OFFICE OF THE ADDITIONAL COMMISSIONER OF CUSTOMS, HAZIRA PORT, HAZIRA BYPASS ROAD, SURAT-394270
CUSTOM HOUSE, ADANI HAZIRA PORT, HAZIRA BY-PASS ROAD,
सीमा शुल्क भवन, अदानी हजीरा पोर्ट, हजीराबाई-पासरोड
CHORIYASHI AT & POST HAZIRA – 394270.
चोर्यासी पोस्ट-हजीरा-३९४२७०
PHONE : 0261-2207685 hazira.export@gov.in Fax : 0261-2207694

मूल आदेश
ORDER-IN-ORIGINAL

A	**फाइल संख्या / File No.**	:	**CUS/ASS/REX/46/2026-AH-PORT-HZR-CUS-COMMRTE-AHMEDABAD**
B	**कारण बताओ नोटिस / Show Cause Notice**	:	Not issued – adjudication without show cause notice at the written request of the exporter dated 12.10.2026 (proviso to Section 124 of the Customs Act, 1962)
C	**मूल आदेश संख्या / Order-In-Original No.**	:	**08/ADC/SS/HAZIRA (EXPORT)/2026-27**
D	**द्वारा पारित आदेश / Order passed by**	:	**Shri S. Sathianarayanan, IRS** Additional Commissioner of Customs, Hazira Port, Surat
E	**आदेश तिथि / Date of Order**	:	**17.11.2026**
F	**जारी करने की तारीख / Date of Issue**	:	**17.11.2026**
G	**डीआईएन / DIN**	:	**20261171MN0000625D6A**
H	**नोटिस-प्राप्तकर्ता का नाम और पता / Name and Address of Noticee**	:	**M/s. Coterie Exports Private Limited (IEC: AANCC4160F)** Plot No. C-03, TS1129, Galaxy Blue Sapphire Mall, Sector 4, Gautam Buddha Nagar, U.P. – 201309

१. यह प्रति उस व्यक्ति के निजी उपयोग के लिए नि:शुल्क प्रदान की जाती है, जिसे यह जारी की गई है।

1. This copy is granted free of charge for the private use of the person to whom it is issued.

२. इस आदेश से व्यथित कोई भी व्यक्ति इस आदेश की प्राप्ति की तारीख से साठ दिनों के भीतर सीमा शुल्क अधिनियम, 1962 की धारा 128 के अंतर्गत सीमा शुल्क

(अपील) नियमावली, 1982 के प्ररूप सी.ए.-1 में आयुक्त (अपील), सीमा शुल्क, के समक्ष अपील दायर कर सकता है।

2. Any person aggrieved by this order may file an appeal under Section 128 of the Customs Act, 1962 in Form C.A.-1, as prescribed under the Customs (Appeals) Rules, 1982, before the Commissioner of Customs (Appeals), within sixty days from the date of communication of this order.

३. अपील के साथ इस आदेश की एक प्रति संलग्न की जानी चाहिए।

3. The appeal shall be accompanied by a copy of this order.

४. धारा 129E के अंतर्गत, आयुक्त (अपील) के समक्ष अपील तभी ग्रहण की जाएगी जब अपीलकर्ता ने विवादित शुल्क, या जहाँ केवल शास्ति विवाद में है वहाँ शास्ति, का 7.5% जमा कर दिया हो; जमा का प्रमाण अपील के साथ प्रस्तुत किया जाए।

4. Under Section 129E of the Customs Act, 1962, the Commissioner (Appeals) shall not entertain an appeal unless the appellant has deposited 7.5% of the duty, or of the penalty where penalty alone is in dispute; proof of the deposit shall be produced with the appeal.

BRIEF FACTS OF THE CASE:-

1. M/s. Yusha Ceramics Pvt. Ltd. (IEC AABCY8029K) imported 70,200 pieces (1,950 cartons) of “11 Oz White Sublimation Mug” (CTH 69120010) shipped from Qingdao, China under Bill of Lading No. DJSE2605X034C dated 21.05.2026 (Container No. JXLU7496973), and filed Warehouse Bill of Entry No. 2091495 dated 24.06.2026 at Hazira Port (INHZA1) through Customs Broker M/s. Rekha Shipping Agency (CBLMS No. 2012MUMB10338). The country of origin was declared as **China** in the Bill of Entry, the invoice (No. HNS26-1014B dated 08.05.2026) and the Bill of Lading. The goods were warehoused at SEABIRD CFS, Hazira under Bond No. 2002614375 after Out of Charge on 27.06.2026.

2. On 15.09.2026 the warehoused goods were transferred under Section 59 of the Customs Act, 1962 to **M/s. Coterie Exports Private Limited** (hereinafter referred to as “the exporter”). On 16.09.2026 the exporter filed

Shipping Bill No. 6876445 under Section 69 of the Customs Act, 1962 for re-export of the said goods to M/s. Metalnox Industria e Comercio Ltda, Jaraguá do Sul, Santa Catarina, Brazil (declared FOB USD 40,014). Stuffing was allowed on the same day.

3. On 14.10.2026 the Deputy Commissioner directed 100% examination of the goods. The cargo was de-stuffed and examined on 15.10.2026 at SEABIRD CFS, Hazira, in the presence of the Customs Broker's representative and the CFS Yard In-charge. The examination report dated 15.10.2026 records that:

(i) the quantity (1,950 cartons × 36 pieces = 70,200 pieces) and description tallied with the declaration;

(ii) the outer cartons bore the marking **"Fabricado na Índia"** (Portuguese for "Made in India"), along with "Metalnox – Brasil" and the importer details of the Brazilian buyer, whereas the country of origin declared in the import and export documents is **China**; and

(iii) the mugs themselves bore no country-of-origin marking; the base of each mug carried a small circular logo resembling the logo of the Brazilian buyer.

4. Vide letter dated 12.10.2026, received in this office on 14.10.2026 and addressed to the Deputy Commissioner of Customs, Hazira Port, the exporter stated that the goods were imported from China; that the packaging received from China carried a marking which was neither in English nor in Chinese but in a language which could not be deciphered; that, despite its clear instructions, the foreign supplier in China had pasted wrong stickers owing to a language problem; and that this was the only discrepancy. The exporter requested that the matter be adjudicated with a lenient view, stating: "We do not want any show cause notice or personal hearing in the matter since our export order is likely to be cancelled".

5. The cargo was kept on hold and Let Export Order was not granted. As Shipping Bill No. 6876445 lapsed after one month, the exporter filed a fresh **Shipping Bill No. 7829692 dated 16.10.2026** for the same consignment, declaring 70,200 pieces (1,950 cartons) of "11 Oz White Sublimation Mug" (RITC 69120010), Invoice No. 26-27/01 dated 10.09.2026, FOB USD 40,014.00 (**Rs. 37,69,318.80** at the exchange rate of Rs. 94.20 per USD), the same consignee, and port of discharge Itapoa, Brazil. The Marks & Nos. field describes the export as a third-country re-export against Warehouse Bill of Entry No. 2091495 dated 24.06.2026 under Section 69 of the

Customs Act, 1962. The shipping bill is filed under LUT with nil IGST, RoDTEP is shown as "Not Claimed" and no drawback is claimed. However, the shipping bill declares the exporter type as "Manufacturer Exporter" and the state and district of origin as Uttar Pradesh / Gautam Buddha Nagar.

6. In view of the exporter's written request dated 12.10.2026, no written show cause notice was issued. Although the exporter had also stated that they did not want a personal hearing, a personal hearing was granted in the interest of natural justice.

LEGAL PROVISIONS RELEVANT TO THE CASE: -

7. **Section 50(3) of the Customs Act, 1962** provides that the exporter who presents a shipping bill shall ensure (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 the Act or any other law for the time being in force.

8. **Section 59(5) of the Customs Act, 1962** provides that where the whole or any part of the warehoused goods is transferred to another person, the transferee shall execute a bond and furnish security in the manner specified in that section.

9. **Section 69(1) of the Customs Act, 1962** provides that warehoused goods may be exported to a place outside India without payment of import duty if a shipping bill has been presented in respect of them, the export duty, penalties, rent, interest and other charges payable have been paid, and an order for clearance of the goods for exportation has been made by the proper officer.

10. **Section 113(i) of the Customs Act, 1962:** the following export goods shall be liable to confiscation – "any goods entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act …".

11. **Section 114 of the Customs Act, 1962** (penalty for attempt to export goods improperly) provides that any person 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 113, or abets the doing or omission of such an act, shall be liable – (i) in the case of goods in respect of which any prohibition is in force under the Act or any other law for the time being in force, to a penalty not exceeding three times the value of the goods as declared by the exporter or the value as determined under the Act,

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; and **(iii) in the case of any other goods, to a penalty not exceeding the value of the goods, as declared by the exporter or the value as determined under this Act, whichever is the greater.**

12. **Section 124 of the Customs Act, 1962** requires that no order confiscating goods or imposing penalty shall be made unless the owner of the goods or such person is given a notice in writing informing him of the grounds, an opportunity of making a representation, and a reasonable opportunity of being heard; the proviso permits the notice and the representation to be oral at the request of the person concerned.

PERSONAL HEARING AND DEFENCE SUBMISSION:-

13. Personal hearing was held on **04.11.2026 at 2:30 PM** in virtual mode, the meeting link having been sent to the Authorised Representative by e-mail and WhatsApp. The hearing was attended by **Shri Chandan Jain, Authorised Representative** of the exporter. He submitted that:

(i) the exporter has been exporting to a third country and the goods are not meant for India;
(ii) the supplier mis-printed the details by oversight, despite clear instructions of the exporter;
(iii) the charges may be dropped altogether, or the least penalty may be imposed; and
(iv) leniency may be shown and the proceedings concluded at the earliest, so that the exports can be completed, as otherwise the orders may be cancelled by the buyers.

14. The record of personal hearing has been signed by the Authorised Representative. No further written submission has been filed by the exporter.

DISCUSSION AND FINDINGS:-

15. I have carefully gone through the facts of the case, the examination report dated 15.10.2026 with its photographs, the exporter's letter dated 12.10.2026, Shipping Bill Nos. 6876445 and 7829692, the other documents on record and the submissions made during the personal hearing.

Compliance with natural justice

16. Before taking up the merits, I examine whether the requirements of Section 124 of the Customs Act, 1962 have been met. The exporter, by its own letter dated 12.10.2026 received on 14.10.2026, stated that they did not want any show cause notice or personal hearing and asked for an early decision, as its export order was likely to be cancelled. The proviso to Section 124 allows the notice and the representation to be oral at the request of the person concerned. Even so, I did not proceed on the basis of the letter alone. A personal hearing was granted, the meeting link was sent to the Authorised Representative by e-mail and WhatsApp, and the hearing was held on 04.11.2026. The Authorised Representative attended, and made submissions on the merits. He did not ask for any document, for time, or for a written notice. The exporter has thus had full knowledge of the case against it and a fair opportunity to meet it, and no prejudice has been caused to it. I therefore proceed to decide the case on merits.

17. The following issues arise for decision:

(a) whether the goods entered for re-export under Shipping Bill No. 7829692 dated 16.10.2026 (earlier Shipping Bill No. 6876445 dated 16.09.2026) are liable to confiscation under Section 113(i) of the Customs Act, 1962;

(b) whether the exporter is liable to penalty under Section 114(iii) of the Customs Act, 1962; and

(c) if so, whether the goods should be confiscated or allowed to be re-exported, and what penalty is appropriate.

Issue (a): Liability of the goods to confiscation

18. There is no dispute about the true origin of the goods. They were shipped from Qingdao, China; the Warehouse Bill of Entry, the import invoice and the Bill of Lading all declared China as the country of origin; and the exporter themselves stated in their letter dated 12.10.2026 that the goods were imported from China. The goods were warehoused at SEABIRD CFS, Hazira and were transferred to the exporter on 15.09.2026. Under Section 59(5), the transferee steps into the shoes of the importer by executing its own bond. From that date the exporter has been the owner of the warehoused goods, and it is the exporter who presented them for export under Section 69.

19. The examination on 15.10.2026 found that the outer cartons carry the marking “Fabricado na Índia”, which means “Made in India”, together with

"Metalnox – Brasil" and the statement that the goods are imported and distributed in Brazil by Metalnox Indústria e Comércio Ltda, with its CNPJ registration number and address. The mugs themselves carry no country-of-origin marking, but their base bears a small logo resembling that of the same Brazilian buyer.

20. The country of origin is a material particular of export goods. First, a re-export under Section 69 rests entirely on the identity of the goods as imported goods; it is only because they are foreign goods lying in a warehouse that they are allowed to leave India without payment of import duty.

21. The goods were entered for export as imported goods of Chinese origin being re-exported to a third country under Section 69, yet the goods as presented carry a declaration that they are made in India. They do not correspond with the entry in respect of a material particular, namely their country of origin. The position is made worse by the fresh Shipping Bill No. 7829692 dated 16.10.2026, filed after the discrepancy had come to light, which describes the exporter as a "Manufacturer Exporter" and shows the state and district of origin as Uttar Pradesh / Gautam Buddha Nagar, although the exporter did not manufacture the goods and they are not of Indian origin.

22. Section 50(3) places on the exporter the responsibility for the accuracy and completeness of the information in the shipping bill and for the authenticity of the supporting documents. Though the owner of the warehoused goods can inspect the goods in terms of the Section 64 of the Customs Act, 1962, the exporter did not verify whether the goods and packing are proper and in order.

23. The Authorised Representative submitted that the goods are meant for a third country and not for India. However, the issue is that the packages carrying mis-leading information about the country of origin despite the fact the goods are declared as goods of Chinese origin in the Shipping Bills.

24. Though the exporter submitted that the supplier in China mis-printed the details or pasted wrong stickers by oversight, owing to a language problem contrary to the exporter's clear instructions, it is not acceptable for the simple reason that the exporter is not the importer who warehoused the goods.

25. I, therefore hold that the goods under export are liable for confiscation under Section 113(i) of the Customs Act, 1962.

Issue (b): Liability of the exporter to penalty:

25. Liability to penalty under Section 114 of the Customs Act, 1962 arises where a person, in relation to any goods, does or omits to do any act which renders the goods liable to confiscation under Section 113 of the Customs Act, 1962.

26. The penalty under Section 114 of the Customs Act, 1962, is of consequential nature and does not require *mens re*a. Reliance in this regard is placed on the Hon'ble High Court of Delhi in the case of **M/s. Hughes Network Systems India Ltd. Versus Commissioner of Customs (Import & General) [(2024) 16 Centax 1 (Del.)/2024 (388) E.L.T. 594 (Del.) [24-01-2024]**, wherein it is observed as follows:

> **19.** Reference may be made to section 111 (*d*) of the Customs Act which reads as under:-
> "**27.** Section 112 (*a*) of the Customs Act lays down that any person who in relation to any goods interalia does any act which would render such goods liable for confiscation is liable to penalty. Section 112(*b*) stipulates that any person who *inter alia* acquires possession of any goods or is in any way concerned in carrying, removing, depositing, harbouring or deals with any goods which he knows or has reason to believe are liable for confiscation under section 111 of the Customs Act, is liable to a penalty. The penalty stipulated is not exceeding the value of good or rupees five thousand whichever is greater.
>
> **28. Section 112 (*a*) of Customs Act also applies on a strict liability concept. It does not require any *mens rea*. Section 112 (*a*) of the Customs Act may be contrasted with the provisions of section 112 (*b*) of the Customs Act. It is clear that for Section 112 (*a*) to be applicable, no *mens rea* is required whereas for Section 112 (*b*) to be applicable *mens rea* or knowledge is required. The expression used in Section 112(*b*) is "dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111". Section 112(*b*) imposes an obligation on the authorities to establish *mens rea* and/or knowledge.**
>
> **[Emphasis supplied]**

26. Therefore, I hold that the exporter is liable for penalty under Section 114 of the Customs Act, 1962.

27. With respect the import export policy of the goods under dispute, I find that these goods fall under *free* category in terms of ITC-HS based import and export policy issued by the DGFT.

28. As the goods are freely exportable, I find the request of the exporter to permit completion of the export and for a lenient view as valid and maintainable.

29. As regards the penalty, I have taken into account the mitigating factors at para 27 above.

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

ORDER

(i) I hold the goods, namely 70,200 pieces (1,950 cartons) of "11 Oz White Sublimation Mug" entered for export under the Shipping Bill No. 7829692 dated 16.10.2026 (earlier Shipping Bill No. 6876445 dated 16.09.2026), with the declared FOB value of **Rs. 37,69,318.80 (USD 40,014.00)**, are liable for confiscation under Section 113(i) of the Customs Act, 1962.

(ii) However, I give the option to the exporter to redeem the goods upon payment of the fine of **Rs. 1,00,000 (Rupees One Lakh Only)** under Section 125 of the Customs Act, 1962.

(ii) I impose a penalty of **Rs. 50,000/- (Rupees Fifty Thousand Only)** on the exporter under Section 114(iii) of the Customs Act, 1962.

31. This order is issued without prejudice to any other action that may be taken against the noticee or any other person under the Customs Act, 1962 or any other law for the time being in force.

Digitally signed by
S SATHIANARAYANAN
Date: 17-11-2026
18:36:55

(S. SATHIANARAYANAN)
Additional Commissioner of Customs
Hazira Port, Surat

F. No. CUS/ASS/REX/46/2026-AH-PORT-HZR-CUS-COMMRTE-AHMEDABAD

DIN: **20261171MN0000625D6A**

BY SPEED POST / E-MAIL

To,

M/s. Coterie Exports Private Limited,
Plot No. C-03, TS1129, Galaxy Blue Sapphire Mall, Sector 4,
Gautam Buddha Nagar, U.P. – 201309.

Copy to:-

1. The Principal Commissioner of Customs, Ahmedabad (Kind Attention: RRA Section).
2. The Deputy Commissioner of Customs (Export), Hazira Port, Surat – for necessary action.
3. M/s. Rekha Shipping Agency, Customs Broker – for information.
4. The Superintendent (Systems), Customs, Ahmedabad – for uploading on the official website.
5. Guard File.