisions of the Customs Act, 1962 and rules/regulations framed thereunder or any other law for the time being in force in the Republic of India.

To

M/s Sheth Metal Industries (IEC- AMDPJ078K)  
11th Floor, 1102, Omkar Tower,  
3rd Khethwadi Back Road, Girgaon,  
Mumbai-400004.

Copy to:-

1. The Additional Commissioner of Customs, SIIB, Mundra
2. The Dy. Commissioner of Customs, Review Section, CH, Mundra
3. The Dy. Commissioner of Customs, TRC Section, CH, Mundra
4. The Dy. Commissioner of Customs, EDI Section, CH, Mundra
5. Guard file