



सीमाशुल्क(अपील) आयुक्तकाकार्यालय, अहमदाबाद

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

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DIN - 20251171MN0000000EEE

क	फ़ाइलसंख्या FILE NO.	S/49-488/CUS/MUN/2025-26
ख	अपीलआदेशसंख्या ORDER-IN-APPEAL NO. (सीमाशुल्कअधिनियम, 1962 कीधारा 128ककेअंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	MUN-CUSTM-000-APP-414-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	20.11.2025
ङ	उद्भूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. MCH/ADC/ZDC/353/2025-26 dated 01.11.2025
च	अपीलआदेशजारीकरनेकीदिनांक ORDER- IN-APPEAL ISSUED ON:	20.11.2025
छ	अपीलकर्ताकानामवप्ता NAME AND ADDRESS OF THE APPELLANT:	M/s. D Bhatia and Company, A-42, Group Wazirpur Industrial Area, Delhi - 110052.



1	यह प्रतिउत्सव किसके निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है।
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्क अधिनियम 1962 की धारा 129 डीडी (1) (यथासंशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपरस चिव/संयुक्त स चिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते हैं।
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क)	बैरोज़ के रूप में आयातित कोई माल।
(a)	any goods exported
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न गए माल की मात्रा में अपेक्षित माल सेकमी हो।
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी।
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उसके साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट, 1870 के मद्दसं. 6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रतियां पैचास पैसे की न्यायालय शुल्क टिकट लगाया जाएगा।
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो।
(ब)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथासंशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्षके अधीन आता है में से 200/- (रूपए दो सौ मात्र) यारु. 1000/- (रूपए एक हजार मात्र) जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलानटी. आर. 6 यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रूपए एकलाख या उससे कम हो तो ऐसे फीस के रूप में 200/- और यदि एकलाख से अधिक हो तो फीस के रूप में 1000/-
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the

	Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.
4.	<p>मदसं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सी माशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केंद्रीय उत्पाद शुल्क और सेवाकर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं</p>
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :
	<p>सीमाशुल्क, केंद्रीय उत्पाद शुल्क व सेवाकर अपील अधिकरण, पश्चिमी क्षेत्रीय पीठ Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench</p> <p>दूसरी मंज़िल, बहुमाली भवन, निकट गिरधर नगर पुल, असा रवा, अहमदाबाद-380016</p> <p>2nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016</p>
5.	<p>सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-</p> <p>Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -</p> <p>(क) अपील से सम्बन्धित मामले में जहां कि सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड कीर कम पाँच लाख रुपए द्या जाए तो से कम होता है एक हजार रुपए.</p> <p>(a) where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;</p> <p>(ख) अपील से सम्बन्धित मामले में जहां कि सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड कीर कम पाँच लाख रुपए से अधिक होता है तो किन रुपये पर चासला खर्च से अधिक नहीं होता; पांच हजार रुपए</p> <p>(b) where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees;</p> <p>(न) अपील से सम्बन्धित मामले में जहां कि सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड कीर कम पचास लाख रुपए से अधिक होता है तो दस हजार रुपए.</p> <p>(c) where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees</p> <p>(घ) इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10% अदाकरने पर, जहां शुल्क या शुल्क एवं दंड विवाद मैं हैं, यादें के 10% अदाकरने पर, जहां के विवाद मैं हैं, अपील रखा जाएगा।</p> <p>(d) An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.</p>
6.	<p>उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए यागलति यों को सुधारने के लिए याकि सी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.</p> <p>Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-</p> <p>(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or</p> <p>(b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.</p>

ORDER-IN-APPEAL

Present appeal have been filed by M/s D Bhatia and Company, A-42 Group Wazirpur Industrial Area, Delhi - 110052, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original no. MCH/ADC/ZDC/353/2025-26 dated 01.11.2025 (hereinafter referred to as 'the impugned order') issued by the Additional Commissioner of Customs, Import Assessment, Customs House, Mundra.

2. Facts of the case, in brief, are that Ministry of Steel issued circular dated 20.10.2023 vide which Ministry of Steel has notified Steel and Steel Products (Quality Control) order under the BIS Act, 2016. Periodically, the Ministry issues such QCO orders to cover more grade of steel and related products. The Quality Control Order mandates that all the steel products imported into the country must be having BIS license/ certification and accompanied with Mill Test Certificate and be Marked with ISI and BIS license number. For smooth implementation of Quality Control Order, the Ministry of Steel has constituted a Technical Committee (w.e.f. October 2018) for examination and analysis of the application(s) received for issuance of clarification, whether the product(s) which are being imported without BIS certification are covered under Steel QCO or not. Further, Ministry of Steel 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. It is clarified that the Ministry of Steel issues clarification for each single import consignment. In this regard, it is further clarified for each and every consignment, the importer need submit fresh application through TCQCO portal, unless stated otherwise in the clarification issued.

2.1 On scrutiny of EDI data, it was observed that appellant has filed 02 Bills of Entry No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 for import of goods declared as Decorative and Designer Display Sheet at Mundra Port through their Custom Broker M/s Ashapura Logistics Solution under HSN code 73269099 instead of 7219/7220. Since, CTH 7326 is

not covered under Steel Quality Control Order, hence, importer neither uploaded copy of BIS certificate nor NOC from Ministry of Steel.

2.2 The country of origin is CHINA. Supplier in case of above mentioned Bills of Entries is M/s Kirin Metal Limited, Hongkong. Total Declared Assessable value of the goods is 1,34,40,764/- and total duty payable is Rs. 41,63,949/-. The details of B/E are as under: -

(Exchange Rate :- 1 USD=Rs. 87.80)

Sr. No.	B/E No. & Date	House/Master BL No. & date	Container No.	Total Gross Weight (In Kgs.)	Declared Unit Price (In USD/Kgs.)	Declared Assessable Value (In Rs.)	Declared Duty
1	8850323 dt. 12.03.2025	SZXCB25012435 dt. 26.02.2025	CAIU3576753	82630	1.115	80,57,902/-	24,96,338/-
			CAIU3579650				
			CAIU3747007				
2	8862898 dt. 13.03.2025	025F549418 dt. 26.02.2025	WHSU0238952	55350	1.115	53,82,862/-	16,67,611/-
			WHSU2575588				
Total				137710		1,34,40,764/-	41,63,949/-

2.2 The examination of the goods covered under B/E No. 8850323 dated 12.03.2025 were carried out at Saurashtra Freight Pvt. Ltd. CFS on 19.03.2025 in the presence of Shri Muddu Sandip, Assistant Manager, Operation in Saurashtra CFS and Shri Nilesh Bhanushali, Authorised representative of the appellant. Further, examination of goods covered under B/E No. 8862898 dated 13.03.2025 were carried out at Ashutosh Container Services Pvt. Ltd. CFS on 20.03.2025 in the presence of Sh. Jayendu N Bhatt, Manager, Operations in Ashutosh CFS and Shri Nilesh Bhanushali, Authorised representative of the appellant. Before beginning the examination, the weightment slip of the containers generated at CFS weighbridge are cross checked. The weight mentioned on the slips as well as invoice, packing list and Bill of Lading are as under: -

Sr. No.	B/E No. and Date	Container No.	B/L Weight (in Kgs.)	CFS Weigh (in Kgs.)	Difference (in Kgs.)
1	8850323 dated	CAIU3576753	27072	27045	-27

	12.03.2025	CAIU3579650	28010	28025	15
		CAIU3747007	27548	27370	-178
2	8862898 13.03.2025	dated WHSU0238952	27344	27380	36
		WHSU2575588	28006	28110	104
Total			137980	137930	50

2.3 Further, as per examination reports dated 19.03.2025 and 20.03.2025, goods were found stuffed in the form of cylindrical shaped rolls of coils. There were 05 Coils stuffed in container No. CAIU3576753, 06 coils in container No. CAIU3579650, 05 Coils in Container No. CAIU3747007, 05 coils in container No. WHSU0238952 and 06 coils in container No. WHSU2575588. These cylindrical shaped rolls of coils were wrapped in green coloured PP Packaging. On cutting these PP Packaging, it was found that Coils were having dull shine on its surface. No discrepancy in respect of size i.e. width and thickness etc. has been noticed against as per declaration in invoice No. KRDB25011-A dated 20.02.2025 and KRDB25011-B dated 24.02.2025 issued against B/E No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 respectively.

2.4 Further, in order to ascertain chemical composition of impugned goods, 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. CAIU3576753

Coil No.	Fe	Cr	Mn	Ni	Si	Cu	V	S/Zn	Co	P
C-1	75.01	13.66	8.61	1.31	0.55	0.56	0.12	0.05	0.05	0.05
C-2	74.55	13.83	8.81	1.19	0.70	0.59	0.15	0.04	0.08	0.06
C-3	74.35	13.80	9.04	1.30	0.61	0.56	0.11	0.04	0.13	0.05
C-4	74.52	13.71	8.68	1.22	0.89	0.55	0.14	0.06	0.10	0.06
C-5	74.88	13.60	8.75	1.14	0.70	0.58	0.12	---	0.10	0.05

Container No. CAIU3579650

Coil No.	Fe	Cr	Mn	Ni	Si	Cu	V	S/Zn	Co	P

C-1	75.31	13.14	9.02	1.04	0.84	0.42	0.11	0.04	--	0.04
C-2	75.13	13.51	8.47	1.28	0.59	0.55	0.10	--	0.12	0.06
C-3	74.70	13.42	8.81	1.15	0.92	0.63	0.12	0.07	0.06	---
C-4	75.06	13.55	8.67	1.29	0.62	0.55	0.12	--	0.07	0.06
C-5	74.78	13.81	8.86	1.20	0.58	0.56	0.11	0.04	--	0.04
C-6	74.79	13.64	9.15	1.05	0.61	0.52	0.12	--	0.07	0.04

Container No. CAIU3747007

Coil No.	Fe	Cr	Mn	Ni	Si	Cu	V	S/Zn	Co	P
C-1	75.53	12.94	8.89	1.05	0.93	0.37	0.10	0.03	0.08	0.05
C-2	75.00	13.23	8.68	1.41	0.86	0.52	0.12	0.03	0.09	0.04
C-3	75.04	13.25	8.63	1.36	0.74	0.64	0.12	0.08	0.04	0.05
C-4	74.19	13.72	9.52	1.10	0.73	0.52	0.13	0.03	--	0.05
C-5	75.07	13.43	8.51	1.29	0.90	0.49	0.08	--	0.05	0.05

Container No. WHSU0238952

Coil No.	Fe	Cr	Mn	Ni	Si	Cu	V	Zn	Co	P
C-1	75.39	13.12	8.30	1.31	1.06	0.47	0.10	0.04	0.15	0.05
C-2	75.05	13.26	8.59	1.29	0.96	0.51	0.14	0.04	0.06	0.06
C-3	74.73	13.81	8.93	1.17	0.63	0.46	0.12	--	0.09	0.05
C-4	75.52	13.09	8.80	0.99	0.90	0.46	0.09	0.05	0.02	0.05
C-5	75.22	13.22	8.96	0.93	0.97	0.35	0.12	--	0.06	0.04

Container No. WHSU2575588

Coil No.	Fe	Cr	Mn	Ni	Si	Cu	V	Zn	Co	P
C-1	74.7	13.2	8.9	1.3	1	0.7	0.1	0.1	0.1	0
C-2	74.9	13.6	9.1	1.1	0.6	0.4	0.1	--	0.1	0
C-3	75	13.3	8.8	1.2	0.9	0.6	0.1	0.1	0.1	0
C-4	75.1	13.1	8.6	1.2	0.9	0.5	0.1	--	0.1	0.1
C-5	75.8	12.9	9	1.1	0.6	0.5	0.1	0	0.1	---

C-6	75.6	13.1	8.7	1	0.9	0.4	0.1	0	0.1	0
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2.5 As per examination report, goods prima facie appears to flat rolled product of Stainless Steel in the form of Coil instead of declared description i.e. Decorative and Designer display sheet. Further, as PMI test conducted above, it is seen that in all coils stuffed in 05 containers, Nickel content is found in the range of .8-1.5%, chromium content is found in the range of 13-15% and Manganese is found in the range of 7.5-13%.

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

Table-VIII

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

In view of above, prima facie, it appears that all major component i.e. Nickel, Chromium, Manganese etc. of goods imported vide Bill of Entry No. B/E No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 is in line of chemical composition of Stainless Steel Coil/sheet J3 Grade.

2.7 Further, as per General Explanatory Note to Chapter 72 Part (IV)(B), Cold-worked products can be distinguished from hot-rolled or hot-drawn products by the following criteria:-

- the surface of cold-worked products has a better appearance than that of products obtained by a hot process and never has a layer of scale;
- the dimensional tolerances are smaller for cold-worked products;
- thin-flat products (thin "wide coil", sheets, plates and strip) are usually produced by cold-reduction;
- microscopic examination of cold-worked products reveals a marked deformation of the grains and grain orientation parallel to the direction of working. By contrast, products obtained by hot processes show almost regular grains owing to recrystallization;

2.8 In this case, during examination, goods have been found with thickness only 0.26 mm which is very thin and having shiny surface without

any irregularity on surface. Further, as per SIMS registration No. MOSSIMS250225045022 dated 25.02.2025 and MOSSIMS270225046391 dated 27.02.2025 issued against B/E No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 respectively, importer has declared sub category as Flat Products-CR Coil of 200 series grade. Further, importer during his statement dated 28.04.2025 inter-alia stated that these coils are cold rolled. Hence, *prima facie*, it appears that goods are flat rolled product of Cold Rolled Stainless Steel having Grade J3.

2.9 Further, flat rolled products have been defined under Chapter Notes of 72 Chapter wherein at para 1(k), definition of flat rolled products has been mentioned which is as under: -

Flat Rolled Products: - *Rolled products of solid rectangular (other than square) cross-section, which do not conform to the definition at (ij) above in the form of: Coil of successively superimposed layer, or Straight lengths, which if of a thickness less than 4.75 mm are of a width measuring at least ten times the thickness or if of a thickness of 4.75 mm or more of a width which exceeds 150 mm and measures at least twice than thickness. Flat Rolled Products include those with patterns in relief derived directly from rolling (for example, grooves, ribs, chequers, tears, buttons, lozenges) and those which have been perforated, corrugated or polished, provided that they do not thereby assume the character of articles or products of other headings. Flat rolled products of a shape other than rectangular or square, of any size, are to be classified as products of a width of 600 mm or more, provided that they do not assume the character of articles or products of other heading.*

2.10 As per examination reports and photos attached during examination vide 02 examination reports dated 19 & 20 March 2025, it is clear that goods are having rectangular (other than square) cross section as length and width of coil is different and further, goods are in the form of rolls of cylindrical shaped coils. As per photos attached, goods are in the form of coils having one layer superimposed upon another layer. Hence, *prima facie*, it appears that goods are well covered in definition of flat rolled products and hence, rightly classifiable under chapter 72. Hence, *prima facie*, it appears that goods are flat rolled product of Cold Rolled Stainless Steel in coil form having Grade J3.

2.11 The Harmonized Commodity Description and Coding System Explanatory Notes (EN's) constitute the official interpretation of the Harmonized System. As per General notes of Explanatory notes of Chapter 72, Chapter 72 and 73 covers following items: -

This Chapter covers the ferrous metals, i.e., pig iron, spiegeleisen, ferro-alloys and other primary materials (sub-Chapter I), as well as certain products of the iron and steel industry (ingots and other primary forms, semi-finished products and the principal products derived directly therefrom) of iron or non-alloy steel (sub-Chapter II), of stainless steel (sub Chapter III) and of other alloy steel (sub-Chapter IV). Further worked articles, such as castings, forgings, etc., and sheet piling, welded angles, shapes and sections, railway or tramway track construction material and tubes are classified in Chapter 73 or, in certain cases, in other Chapters.

2.11 From the above, it is clear that product of stainless steel as defined in sub chapter III are covered under chapter 72. However, further worked articles, such as castings, forgings, etc., and sheet piling, welded angles, shapes and sections, railway or tramway track construction material and tubes are classified in Chapter 73 or, in certain cases, in other Chapters. From the plain reading of above, it appears that impugned goods are flat rolled products of stainless steel not the further worked article i.e. casting, forgings etc., hence, the same, *prima facie*, appears to be rightly classifiable under chapter 72 instead of 73.

2.12 Further, as per Explanatory notes of Chapter 72 wherein at subpara (2) of para (IV) (c), it has been mentioned that Surface treatments or other operations, including cladding, to improve the properties or appearance of the metal, protect it against rusting and corrosion, etc. Except as otherwise provided in the text of certain headings, such treatments do not affect the heading in which the goods are classified.

2.13 It is clear that semi-finished products are converted into finished product and these finished products are further subdivided into 02 categories i.e. flat products ("wide flats", including universal plates", "wide coil", sheets plates and strip) and long products (bars and rods, hot-rolled, irregularly wound coils, other bars and rods, angles, shapes, sections and wire) and all these products are well covered under chapter 72. Since, in this case, goods

were found in the form of flat products i.e. Stainless Steel Coil, hence, goods prima facie appears to be rightly classifiable under CTH 72. Further, vide sub para (2) of para (IV) (C), it has been clearly mentioned that Surface treatments or other operations, including cladding, to improve the properties or appearance of the metal, protect it against rusting and corrosion, etc. except as otherwise provided in the text of certain headings, such treatments do not affect the heading in which the goods are classified.

2.14 Further, flat rolled products of Stainless Steel are classifiable under 7219 and 7220. The same reads as under: -

7219 Flat-rolled products of stainless steel, of a width of 600 mm or more - Not Further worked than hot rolled, in coils: ...

**

- Not further worked than cold rolled (Cold Reduced)

721935 -- Of a thickness of less than 0.5 mm

72193510 --- Chromium Type

72193520 --- Nickel Chromium austenitic type

72193590 --- Other

721990 - Other

72199090 --- Other

7220 Flat Rolled Products of Stainless Steel, of a width of less than 600 mm

- Not further worked than hot-rolled:

722020 - Not further worked than cold-rolled (Cold-reduced):

72202010 --- Skelp for pipes and tubes

--- Strips for pipes and tubes (Other than skelp) :

72202021 ---- Chromium type

72202022 ---- Nickel chromium austenitic type

72202029 ---- Other

72202090 --- Other

722090 - Other

**

72209090 --- Other.

From the plain reading of CTH 7219 and 7220, it appears that flat rolled product of stainless steel having width of 600 mm or more than 600 mm are

classifiable under 7219 and flat rolled product of stainless steel having width less than 600 mm are rightly classifiable under 7220. In case of B/E No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025, as per invoice and packing list, all 27 coils stuffed in 05 containers, having total Net weight 137440 Kgs. and Gross Weight 137930 Kgs., are having width more than 600 mm. Hence, *prima facie*, appears to rightly classifiable under CTH 72193590. Duty leviable under CTH 72193590 is @ 27.735 % (BCD @ 7.5% + SWS @ .75% + IGST @ 18%) while duty leviable under CTH 73269099 is @ 30.980 % (BCD @ 10% + SWS@1% + IGST @18%).

2.15 From the above, *prima facie*, it appears that the appellant (IEC: - AIWPB3721D) have tried to clear Cold Rolled Stainless Steel coil of J3 grade classifiable under CTH 7219 and 7220 by mis declaring them as "Decorative and Designer Display Sheets" classifying them under CTH 73269099 in order to bypass condition of seeking NOC from Ministry of Steel as mandated vide Ministry of Steel Circular dated 20.10.2023. Thus, 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.

2.16 Further, the value declared by the importer in the corresponding Bill of Entry and invoices did not appear to be the true transaction value as importer has mis declared goods in terms of description, classification and weight, hence, value declared by importer does not appear to be true transaction value under the provisions of Section 14 of the Customs Act, 1962 read with the provisions of the Customs Valuation (determination of Value of Imported Goods) Rules, 2007 and thus the same appear liable to be rejected in terms of Rule 12 of CVR, 2007. The value is required to be re-determined by sequentially proceeding in terms of Rules 4 to 9 of CVR, 2007.

2.17 Since, data of data of import of identical goods i.e. brand name, supplier name etc. is not available, hence, value of the goods cannot be determined using Rule 4. Subsequently Rule 5 of Customs Valuation Rules 2007 is to be applied to arrive at the correct value of the subject consignment. As per Rule 5 of Customs Valuation Rules, 2007, Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of similar goods sold for export to India and imported at or about the same time as the goods being valued. In this case, the subject import consignments have been



imported from China by M/s D Bhatia & Company in the month of March 2025. As per contemporary data available for period of JanuaryMarch 2025 for item declared as Cold Rolled Stainless Steel Coil Grade J3, it is noticed that some importers have imported similar type of goods having similar thickness, description, nature etc. vide various Bills of Entry filed at Mundra Port.

2.18 It appears that average unit price for import of Cold Rolled Stainless Steel Coil Grade J3 is of 1.295 USD/Kgs. In light of average unit price of 1.295 USD/Kgs found above, assessable value of goods imported vide B/E No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 has been redetermined.

2.19 The transaction value of Rs. 1,34,40,164/- declared by the importer while filing Bill of Entry No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 is liable to be rejected under Rule 12 of Customs Valuation Rules 2007 as there has been significant mis-declaration in respect of description, classification and quantity thereof. Since the declare value of the subject goods is liable to be rejected under Rule 12 of the Customs Valuation (Determination of value of imported goods) Rules, 2007, therefore the same is required to be re-determined under Section 14 of the Customs Act, 1962 under Rule 5 of Customs Valuation (Determination of value of imported goods) Rules, 2007 as Rs. 1,56,82,779/- (Rupees One Crore Fifty-Six Lacs Eighty-Two Thousand Seven Hundred Seventy-Nine).On the basis of re determined value in above table, duty leviable on goods imported vide B/E No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 has been re calculated.

2.20 In view of above, prime facie, it appears that importer M/s. D. Bhatia & Company was well aware that for import of goods i.e. Cold Rolled Stainless Steel Coil Grade J3 which are classifiable under 7219, seeking NOC from Ministry of Steel is mandatory. Hence, importer adopted a modus operandi to clear goods by mis-declaring them asDecorative and Designer Display Sheet instead of actual description i.e. Cold Rolled Stainless Steel Coil Grade J3 and mis classified the CTH i.e. 7326909 instead of correct CTH 72193590 in order to bypass restriction imposed by Ministry of Steel for seeking NOC for each and every consignment covered under Quality Control Order as CTH 7326 is not covered under Quality control order. Further, Basic custom duty leviable under 7326 is on higher side @ 2.5%, hence, in order to balance out duty payment on higher side, importer has mis declared assessable value on lower side i.e. Rs. 1,34,40,164/- (RupeesOne Crore Thirty-Four Lacs Forty Thousand One Hundred Sixty-Four) instead of redetermined

value Rs. 1,56,82,779/- (Rupees One Crore Fifty-Six Lacs Eighty-Two Thousand Seven Hundred Seventy-Nine) so that importer paid the duty on lower side in comparison to duty payment calculated in Table under CTH 72193590.

2.21 Further, a statement of Shri Hardik Bhatia, authorised representative of the appellant has been recorded on 28.04.2025 wherein he inter-alia stated that:

- His name is Hardik Bhatia and his father Shri Vivek Bhatia is proprietor of M/s D. Bhatia & Company. He has been authorized by his father to tender statement on behalf of him. The company was established in 2017.
- They are manufacturer importer and trader of steel products i.e. Stainless steel coil, sheet, panel, strip, utensils etc.
- They don't have a copy of purchase order as they ordered for goods over phone and later on, supplier forwarded a copy of Proforma invoice No. KRDB25011 dated 09.01.2025. he hereby submitting a copy of the same.
- He has seen the examination reports both dated 19.03.2025 and 20.03.2025 and in token of having seen the same, he has put his dated signature on this. He agreed that goods have been found mis declared i.e. Coil instead of Sheet. As mentioned above, they ordered for sheet and importer also issued Proforma invoice for decorative sheet. However, importer sent material of SS Coil.
- These are Cold Rolled Coils.
- These coils will be used in making strips, circles etc.
- They have sent the payment to supplier as and when goods reached Mundra Port. Sir, Lenient view shall be taken in this case as due to shipper mistake, this has happened. They ordered for decorative sheet. However, importer sent them Cold Rolled Stainless Steel Coil. They were also not aware about it. As soon as, they got to know about it, they applied for advance license. The same has been issued to them. The Advance authorization No. is 0511032157 dated 25.04.2025. It is requested to clear the goods under advance license. They are not involved in this. Kindly consider the same.

2.22 From the above, prima facie, it appears that the appellant vide 02 B/E No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 has tried

to clear the Cold Rolled Stainless Steel Coil grade J3 goods classifiable under 72193590 as mentioned above by mis declaring them as Decorative and Designer Display Sheet and classifying them under CTH 73269099 in order to bypass NOC from Ministry of Steel as mandated vide circular dated 20.10.2023. Hence, in absence of NOC from Ministry of Steel mandated vide circular dated 20.10.2023, goods imported vide impugned B/E No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 became restricted/prohibited in nature and hence, due to above mentioned mis declaration of item description, qty., mis classification and in absence of NOC from Ministry of Steel as mandated vide circular dated 20.10.2023, impugned goods imported vide B/E No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 appears to be liable for confiscation under section 111(d) and (m) of the Customs Act, 1962, hence, impugned goods imported vide 02 Bills of Entry mentioned above were Seized vide Seizure Memo dated 08.04.2025 under section 110(1) of the Customs Act, 1962, and goods has been handed over to the custodian i.e. M/s DockportWarehousing Zone, Mundra vide Supurtanama dated 08.04.2025 and in compliance of Board Instruction No. 02/2024- Customs dated 15.02.2024, Incident report no. 04/2025-26 dated 09.04.2025 was issued accordingly.

2.23 With reference to above mentioned subject, appellants submitted that containers of both Bill of Entries i.e. 8850323 dt.12.03.2025 &8862898 dt. 13.03.2025 were put on hold by SIIB department for examination purpose and had done examination accordingly. Now after completion of examination both our files in under appraising section for waiting for granting the permission for Re-Exporting the goods. So, we would like to request you to non avail personal hearing and show cause notice against mentioned BOE and grant permission for Re-Export.

2.24 Consequently, the Adjudicating Authority passed the order as under:

- (i) He ordered to reject the declared description i.e. Decorative and Designer Display sheet of goods imported vide impugned Bill of Entry no. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 and order the same to be re determined as Cold Rolled Stainless Steel Coil/sheet grade J3.
- (ii) He ordered to reject the declared CTH i.e. 73269099 and order the

same to be re determined as 72193590 as discussed above

- (iii) He ordered to reject the declared Gross weight i.e. 82630 Kgs. and order the same to be redetermined as 82440 Kgs. in case of B/E No. 8850323 dated 12.03.2025, and I also reject the declared net weight i.e. 55350 Kgs. and order the same to be redetermined as 55490 Kgs in case of B/E No. 8862898 dated 13.03.2025.
- (iv) He ordered to reject the declared assessable value of Rs. 80,57,902 and order the same is to be re determined as Rs. 93,73,510/- in case of B/E No. 8850323 dated 12.03.2025 under rule 5 of the CVR, 2007 and he also rejected the declared assessable value of Rs. 53,82,862/- and order the same is to be redetermined as Rs. 63,09,269/- in case of B/E No. 8862898 dated 13.03.2025, under rule 5 supra. of the CVR, 2007.
- (v) He ordered that the goods imported vide BE No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 to 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.
- (vi) He ordered to confiscate the goods imported vide BE No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 having combined redetermined value of Rs. 1,56,82,779/under Section 111 (d) & 111(m) of the Customs Act, 1962. However, he gave the importer an option under provision of Section 125(1) of the Customs Act, 1962 to redeem the said goods for re-export purpose only on payment of redemption fine of Rs.15,50,000 /- (Rupees Fifteen Lakh Fifty Thousand Only).
- (vii) He imposed penalty of Rs.7,50,000 (Rs. Seven Lakh Fifty Thousand only) upon the appellant (IEC- AIWPB3721D) under Section 112 (a)(i) of the Customs Act, 1962.

3. The appellant has filed appeal wherein they have submitted grounds which are as under:-

3.1 The appellant has submitted that the imported goods are not raw coils but decorative and designer sheets, manufactured from stainless steel containing chromium, manganese, nickel, and nitrogen, and having undergone

specialized processes such as colour/coating, mirror polishing. These treatments give the goods their distinct character, rendering them suitable for immediate use in wall cladding, façades, elevators, signage, kiosks, roofing systems, and interior panelling. This follows the principle of "Change in Tariff" which states that once there is a change in character or use occurs, they subsequently fall under a different tariff heading.

3.2 The appellant further submitted the examination and the PMI (Positive Metal Identification) Test conducted by the Department on the subject goods are inconclusive and insufficient for determining the correct classification of the goods under the Customs Tariff. The said reports merely record the physical attributes of the goods, namely their cylindrical coil-like shape and the presence of green-coloured polypropylene (PP) packaging. These superficial characteristics do not establish the metallurgical composition, intended use, or commercial identity of the goods.

3.3 The appellant further submitted that The Ld. Additional Commissioner, vide the Impugned Order, has imposed a condition under Section 125(1) of the Customs Act, 1962, requiring the Appellant to redeem the confiscated goods solely for the purpose of re-export, upon payment of a redemption fine of ₹15,50,000/-. For ease of reference, the relevant extract of Section 125 is reproduced below:

SECTION 125. Option to pay fine in lieu of confiscation. —

Whenever confiscation of any goods is authorized 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 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 such 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.

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."



3.4 The appellant submitted that Section 125 of the Customs Act, 1962, does not confer any power upon the Lt. Additional Commissioner to impose conditions such as mandatory re-export while allowing redemption of confiscated goods. The provision merely enables the grant of an option to pay a fine in lieu of confiscation, and its scope cannot be stretched to include conditional redemption. This position has been affirmed in *COMMR. OF CUS. (CHENNAI-II) v. MAGAL ENGG. TECH PVT. LTD.*, 2021 (378) E.L.T. 409 (Mad.), where the Hon'ble Madras High Court held:

"8. ...We hold that the imposition of a condition of re-export under Section 125 of the Act was not justified and the imposition of such a condition is not envisaged in law and therefore, the order imposing such condition is liable to be set aside. The same is accordingly set aside, and we direct that the demurrage, if any, imposed on the assessee, will be treated as quashed and set aside, and the goods in question may be released to the respondent/assessee forthwith without any condition."

3.5 The appellant further submitted that in the case of *HBL Power Systems Ltd. v. CC, Visakhapatnam*, 2018 (362) E.L.T. 856 (Tri. - Hyd.) held that neither the adjudicating authority nor the Tribunal can stretch or modify the scope of Section 125. The Customs Act does not confer any power on officers to compel importers to re-export goods, and any such condition is ultra vires the statute and liable to be struck. The relevant extracts of the said decision are extracted herein for ease of reference:

*"11. The scope of Section 125 of the Act is limited by the words in which it is framed and it is not open to the adjudicating authority or the Tribunal (who are creatures of the statute) to stretch, modify or restrict the scope of this Section; they are bound by it. Hon'ble Supreme Court and High Courts can and do examine the validity of the laws and subordinate legislations and pass judgments annulling or modifying them by neither the officers nor the Tribunal, as creations of the statute cannot do so. This position has been explained clearly by the Hon'ble Supreme Court in *UDI v. Kirloskar Pneumatics Company* - 1996 (84) E.L.T. 401 (S.C.) in which it was held as under:*

"According to these sub-sections, a claim for refund or an order of refund can be made only in accordance with the provisions of Section 27 which inter alia includes the period of limitation

mentioned therein. Mr. Hidayatullah submitted that the period of limitation prescribed by Section 27 does not apply either to a suit filed by the importer or to a writ petition filed by him and that in such cases the period of limitation would be three years. Learned Counsel refers to certain decisions of this Court to that effect. We shall assume for the purposes of this appeal that it is so, notwithstanding the fact that the said question is now pending before a larger Constitution Bench of nine Judges along with the issue relating to unjust enrichment. Yet the question is whether it is permissible for the High Court to direct the authorities under the Act to act contrary to the aforesaid statutory provision. We do not think it is, even while acting under Article 226 of the Constitution. The power conferred by Article 226/227 is designed to effectuate the law, to enforce the Rule of law and to ensure that the several authorities and organs of the State Act in accordance with law. It cannot be invoked for directing the authorities to act contrary to law. In particular, the Customs authorities, who are the creatures of the Customs Act, cannot be directed to ignore or act contrary to Section 27, whether before or after amendment. May be the High Court or a Civil Court is not bound by the said provisions but the authorities under the Act are. Nor can there be any question of the High Court clothing the authorities with its power under Article 226 or the power of a Civil Court. No such delegation or conferment can ever be conceived. We are, therefore, of the opinion that the direction contained in Clause (3) of the impugned order is unsustainable in law."

3.6 The appellant submits that in view of the above submission, it is submitted that even in cases involving prohibited goods, the adjudicating authority has only two options under Section 125: (a) To allow redemption on payment of fine; or (b) To not allow redemption. Imposing a third option, conditional redemption subject to re-export, is not envisaged under the Act. The appellant relied upon the following decisions:



2019 (367) E.L.T. 154 (A.P.) Commissioner of Customs, Vishakhapatnam

vs. HBL Power Systems LTD.

Pace India V. Commissioner of Customs, Bangalore 2020 (372) E.L.T. 442 (Tri. -Bang.).

3.7 The appellant submitted that the proposed classification is 73269099. However, the Department has not adduced any evidence to prove that the impugned goods deserve classification under CTH 7219/7220. The Department has merely stated that the goods under import, namely, Cold

Rolled Stainless Steel having Grade J3, are flat rolled products. In the case of *Hindustan Ferrodo Ltd. v. CCE, Bombay [1997 (89) E.L.T. 16 (S.C.)]* the Supreme Court held that the onus of establishing the classification lay upon the Revenue.

3.6 The appellant also submitted that goods are not liable for confiscation and penalty is not imposable in the present case.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 17.11.2025 wherein Shri Manish Jain, Advocate, appeared on behalf of the Appellant. He reiterated the submissions made in the appeal memorandum.

DISCUSSION AND FINDINGS:

5. I have carefully and meticulously examined the Order-in-Original, the memorandum of appeal, the submissions made during the personal hearing, and all other materials placed on record.

5.1 I find that as per examination reports and photos attached during examination vide examination reports, it is clear that goods are having rectangular (other than square) cross section as length and width of coil is different and further, goods are in the form of rolls of cylindrical shaped coils. As per photos attached, goods are in the form of coils having one layer superimposed upon another layer. Hence, goods are well covered in definition of flat rolled products and hence, rightly classifiable under chapter 72. Hence, goods are flat rolled product of Cold Rolled Stainless Steel in coil form having Grade J3. It is evident from HSN that further worked articles, such as castings, forgings, etc., and sheet piling, welded angles, shapes and sections, railway or tramway track construction material and tubes are classified in Chapter 73 or, in certain cases, in other Chapters. The impugned goods are flat rolled products of stainless steel not the further worked article i.e. casting, forgings etc., hence, the same, are to be rightly classifiable under chapter 72 instead of 73. Further, as per Explanatory notes of Chapter 72 wherein at sub para (2) of para (IV) (c), it has been mentioned that Surface treatments or other operations, including cladding, to improve the properties or appearance of the metal, protect it against rusting and corrosion, etc. Except as otherwise provided in the text of certain headings, such treatments do not affect the heading in which the goods are classified.

5.2 I find that the semi-finished products have been further processed into finished products, which are generally categorized into two groups: flat products ("wide flats," including universal plates, wide coil, sheets, plates, and strip) and long products (bars and rods, hot-rolled, irregularly wound coils, other bars and rods, angles, shapes, sections, and wire). All such products are comprehensively covered under Chapter 72 of the Customs Tariff. In the present case, the goods have been found in the form of flat products, namely Stainless Steel Coils. Therefore, the goods *prima facie* appear to be correctly classifiable under CTH 72. Furthermore, sub-para (2) of para (IV)(C) clearly stipulates that surface treatments or other operations, including cladding, carried out to improve the properties or appearance of the metal or to protect it against rusting or corrosion do not affect the tariff classification, except where specifically provided in the text of certain headings. In view of the above, it is evident that the impugned goods remain classifiable under CTH 72.

5.3 Flat-rolled products of stainless steel having a width of 600 mm or more are classifiable under CTH 7219, whereas flat-rolled products of stainless steel having a width less than 600 mm fall under CTH 7220. In respect of Bills of Entry No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025, the invoice and packing list indicate that all 27 coils, stuffed in 05 containers, having a total net weight of 137,440 kg and gross weight of 137,930 kg, possess a width greater than 600 mm. Accordingly, the imported goods are rightly classifiable under CTH 7219 35 90.

5.4 I find that the appellant attempted to clear Cold Rolled Stainless Steel (CRSS) coils of J3 grade, which are classifiable under CTH 7219 and 7220, by mis-declaring them as "Decorative and Designer Display Sheets" under CTH 7326 90 99. This mis-declaration appears to have been made to circumvent the requirement of obtaining a No Objection Certificate (NOC) from the Ministry of Steel, as mandated under the Ministry of Steel Circular dated 20.10.2023. As the goods were presented for clearance without a valid NOC, their importation is in violation of the said Circular, rendering them restricted/prohibited and thus liable for confiscation under Section 111(d) of the Customs Act, 1962. Further, the value declared by the importer in the corresponding Bills of Entry and invoices does not appear to reflect the true transaction value, as the importer has mis-declared the goods in terms of description, classification, and weight. Accordingly, the declared value cannot be accepted as the transaction value under Section 14 of the Customs Act,

1962, read with the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Therefore, the appellant is liable for penalty under Section 112(a) of the Customs Act. To this extent, the impugned order dated 17.10.2025 is upheld.

5.5 However, I find that the impugned order has directed the re-export of the goods upon payment of a redemption fine of Rs. 15,50,000/- under Section 125 of the Customs Act, 1962. This portion of the order, mandating re-export as a condition for redemption, is contrary to various decisions of the Hon'ble High Courts and the CESTAT. Section 125 of the Customs Act does not confer any authority upon the adjudicating officer to impose conditions such as compulsory re-export while permitting redemption of confiscated goods. The provision merely empowers the authority to offer an option to redeem the goods on payment of fine in lieu of confiscation. Its scope cannot be expanded to include the imposition of restrictive conditions like mandatory re-export. This legal position has been unequivocally affirmed by the Hon'ble Madras High Court in Commissioner of Customs (Chennai-II) v. Magal Engg. Tech Pvt. Ltd., 2021 (378) E.L.T. 409 (Mad.), wherein the Court held:

“8. ...We hold that the imposition of a condition of re-export under Section 125 of the Act was not justified and the imposition of such a condition is not envisaged in law and therefore, the order imposing such condition is liable to be set aside. The same is accordingly set aside, and we direct that the demurrage, if any, imposed on the assessee, will be treated as quashed and set aside, and the goods in question may be released to the respondent/assessee forthwith without any condition.”

5.6 In HBL Power Systems Ltd. v. CC, Visakhapatnam, 2018 (362) E.L.T. 856 (Tri. - Hyd.), the Tribunal held that neither the adjudicating authority nor the appellate forum has the jurisdiction to enlarge, restrict, or otherwise modify the scope of Section 125 of the Customs Act, 1962. It was categorically observed that the Act does not vest any authority in Customs officers to mandate re-export of imported goods; the imposition of such a condition is ultra vires the statute and, therefore, unsustainable in law. The relevant excerpts of the said judgment are reproduced below for ready reference:

“11. The scope of Section 125 of the Act is limited by the words in which it is framed and it is not open to the adjudicating authority or the Tribunal

(who are creatures of the statute) to stretch, modify or restrict the scope of this Section; they are bound by it. Hon'ble Supreme Court and High Courts can and do examine the validity of the laws and subordinate legislations and pass judgments annulling or modifying them by neither the officers nor the Tribunal, as creations of the statute cannot do so. This position has been explained clearly by the Hon'ble Supreme Court in *UOI v. Kirloskar Pneumatics Company - 1996 (84) E.L.T. 401 (S.C.)* in which it was held as under:

"According to these sub-sections, a claim for refund or an order of refund can be made only in accordance with the provisions of Section 27 which inter alia includes the period of limitation mentioned therein. Mr. Hidayatullah submitted that the period of limitation prescribed by Section 27 does not apply either to a suit filed by the importer or to a writ petition filed by him and that in such cases the period of limitation would be three years. Learned Counsel refers to certain decisions of this Court to that effect. We shall assume for the purposes of this appeal that it is so, notwithstanding the fact that the said question is now pending before a larger Constitution Bench of nine Judges along with the issue relating to unjust enrichment. Yet the question is whether it is permissible for the High Court to direct the authorities under the Act to act contrary to the aforesaid statutory provision. We do not think it is, even while acting under Article 226 of the Constitution. The power conferred by Article 226/227 is designed to effectuate the law, to enforce the Rule of law and to ensure that the several authorities and organs of the State Act in accordance with law. It cannot be invoked for directing the authorities to act contrary to law. In particular, the Customs authorities, who are the creatures of the Customs Act, cannot be directed to ignore or act contrary to Section 27, whether before or after amendment. May be the High Court or a Civil Court is not bound by the said provisions but the authorities under the Act are. Nor can there be any question of the High Court clothing the authorities with its power under Article 226 or the power of a Civil Court. No such delegation or conferment can ever be conceived. We are, therefore, of the opinion that the direction contained in Clause (3) of the impugned order is unsustainable in law."

5.7 Thus, even in respect of prohibited goods, the scheme of Section 125 provides the adjudicating authority with only two courses of action:

- to allow redemption on payment of fine; or
- to deny redemption altogether. The introduction of a third alternative conditional redemption subject to re-export finds no support in the statutory



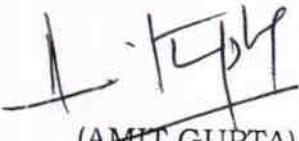
framework and is not contemplated under the Act. In this regard, reliance is also placed on the following decisions:

- 2019 (367) E.L.T. 154 (A.P.) *Commissioner of Customs, Vishakhapatnam vs. HBL Power Systems LTD.*
- *Pace India V. Commissioner of Customs, Bangalore* 2020 (372) E.L.T. 442 (Tri. -Bang.).

5.8 In view of the above findings, the appeal is partly allowed. The direction in the impugned order mandating re-export of the goods is hereby set aside. The appellant is permitted to clear the goods for home consumption upon payment of the applicable redemption fine, as the impugned order discloses no reason whatsoever for denying domestic clearance. There is also no finding that the goods are of substandard or otherwise unacceptable quality. Accordingly, the condition of mandatory re-export is held to be unsustainable in law.

6. In view of the foregoing discussion and findings, and having regard to the principles laid down by the Hon'ble Supreme Court in Kamlakshi Finance Corporation Ltd., 1991 (55) E.L.T. 433 (S.C.), the appeal is disposed of in the following terms: The description, classification, weight and assessable value as determined in the impugned order is upheld, the confiscation of the goods, the imposition of redemption fine, and the penalty are also upheld. The appellant is permitted to redeem the goods on payment of the prescribed redemption fine. The direction in the impugned order requiring mandatory re-export of the goods is set aside, and the appellant is allowed to clear the goods for home consumption. The goods shall be released within seven (7) days from the date of receipt of this order, subject to compliance with the above conditions.

7. The appeal filed by the appellant is disposed of in the aforesaid terms.

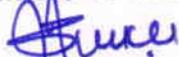


(AMIT GUPTA)

Commissioner (Appeals),
Customs, Ahmedabad

Date: 20.11.2025

सत्यापिता/ATTESTED



अधीक्षक/SUPERINTENDENT

सीमा दुलक (अधीक्षक), अहमदाबाद
CUSTOMS (APPEALS), AHMEDABAD

F.No. S/49-488/CUS/MUN/25-26
By Speed post /E-Mail

To,

M/s. D Bhatia and Company,
A-42 Group Wazirpur Industrial Area, Delhi - 110052.



Copy to:

- 1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad *uug7*
- 2. The Principal Commissioner of Customs, Custom House, Mundra.
- 3. The Additional Commissioner of Customs, Import Assessment, Custom House, Mundra.
- 4. Guard File.