कार्यालय: प्रधान आयुक्त सीमाशुल्क, मुन्द्रा,
सीमाशुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS:
CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT-370421.
PHONE : 02838-271426/271163 FAX :02838-271425
E-mail id- adj-mundra@gov.in

A	फा /.सं .FILE NO.	GEN/ADJ/ADC/1545/2025-Adjn-O/o Pr Commr-Cus-Mundra
B	मूल आदेश सं. ORDER-IN- ORIGINAL NO.	MCH/ADC/AKM/282/2026-27
C	द्वारा पारित किया गया PASSED BY	**Amit Kumar Mishra,** Additional Commissioner of Customs, Custom House, Mundra
D	आदेश की तिथि DATE OF ORDER	28-08-2026
E	जारी करने की तिथि DATE OF ISSUE	28-08-2026
F	कारण बताओ नोटिस संएवं तिथि . SCN NO. & DATE	38/2025-26/ADC/AKM/ADJ/MCH dated 03.07.2025
G	नोटिसीपार्टी / आयातक/ NOTICEE/PARTY/ EXPORTER	1. M/s Beontime Exim (IEC no.: CUNPK8958A)
H	डिन DIN	20260871MO000094DD05

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1. यहआदेश संबन्धित को नि:शुल्क प्रदान किया जाता है।
   This Order - in - Original is granted to the concerned free of charge.

2. यदि कोई व्यक्ति इस आदेश से असंतुष्ट है तो वह सीमाशुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमाशुल्क अधिनियम 1962 की धारा128 के अंतर्गत प्रपत्र सीए- 1 में चार प्रतियों में नीचे बताए गए पते परअपील कर सकताहै-
   Any person aggrieved by this Order - in - Original may file an appeal under Section 128 of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

"सीमाशुल्कआयुक्त) अपील(,
चौथी मंजिल, हुडको बिल्डिंग, ईश्वरभुवन रोड,
नवरंगपुरा,अहमदाबाद 380 009"

"THE COMMISSIONER OF CUSTOMS (APPEALS), MUNDRA
HAVING HIS OFFICE AT 4TH FLOOR, HUDCO BUILDING, ISHWAR BHUVAN ROAD,
NAVRANGPURA, AHMEDABAD-380 009."

3. उक्तअपील यहआदेश भेजने की दिनांक से 60दिन के भीतर दाखिल की जानी चाहिए।
Appeal shall be filed within sixty days from the date of communication of this order.

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5 -/रुपए 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 be accompanied by –

i. उक्त अपील की एक प्रति और A copy of the appeal, and
ii. इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची 1-के अनुसार न्यायालय शुल्क अधिनियम 1870-के मद सं° 6-में निर्धारित 5 -/रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।
This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.

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

6. अपील प्रस्तुत करते समय, सीमाशुल्क) अपील (नियम, 1982और सीमाशुल्क अधिनियम,1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए।
While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.

7. 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 (A) 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, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

1.1 M/s Beontime Exim, First Floor, Milkat No 6290 F 8, Kesar Plaza, Kathlal, Kheda, Gujarat-387630 holding IEC NO: CUNPK8958A (hereinafter referred to as '*the exporter*' for the sake of brevity) had filed Shipping Bill bearing No.3731915 dated 05.09.2023 through their Customs Broker, M/s Venus Sea-Air Pvt. Ltd. (AACCV5685MCH002) (hereinafter referred to as '*the CB'* for the sake of brevity) at Mundra port for export of Fresh Time Tobaccos (Zafrani Zarda) Scented Chewing Tobacco (CTH–24039930) (hereinafter referred to as '*the impugned goods*' for the sake of brevity). The Country of destination was declared as United Arab Emirates and the port of discharge was declared as Jabel Ali in United Arab Emirates.

1.2 An alert regarding this export consignment of the impugned goods was received from the NCTC vide email dated 08.09.2023. The alert was regarding mis-declaration, overvaluation and possible manipulation of supply chain. NCTC had prescribed – (i) 100% examination of goods, (ii) investigation of exporter firm and its supply chain for possible fake invoicing, (iii) to draw samples to determine exact nature, specifications and quality of the impugned goods being exported. Accordingly, the export consignment of the impugned goods was put on hold and necessary inquiry was initiated against the exporter for examination and verification of the impugned goods as well as the exporter.

1.3 The details of the said Shipping Bill are as under:

Table-A

Shipping Bill No. & Date	Description of the Goods	Qty. Kgs	Declared FOB Value in (Rs.)	IGST (Rs.)	IGST Cess(Rs.)	Drawback (Rs.)	RODTEP / ROSCTL (Rs.)
3731915 dated 05.09.2023	Fresh Time Tobaccos (Zafrani Zarda) Scented Chewing Tobacco (CTH – 24039930)	3075 Kgs 246 Crt.	80,43,434.40	22,64,774.40	1,06,76,400/-	12,065/-	0/-

2. <u>ACTION TAKEN:</u>

2.1 Acting upon the said NCTC alert impugned goods was put on hold and 100% examination of the consignment covered under the said Shipping Bill No. 3731915 dated 05.09.2023 was carried out under examination report dated 14.09.2023. The impugned goods were found to be packed in corrugated boxes which were covered with PP bags. Boxes were counted and found to be 246. Each such box contained 25 small cartons of corrugated sheet. Each such carton contained 50 pouches having tobacco packed inside. Each pouch was found to be having marking "Fresh Time Zafrani Zarda Chewing Tobacco" and the weight of tobacco mentioned on it was 10 grams. The pouches have name of the manufacturer printed on it as "Beontime Exim - First Floor, Milkat No 6290 F 8, Kesar Plaza, Kathlal, Kheda, Gujarat-387630". No concealment/mis-declaration was found in the consignment and upon visual examination the impugned goods were found "as declared".

2.2 However, in view of NCTC alert, representative samples were also drawn and forwarded to CRCL, Kandla vide Test Memo No. 695 dated 14.09.2023, to ascertain the exact nature, description and composition of the impugned goods. Meanwhile, the exporter submitted a Test Bond and requested for provisional release of the impugned goods. Accordingly, the impugned goods were released provisionally and allowed for export subject to withholding of the export incentives like refunds of IGST, IGST Cess, and DrawBack etc. Letter/s was issued to the concerned IGST/DBK section/s of CH Mundra informing accordingly with a request to keep the export incentives on hold till the finalization of the present inquiry against the exporter.

LAB TEST REPORT

2.3 Whereas, CRCL, Kandla vide report dated 18.10.2023 has reported as under:-

> *"On the opening of the sample packet it contain unit packing (original pouches) of tobacco having both side printed lable (Fresh Time, Zafrani Zarda & Chewing tobacco).*
>
> *Wt. of one pouch with sample = 11.1138 gm.*
> *Wt. of sample = 9.6402 gm (86.74%)*

Empty pouch = balance

The sample is received in the form of dark & light brown color tiny cutpieces of leaves & stalks with fragrance.

It answer test for nicotine based alkaloid compound along with vegetative matter & organic and inorganic filters (tobacco product).

Moisture content (as such) = 11.75%."

2.4 Whereas, at the same time, letter was also issued to the Additional/Joint Commissioner (Preventive/Anti Evasion), Central GST & Central Excise, Vadodara-I, GST Bhavan, Race Course, Vadodara, Gujarat, for investigation into the matter in respect of exporter firm and its supply chain for possible fake invoicing and undue refund of IGST/GST input credit, Compensation Cess etc. as per NCTC alert.

<u>INVESTIGATION AT THE END OF CHA, M/s. VENUS SEA-AIR SERVICES PVT. LTD GANDHIDHAM</u>

2.5 Whereas, summons were also issued to the CHA and a voluntary statement Shri Vinay Parmar S/o Shri Dharamshi Parmar, Aged 33 years, G-Card Holder of the Customs Broker firm M/s Venus Sea-Air Services Pvt. Ltd, Gandhidham (Licence No. 02/CB/Reg/LDH/2016.) was recorded under Section 108 of the Customs Act, 1962 on 16.10.2024**.** During the statement Shri Vinay Parmar, G-Card Holder of the CHA inter-alia stated that

- *M/s Venus Sea-Air Services Pvt. Ltd., Ludhiana is a Customs Broker firm and is registered as Custom Commissionerate Ludhiana bearing Licence No. 02/CB/Reg/LDH/2016. This Licence was issued by the competent Customs authority on dated 10.03.2016. They are private limited firm with PAN No AACCV5685M2ZUand are also registered with GSTN (GSTIN-03AACCV5685M2ZU) for the provision of various services viz. Custom House Agent, GTA, BAS, Clearing & Forwarding Agency. Their principal place of business is at Street No. 09, House No. 108, Venus House, Opp. Urban Estate, NursuryJeewan Nagar, Focol.*

- *He was G-Card Holder of this CB firm M/s Venus Sea-Air Services Pvt. Ltd., Ludhiana till 2023. He had been looking after entire works related* *to marketing, searching customers, documentation and clearance of import/export consignments of their customers at Kandla Port as well as Mundra Port. He was the person who mostly communicates with their customers for such works related to clearance of their import/export consignments.*

- *His G-Card No. is CHM/G/16/2019-20 issued on 18.10.2019. he had worked in M/s Venus Sea-Air Services Pvt. Ltd. Further he stated that he had surrendered their G-card in 2023. He has been in this field for 7-8 years.*

- *He is completely aware about their responsibilities as CHA entrusted vide Custom Broker Licensing Regulation, 2018.*

- *He collects the KYC (Know Your Customer) from their customers and do online verification of the same. KYC involves – CHA Authority Letter, KYC Form, GST Registration, PAN Card, IEC Registration, Aadhar Card, AD Code /Bank Verification/Cancelled Cheque, Telephone/Light Bill/ Rent Agreement for address proof etc.*

- *He perused Shipping Bill No. 3731915 dated 05.09.2023 and other export documents filed by them on behalf of their client M/s Beontime Exim, Gujarat (Proprietor-Sunil Ramjivanbhai Khatik). He also put his dated signature on the same in token. The cargo declared in the said Shipping Bill is 'Fresh Time Tobaccos (Zafrani Zarda) Scented Chewing Tobacco OD As per INV PL' (CTH 24039930), Qty.: 3075 kgs.*

- *They had conducted complete KYC of their client M/s Beontime Exim, Gujarat and collected (i) Authority Letter, (ii) KYC/ Registration Form (iii) GST Registration Certificate (GSTIN 24CUNPK8958A1ZC), (iv) PAN (No. CUNPK8958A1ZC) Card, (v) Aadhar Card, (vi) IEC (No. CUNPK8958A), (vii) Electricity Bill, (vii) Cancelled Cheque (Current A/c No. 120002781957 at Canara Bank, Kathal-387630). He submitted copies of their KYC under his dated signature. These documents had been received by us through e-mail.*

- *They had not conducted physical verification of the premises/office address of their client M/s Beontime, Exim, Gujarat*

- *They had received this work from their forwarding agent M/s Shri*

Kamla Laxmi Cargo Services, Ahmedabad.

- *He has never communicated with Shri Sunil Ramjivanbhai Khatik, Proprietor of M/s Beontime, Exim. They had received all the documents related to Shipping Bill No. 3731915 dated 05.09.2023 from their business forwarders M/s Shree Kamla Laxmi Cargo Services, Ahmedabad through e-mail dated 28.04.2023. Hesubmitted printouts of the e-mail dated 28.04.2023 in this regard under his dated signature.*

- *Their employees prepare the checklist and file the BoEs/Shipping Bills in the EDI system.*

- *They got the Check List approved through e-mails /whats-app from their importers/clients before filing the Bills of Entry in the EDI system.*

- *Total 3-4 consignments have been handled by M/s Venus Sea-Air Services Pvt. Ltd. on behalf of M/s Beontime Exim, Gujarat.*

- *They had prepared the Check-List in respect of goods to be exported vide shipping Bill No. 3731915 dated 05.09.2023. He submitted the copy of the same under dated signature.*

- *They had cross-checked the details such as supplier, description and HSN of the goods to be exported, Invoice etc. and found them correct.*

- *They perused Examination report dated 14.09.2023 in respect of goods were to be exported vide Shipping Bill No. 3731915 dated 05.09.2023 and put his dated signature on the same. He agreed with the contents therein. The said examination was done in presence of one of the employees from M/s Venus Sea-Air Services Pvt. Ltd. namely Shri Balmukund Tiwari (H-Card Holder).*

- *They charge Agency Fees of Rs.2,000/- to Rs.4,000/- per container from their clients for clearance of their export consignments upto loading of the cargo in the Trucks. This fee depends upon the cargo and clients. In this case. They have received the payment from their business forwarders M/s Shree Kamla Laxmi Cargo Services, Ahmedabad. Further he stated that he never met with the proprietor of M/s Beontime, Exim, Gujarat.*

- *They had received all the documents from their business forwarder M/s Shree Kamla Laxmi Cargo Services. They had not conducted physical verification of the M/s Beontime Exim, Gujarat.*

- *They have done the due process of KYC verification of the exporter earlier and filed this Shipping Bill No. 3731915 dated 05.09.2023only on the basis of details/ documents provided by the business forwarders. There was no malafide intention from their side to mis-declare the goods.*

2.6 Whereas, to proceed further into inquiry, Summons were issued to the exporter on 24.06.2024 and16.08.2024 which returned undelivered with remarks "NO SUCH PERSON ".

2.7 Whereas, the Deputy Commissioner (Prev.), Central GST & CE, Vadodara-I vide Letter F.No. IV/06-Prev/478/B.Exim/2023-24/Gr-Kdated 23.10.2023 has forwarded the verification report of the supply chain of the exporter. From scrutiny of the said report, it is noticed that

(i) During the inspection of the premise of M/s. Beontime Exim located at 1st Floor, Milkat No. 6290, F8 Kesar Plaza, Kathlal Kheda, Vadodara -387630 , the firm M/s. Beontime Exim is found to be non-existent and it appears that firm is fictitious and got registered with sole malafide intension to avail and pass on ineligible ITC without actual movement of goods and to claim high value of IGST Refunds. It appears that all the sales invoices issued by the M/s. Beontime Exim are bogus as per data available in AIO. It further appears that they have shown export with payment of tax in their outward supplies.

In view of above it appears that the Deputy Commissioner (Prev.), Central GST , Vadodara –I has submitted that their office conducted the inspection of the principal place of business of M/s. Beotime Exim located at 1st Floor, Milkat No. 6290, F8 Kesar Plaza, Kathlal, Kheda, Vadodara., the firm M/s. Beontime Exim is found to be non-existent and firm is fictitious and got registered with sole malafide intention to avail and pass on ineligible ITC without actual movement of goods and to claim high value of IGST Refund. All the sales invoices issued by M/s. Beontime Exim are bogus, as per data available in AIO. Further,,it appears that they have shown export with payment of tax in their outward supplies.

2.8 Data of total exports done from Mundra port, was retrieved from ICES system and it is found that the exporter has exported another three consignments of the same goods vide S.B No. Shipping Bills No. 3051015 dated 08-08-2023, 3491930 dated. 26-08-2023,and 4261345 28-09-2023 for the period from 01.04.2023 to till date Total Four shipping bill mentioned in table below; -

Table-B

Sl. No.	Exporter Name	SB NO.	SB Date	Item Description.	Country Name	FOB value
1	BEONTIME EXIM	3051015	08-08-2023	FRESH TIME TOBACCOS (ZAFRANI ZARDA) SCENTED CHEWING TOBACCO OD AS PER INV PL	UNITED ARAB EMIRATES	8079517
2	BEONTIME EXIM	3491930	26-08-2023	FRESH TIME TOBACCOS (ZAFRANI ZARDA) SCENTED CHEWING TOBACCO OD AS PER INV PL	UNITED ARAB EMIRATES	8043434
3	BEONTIME EXIM	3731915	05-09-2023	FRESH TIME TOBACCOS (ZAFRANI ZARDA) SCENTED CHEWING TOBACCO OD AS PER INV PL	UNITED ARAB EMIRATES	8043434
4	BEONTIME EXIM	4261345	28-09-2023	FRESH TIME TOBACCOS (ZAFRANI ZARDA) SCENTED CHEWING TOBACCO OD AS PER INV PL	UNITED ARAB EMIRATES	8053220
					Total	**32219605**

2.9 Further, from the GSTIN Portal, it appears that the GSTIN of the exporter is cancelled *suo-moto* w.e.f. 12.01.2023, i.e. much prior to the date of filling of the Shipping Bills in question.

2.10 Whereas, as per FOB realization report obtained from the EDI System, it appears that no FOB amount has been realized to the exporter till date against the total FOB amount of **Rs. 3,22,19,605/-**supposed to be realized against subjected four SBs.

2.11 Whereas, as communicated vide email dated 17.10.2024 & 08.11.2024 received from the Drawback section, & IGST section, Custom House, Mundra, it appears that, the IEC of the exporter has already been suspended and no scroll have been generated and Total Export incentive claimed by the exporter vide said 4 SBs is **Rs. 5,19,12,661/- (IGST Refund-Rs. 90,71,932/-+ DBK Rs. 48,329/-+ Compensation Cess Rs.4,27,92,400/-** as under:-

Table-C

Sl.No.	SB No.	SB Date	FOB value	IGST	DBK	Compensation cess	Rodtep/Rosctel (in Rs.)	Total Export Incentive (in Rs.)
1	3051015	08-08-2023	8079517	2274854	12119	10763200	0	13050173
2	3491930	26-08-2023	8043434	2264774	12065	10676400	0	12953239
3	3731915	05-09-2023	8043434	2264774	12065	10676400	0	12953239
4	4261345	28-09-2023	8053220	2267530	12080	10676400	0	12956010
Total			**32219605**	**9071932**	**48329**	**4,27,92,400**	**0**	**5,19,12,661**

In view of the above, it appears that the export incentive claimed by the exporter in these 4 SBs Total amounting to **Rs. 5,19,12,661/- (IGST Refund-Rs. 90,71,932/-+ DBK Rs. 48,329/-+ Compensation Cess Rs.4,27,92,400/-)** appears as non-admissible in as much as (i) M/s Beontime Exim is found to be non-existent (ii) M/s Beontime Exim firm is fictitious and got registered with sole malafide intention to avail and utilize ineligible ITC with bogus supply chains. (iii) all the sales invoices issued by M/s. Beontime Exim are bogus. (iv) No FOB realization has been taken placed against the said purported export.

3. LEGAL PROVSIONS:

3.1 Various provisions of **Customs Act, 1962** are applicable in the instant case:

Clearance of export goods:

Section 50. Entry of goods for exportation. -

(1) The exporter of any goods shall make entry thereof by presenting electronically] on the customs automated system] to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export in such form and manner as maybe prescribed:

Provided that the Principal Commissioner of Customs or Commissioner of Customs may, in cases where it is not feasible to *make entry by presenting electronically on the customs automated system, allow an entry to be presented in any other manner.*

(2) The exporter of any goods, while presenting a shipping bill or bill of export, ***shall make and subscribe to a declaration as to the truth of its contents****.*

(3) The exporter who presents a shipping bill or bill of export under this section 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.

Section 113 of the Customs Act, 1962 provides the provisions of Confiscation of goods attempted to be improperly exported, etc. –

The following export goods shall be liable to confiscation: -

….

…

[(i) 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 or in the case of baggage with the declaration made under section 77;]

[(ia) any goods entered for exportation under claim for drawback which do not correspond in any material particular with any information furnished by the exporter or manufacturer under this Act in relation to the fixation of rate of drawback under section 75;]

[(ja) any goods entered for exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the provisions of this Act or any other law for the time being in force;]

Section 114: **Penalty for attempt to export goods improperly, etc.** -

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 this Act or any other law for the time being in force, to a penalty 1[2[not exceeding three times the value of the goods as declared by the exporter or the value as determined under this 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:

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 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.

Section 114AA. Penalty for use of false and incorrect material. -

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

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 1 [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 where the proceedings are deemed to be concluded under the proviso to sub-section (2) of* section 28 *or under clause (i) of sub-section (6) of that section in respect of the goods which are not prohibited or restricted, 3 [no such fine shall be imposed]:*
>
> **Provided** *further 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.

Explanation *.-For removal of doubts, it is hereby declared that in cases where an order under sub-section (1) has been passed before the date** on which the Finance Bill, 2018 receives the assent of the President and no appeal is pending against such order as on that date, the option under said sub-section may be exercised within a period of one hundred and twenty days from the date on which such assent is received.]*

3 . 2 Whereas, following provisions of **Customs and Central Excise Duties Drawback Rules, 2017** are applicable in the instant matter**:**

Rule 2. Definitions. -

In these rules, unless the context otherwise requires,-

(a) "drawback" in relation to any goods manufactured in India and exported, means the rebate of duty excluding integrated tax leviable under sub-section (7) and compensation cess leviable under subsection (9) respectively of section 3 of the Customs Tariff Act, 1975 (51 of 1975) chargeable on any imported materials or excisable materials used in the manufacture of such goods;

Rule 3. Drawback. -

(1) Subject to the provisions of-

(a) the Customs Act, 1962 (52 of 1962) and the rules made there under;

(b) the Central Excise Act, 1944 (1 of 1944) and the rules made thereunder; and

(c) these rules, a drawback may be allowed on the export of goods at such amount, or at such rates, as may be determined by the Central Government:

Provided *that where any goods are produced or manufactured from imported materials or excisable materials, on some of which only the duty chargeable thereon has been paid and not on the rest, or only a part of the duty chargeable has been paid; or the duty paid has been rebated or refunded in whole or in part or given as credit, under any of the provisions of the Customs Act, 1962 (52 of 1962) and the rules made thereunder, or of the Central Excise Act, 1944 (1 of 1944) and the rules made thereunder, the drawback admissible on the said goods shall be reduced taking into account the lesser duty paid or the rebate, refund or credit obtained :*

Provided *further that no drawback shall be allowed -*

(i) if the said goods, except tea chests used as packing material for export of blended tea, have been taken into use after manufacture;

(ii) if the said goods are produced or manufactured, using imported materials or excisable materials in respect of which duties have not been paid;

(iii) on jute batching oil used in the manufacture of export goods, namely, jute (including Bimlipatam jute or mesta fibre) yarn, twist, twine, thread, cords and ropes;

(iv) if the said goods, being packing materials have been used in or in relation to the export of-

(A) jute yarn (including Bimlipatam jute or mesta fibre),twist, twine, thread and ropes in which jute yarn predominates in weight;

(B) jute fabrics (including Bimlipatam jute or mestafibre), in which jute predominates in weight;

(C) jute manufactures not elsewhere specified (including Bimlipatam jute or mesta fibre) in which jute predominates in weight.

(2) In determining the amount or rate of drawback under this rule, the Central Government shall have regard to, -

(a) the average quantity or value of each class or description of the materials from which a particular class of goods is ordinarily produced or manufactured in India;

(b) the average quantity or value of the imported materials or excisable materials used for production or manufacture in India of a particular class of goods;

(c) the average amount of duties paid on imported materials or excisable materials used in the manufacture of semis, components and intermediate products which are used in the manufacture of goods;

(d) the average amount of duties paid on materials wasted in the process of manufacture and catalytic agents:

Provided *that if any such waste or catalytic agent is re-used in any process of manufacture or is sold, the average amount of duties on the waste or catalytic agent re-used or sold shall also be deducted;*

(e) the average amount of duties paid on imported materials or excisable materials used for containing or, packing the export goods;

(f) any other information which the Central Government may consider relevant or useful for the purpose

Rule 13. Statement/Declaration to be made on exports other than by Post. -

(1*) In the case of exports other than by post, the exporters shall at the time of export of the goods -*

(a) state on the shipping bill or bill of export, the description, quantity and such other particulars as are necessary for deciding whether the goods are entitled to drawback, and if so, at what rate or rates and make a declaration on the relevant shipping bill or bill of export that-

(i) a claim for drawback under these rules is being made;

(ii) in respect of duties of Customs and Central Excise paid on containers, packing material sand materials used in the manufacture of the export goods on which drawback is claimed, no separate claim for rebate of duty under the Central Excise Rules,2002 or any other law has been or will be made to the Central excise authorities:

Provided *that if the Principal Commissioner of Customs or Commissioner of Customs, as the case maybe, is satisfied that the exporter or his authorised agent has, for reasons beyond his control, failed to comply with the provisions of this clause, he may, after considering the representation, if any, made by such exporter or his authorised agent, and for reasons to be recorded, exempt such exporter or his authorised agent from the provisions of this clause;*

(b) furnish to the proper officer of Customs, a copy of shipment invoice or any other document giving particulars of the description, quantity and value of the goods to be exported.

(2) Where the amount or rate of drawback has been determined under rule 6 or rule 7, the exporter shall make an additional declaration on the relevant shipping bill or bill of export that -

(a) there is no change in the manufacturing formula and in the quantum per unit of the imported materials or components, if any,

utilised in the manufacture of export goods; and

(b) the materials or components, which have been stated in the application under rule 6 or rule 7 to have been imported, continue to be so imported and are not being obtained from indigenous sources.

Rule 17. Repayment of erroneous or excess payment of drawback and interest. -

Where an amount of drawback and interest, if any, hasbeen paid erroneously or the amount so paid is in excess of what the claimantis entitled to, the claimant shall, on demand by a proper officer of Customs repay the amount so paid erroneously or in excess, as the case may be, andwhere the claimant fails to repay the amount it shall be recovered in themanner laid down in sub-section (1) of section 142 of the Customs Act, 1962 (52of 1962).

Rule 18. Recovery of amount of Drawback where export proceeds not realised. -

(1*) Where an amount of drawback has been paid to an exporter or a person authorised by him (hereinafter referred to as the claimant) but the sale proceeds in respect of such export goods have not been realised by or on behalf of the exporter in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), including any extension of such period, such drawback shall, except under circumstances or conditions specified in sub-rule (5), be recovered in the manner specified below:*

Provided *that the time-limit referred to in this sub-rule shall not be applicable to the goods exported from the Domestic Tariff Area to a special economic zone.*

(2) *If the exporter fails to produce evidence in respect of realisation of export proceeds within the period allowed under the Foreign Exchange Management Act, 1999, or any extension of the said period by the Reserve Bank of India, the Assistant Commissioner of Customs or the Deputy Commissioner of Customs, as the case may be, shall cause notice to be issued to the exporter for production of evidence of realisation of export proceeds within a period of thirty days from the date of receipt of such notice and where the exporter does not produce*

such evidence within the said period of thirty days, the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be, shall pass an order to recover the amount of drawback paid to the claimant and the exporter shall repay the amount so demanded within thirty days of the receipt of the said order:

Provided *that where a part of the sale proceeds has been realised, the amount of drawback to be recovered shall be the amount equal to that portion of the amount of drawback paid which bears the same proportion as the portion of the sale proceeds not realised bears to the total amount of sale proceeds.*

(3) *Where the exporter fails to repay the amount under sub-rule (2) within said period of thirty days referred to in sub-rule (2), it shall be recovered in the manner laid down in rule 17.*

(4) Where the sale proceeds are realised by the exporter after the amount of drawback has been recovered from him under sub-rule (2) or sub-rule (3) and the exporter produces evidence about such realisation within a period of three months from the date of realisation of sale proceeds, the amount of drawback so recovered shall be repaid by the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be, to the claim ant provided the sale proceeds have been realised within the period permitted by the Reserve Bank of India:

Provided that-

(*i) the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may extend the aforesaid period of three months by a period of nine months provided the sale proceeds have been realised within the period permitted by the Reserve Bank of India;*

(ii) an application fee equivalent to 1% of the FOB value of exports or one thousand rupees whichever is less, shall be payable for applying for grant of extension by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be.

(5) Where sale proceeds are not realised by an exporter within the period allowed under the Foreign Exchange Management Act, 1999 (42of 1999), but such non-realisation of sale proceeds is compensated

by the Export Credit Guarantee Corporation of India Ltd. under an insurance cover and the Reserve Bank of India writes off the requirement of realisation of sale proceeds on merits and the exporter produces a certificate from the concerned Foreign Mission of India about the fact of non-recovery of sale proceeds from the buyer, the amount of drawback paid to the exporter or the claimant shall not be recovered.

OUTCOME OF THE INVESTIGATION:

4.1 Further, it appears that the GSTIN of M/s. Beontime Exim, of the exporter has been cancelled since 12.01.2023 i.e. much prior to the filling of SBs. The Summons issued to the exporter have been returned undelivered. Furthermore, as per FOB realization report obtained from the EDI System, it appears that no FOB amount has been realized to the exporter till 14.10.2024, against the total FOB amount of **Rs. 3,22,19,605/-** supposed to be realized against subjected four SBs mentioned in **Table-C.**

4.2 Summons dated 24.06.2024 and 16.08.2024 have been issued to the exporter Shri Sunil Ramjivanbhai Khatik Proprietor of M/s Beontime Exim, First Floor, Milkat No 6290 F 8, Kesar Plaza, Kathlal, Kheda, Gujarat-387630. However, the same was returned unattended with remarks "NO SUCH PERSON ". Further, vide letter F.No. IV/06-Prev/478/B.Exim/2023-24/Gr-K dated 23.10.2023 addressed to Deputy Commissioner, Drawback Section, CH Mundra and copy to SIIB, Mundra from Deputy Commissioner (Prev), Central GST & CE, Vadodara-1, It was informed that the said firm was non-existent. Further they informed that the said firm M/s Beontime Exim was a fictitious and got registered with sole malafide intention to avail and pass on ineligible ITC without actual movement of goods and to claim high value of IGST refund. Therefore, it appears that the Exporter has created fake supply chain to claim undue benefit of IGST, Compensation Cess & Drawback Refund. Further, the exporter has not received any remittance from its overseas buyer for the goods which were exported mentioned in above table. However, the consignments as mentioned in table above, which were already shipped from Mundra and till date no remittance has been received by the exporter.

4.3 Further, it appears that as per exporter was not entitled for refund IGST and Compensation cess. Hence, **Rs 5,18,64,332**/-(IGST Refund-Rs.90,71,932/- + Compensation Cess Rs.4,27,92,400/-) of total Export incentive claimed is liable to be rejected for the goods mentioned in the Table-C.

4.4 Whereas, the exporter, M/s. Beotime Exim, had filed 4 Shipping Bills No. 3051015 dated 08-08-2023, 3491930 dated. 26-08-2023, 3731915 dated 05-09-2023, 4261345 dated 28-09-2023, with claim of benefit of duty drawback amounting to **Rs. 48,329/-,** the exporter is under obligation to produce evidence to show that the sales proceeds (Foreign exchange) in respect of the goods exported, have been realized within the time limit. However, it is evident from the ICES System that the foreign inward remittance involved in the goods exported under the Shipping Bills has not been realized. Further, no relevant document to support the genuine purchase, valuation and exportation of the goods were presented by the exporter.

4.5 From the above discussion, it can be concluded that the exporter had obtained the IEC illegally and made exports with an intent to avail undue benefit of duty drawback fraudulently. The exporter obtained the IEC with fake and bogus documents to avail undue export-based incentives fraudulently. During the investigation, it has been concluded that the said exporter was not found operational at the said address and attempted to export the goods without following the proper procedure under Customs Act, 1962 and Rules and Regulations made thereunder. The claim of drawback amounting to **Rs. 48,329/-** has been made by deliberate mis representation, willful mis-statement and suppression of facts. Therefore,

(i) Claim of **drawback amounting to Rs. 48,329/-** by the exporter appears liable to be rejected in terms of Rule 2, 3 & Rule 18 of Customs and Central Excise Duties Drawback Rules, 2017 and under Customs Act, 1962.

4.6 Further, it also appears that the foreign remittances in respect of exports made by the said exporter were not realized against any of the above referred Shipping Bills. Further as the said exporter is non-existent and never appeared to this office to record his statement, it appears that the exporter has not made truthful declarations in the filing of the shipping bills. Therefore, the exporter has violated the provisions of the provisions of Rule 13 of the of Customs and Central Excise Duties Drawback Rules, 2017 as amended and Section 50 of the Customs Act, 1962. Thus, by the above-mentioned acts of various omission and commission, the said exporter has fraudulently claimed drawback to **Rs. 48,329/-,** and acted in a manner which rendered the goods having declared FOB value of **Rs. 3,22,19,605/-** liable for confiscation under Section 113 (i) (ia) (ja) of the Customs Act, 1962. Further, the exporter by their acts of omission and commission have rendered themselves liable for penal action under Section 114 (iii), Section 114AA of Customs Act, 1962.

5. Accordingly, M/s. Beontime Exim located at 1st Floor, Milkat No. 6290, F8, Kesar Plaza, Kathlal, Kheda, Vadodara holding IEC NO: CUNPK8958A, was called upon to Show Cause to the Additional/Joint Commissioner of Customs, Customs House, Mundra having his office at Port User Building, Mundra within 30 days of the receipt of this Show Cause Notice as to why

i. The goods exported vide Shipping Bills No. 3051015 dated 08-08-2023, 3491930 dated 26-08-2023, 3731915 dated 05-09-2023 and 4261345 dated 28-09-2023, from Mundra Port having declared FOB value of Rs. 3,22,19,605/-, should not be held liable for confiscation under Section Section 113 (i) (ia) (ja) of the Customs Act, 1962.

ii. The amount of Rs 5,18,64,332/-(IGST Refund-Rs.90,71,932/- + Compensation Cess Rs.4,27,92,400/-) claimed by the exporter in these Shipping Bills should not be held liable for rejection.

iii. The duty drawback amounting to Rs. 48,329/- claimed by the exporter in these Shipping Bills should not be held liable for rejection in terms of Rule 3 & Rule 18 of Customs and Central Excise Duties Drawback Rules, 2017.

iv. Penalty should not be imposed upon M/s. Beontime Exim under Section 114 (iii), 114AA of Customs Act, 1962.

<u>WRITTEN SUBMISSION AND PERSONAL HEARING</u>

6. M/s. Beontime Exim, the Noticee, was granted sufficient opportunities of personal hearing on 07.05.2026, 19.06.2026 and

03.07.2026. However, the noticee neither appeared for personal hearing nor filed any written submissions. Accordingly, the case is being adjudicated ex parte on the basis of available records.

DISCUSSION & FINDINGS

7. I have carefully gone through the Show Cause Notice bearing No. 38/2025-26/ADC/AKM/ADJ/MCH dated 03.07.2025, the Relied Upon Documents, and all other material available on record. I note that M/s. Beontime Exim was granted sufficient opportunities of personal hearing on 07.05.2026, 19.06.2026 and 03.07.2026. However, the Noticee neither appeared for personal hearing nor filed any written submissions in reply to the Show Cause Notice. I therefore find that sufficient opportunities have been given to the noticee and the noticee failed to avail of such opportunity. There is no dispute about the fact that need of speedy adjudication is essential to put an end to litigation. It is further a matter of fact that adjudication proceedings need to be finalized within the stipulated time. With regard to proceeding to decide the case ex-parte, it is observed that Hon'ble High Court of Allahabad in the case of *Modipon Ltd. vs Collector of C. Excise, Meerut on 19 August, 1996* has effectively dealt with the issue of natural justice and personal hearing. The extract of the observations of Hon'ble Court is reproduced herein below:

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

preceding paragraphs, repeated adjournments were granted to the petitioners, dates after dates were fixed for personal hearing, petitioners filed written submissions, the administrative officer of the factory appeared for personal hearing and filed written submissions, therefore, in the opinion of this Court there is sufficient compliance of the principles of natural justice as adequate opportunity of hearing was afforded to the petitioners.

20. For the sake of arguments it was asked by this Court during the course of arguments as to what submissions the petitioners would have made at the time of personal hearing but nothing substantial was suggested by the learned counsel for the petitioners in this regard.

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

In view of the above and relying upon the aforesaid judgment, I am proceeding to decide the case ex-parte on the basis of the facts and evidence on record.

7.1 On a careful perusal of the Show Cause Notice and case records, I find that the following main issues arise for consideration and determination in this case:

(i) Whether the goods exported vide Shipping Bills No. 3051015 dated 08.08.2023, 3491930 dated 26.08.2023, 3731915 dated 05.09.2023 and 4261345 dated 28.09.2023, from Mundra Port, having declared FOB value of **Rs. 3,22,19,605/-**, are liable for confiscation under Section 113(i), 113(ia) and 113(ja) of the Customs Act, 1962;

(ii) Whether the amount of **Rs. 5,18,64,332/-** (IGST Refund — Rs. 90,71,932/- + Compensation Cess — Rs. 4,27,92,400/-) claimed by the exporter in these four Shipping Bills is liable to be rejected;

(iii) Whether the duty drawback of **Rs. 48,329/-** claimed by the exporter in these four Shipping Bills is liable to be rejected in terms of Rules 3 and 18 of the Customs and Central Excise Duties Drawback Rules, 2017; and

(iv) Whether penalty is imposable upon M/s. Beontime Exim under Section 114(iii) and Section 114AA of the Customs Act, 1962.

8. FIRST ISSUE — CONFISCATION OF GOODS UNDER SECTION 113 OF THE CUSTOMS ACT, 1962:

8.1 I find that M/s. Beontime Exim had filed four Shipping Bills — No. 3051015 dated 08.08.2023, No. 3491930 dated 26.08.2023, No. 3731915 dated 05.09.2023 and No. 4261345 dated 28.09.2023 — at Mundra Port through their Customs Broker M/s Venus Sea-Air Pvt. Ltd. for export of 'Fresh Time Tobaccos (Zafrani Zarda) Scented Chewing Tobacco' (CTH 24039930) to the United Arab Emirates, with Jabel Ali declared as the port of discharge. The total declared FOB value of these four Shipping Bills was **Rs. 3,22,19,605/-**.

8.2 I find that in respect of Shipping Bill No. 3731915 dated 05.09.2023, an NCTC alert was received on 08.09.2023 regarding mis-declaration, overvaluation and possible manipulation of supply chain. Pursuant to the said NCTC alert, 100% examination of the consignment was conducted vide examination report dated 14.09.2023. The goods were found to be as declared — Fresh Time Zafrani Zarda Chewing Tobacco — with no concealment or mis-declaration found on visual examination. The goods were released provisionally upon submission of a Test Bond, with export incentives withheld pending inquiry. The CRCL, Kandla, vide test report dated 18.10.2023, confirmed that the goods are a tobacco product containing nicotine-based alkaloid compound along with vegetative matter and organic and inorganic fillers. The goods, therefore, conform to the declared description as Fresh Time Tobaccos (Zafrani Zarda) Scented Chewing Tobacco (CTH 24039930).

8.3 However, I find that despite the goods being as declared in terms of their physical description, the investigation has revealed multiple serious irregularities and illegalities in the export transaction as a whole that render the said goods liable for confiscation under Section 113 of the Customs Act, 1962. These irregularities are:

(i) Non-existence of the exporter firm: The Deputy Commissioner (Prev.), Central GST & CE, Vadodara-I, vide Letter F.No. IV/06-Prev/478/B.Exim/2023-24/Gr-K dated 23.10.2023, has reported that upon physical inspection of the principal place of business of M/s. Beontime Exim at 1st Floor, Milkat No. 6290, F8 Kesar Plaza, Kathlal, Kheda, Vadodara — 387630, the firm was found to be **non-existent**. The firm was fictitious and had been registered with the sole malafide intention to avail and pass on ineligible ITC without actual movement of goods and to claim high-value IGST refunds. All sales invoices issued by M/s. Beontime Exim were found to be bogus as per data available in AIO.

(ii) GSTIN cancelled prior to export: The GSTIN of M/s. Beontime Exim (GSTIN: 24CUNPK8958A1ZC) was cancelled suo-moto with effect from **12.01.2023** — i.e., months before the filing of any of the four Shipping Bills in August-September 2023. Despite the GSTIN having been cancelled, M/s. Beontime Exim continued to file Shipping Bills, claim IGST refunds and compensation cess on IGST and drawback benefits. Filing of Shipping Bills and claiming export incentives with a cancelled GSTIN amounts to presenting false and incorrect declarations in the shipping bills filed under Section 50 of the Customs Act, 1962.

(iii) Non-realization of FOB proceeds: As per the FOB realization report obtained from the EDI System, no FOB amount has been realized by the exporter till 14.10.2024 (date of issuing of SCN) against the total FOB amount of Rs. 3,22,19,605/- due to be realized against the four Shipping Bills. Under Para 9 of the Foreign Exchange Management (Export of Goods & Services) Regulations, 2015, the full export value of goods exported shall be realized and repatriated to India within nine months from the date of export. The exports were made during August-September 2023 and the mandatory nine-month period for realization expired during May-June 2024. No FOB realization having been made and no extension having been granted by the RBI, the non-realization of export proceeds is further evidence of the fictitious nature of the entire export transaction.

(iv) Non-appearance of exporter / no such person: Summons dated 24.06.2024 and 16.08.2024 were issued to the exporter Shri Sunil Ramjivanbhai Khatik, Proprietor of M/s. Beontime Exim, but were returned undelivered with remarks "NO SUCH PERSON." This conclusively establishes that the exporter firm was a fictitious entity operated through a bogus supply chain.

(v) Bogus supply chain and fake invoicing: The Central GST & CE, Vadodara-I, investigation has concluded that the sales invoices issued by M/s. Beontime Exim in the supply chain were bogus, and that the firm was registered with the sole malafide intention to avail and pass on ineligible ITC and to claim high-value IGST refunds by showing exports with payment of tax in their outward supplies.

8.4 I find that Section 113(i) of the Customs Act, 1962 provides that 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 are liable to confiscation. Section 113(ia) provides that any goods entered for exportation under claim for drawback which do not correspond in any material particular with any information furnished by the exporter in relation to the fixation of rate of drawback are liable to confiscation. Section 113(ja) provides that any goods entered for exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the provisions of this Act or any other law for the time being in force are liable to confiscation.

8.5 I find that the goods exported vide Shipping Bills No. 3051015 dated 08.08.2023, No. 3491930 dated 26.08.2023, No. 3731915 dated 05.09.2023 and No. 4261345 dated 28.09.2023 have already been exported and are, therefore, not physically available for confiscation. The question, therefore, arises whether, in such circumstances, an order of confiscation under Section 113 of the Customs Act, 1962 can be made.

8.5.1 I have carefully considered this question in the light of the settled legal position. I find that the Hon'ble High Court of Judicature at Madras, in the case of **Commissioner of Customs, Tuticorin v. M/s. Kamalabhai** [Civil Miscellaneous Appeal Nos. 1723 and 1724 of 2005, decided on 24.07.2015], has considered this precise issue and has held in unequivocal terms that goods which have already been exported are liable for confiscation under Section 113 of the Customs Act, 1962, and that penalty under Section 114 is also sustainable in such cases. The Hon'ble Division Bench, relying upon the Full Bench judgment of the Hon'ble Calcutta High Court in **Euresian Equipment and Chemicals Ltd. and others v. Collector of Customs**, held as under:

> *"The liability of the goods to confiscation arises under Section 113(d), as soon as the goods are attempted to be exported and the attempt to export the goods necessarily precedes the actual export of the goods. Goods become liable to confiscation as soon as the attempt is made. There is no provision in the Act to suggest that this accrued liability is wiped out or extinguished with the exportation of the goods. It may be that after the goods had in fact been exported the liability of the goods to be confiscated may not be enforceable by actual confiscation of the goods."*

The Hon'ble Madras High Court further upheld the reasoning that:

> *"The intention of the Statute is to proceed against the offender to export goods contrary to the provisions of the Act... In this case, the finding of the Commissioner is that the goods have been exported contrary to the prohibition imposed by law. Hence, an attempt has been made contrary to the prohibition, which is already culminated in export and consequently penalty was rightly imposed by the Adjudicating Authority."*

8.5.2 I find that the ratio of the above judgment squarely covers the facts of the present case. M/s. Beontime Exim exported the goods vide the four aforesaid Shipping Bills by making false and incorrect declarations, claiming fraudulent export incentives through a fictitious entity with a cancelled GSTIN, a bogus supply chain and fabricated invoices. The liability of the goods to confiscation under Sections 113(i), 113(ia) and 113(ja) of the Customs Act, 1962 arose at the very moment these goods were "attempted to be exported" with false declarations — which is the point of time when the Shipping Bills were filed and the goods were presented before the Customs Authorities with incorrect and fraudulent particulars. The actual export of the goods thereafter did not extinguish or wipe out this accrued liability to confiscation. The liability to confiscation having attached to these goods at the stage of the attempt, it subsists in law, even though physical confiscation cannot be enforced on account of the goods having left the territory of India.

8.6 I find that the Shipping Bills filed by M/s. Beontime Exim contained false and incorrect declarations in material particulars — the exporter was a non-existent, fictitious entity; the GSTIN was cancelled prior to the filing of Shipping Bills; all sales invoices were bogus; the foreign exchange remittances were never received; and the entire supply chain was fabricated with the sole malafide intention of claiming fraudulent export incentives. The goods were thus entered for exportation under claims of drawback, IGST refund and compensation cess refund, with declarations which were false and incorrect in material particulars, in contravention of Section 50(2) and 50(3) of the Customs Act, 1962 and Rule 13 of the Customs and Central Excise Duties Drawback Rules, 2017. Accordingly, I find that the goods exported vide Shipping Bills No. 3051015 dated 08.08.2023, No. 3491930 dated 26.08.2023, No. 3731915 dated 05.09.2023 and No. 4261345 dated 28.09.2023, having declared FOB value of **Rs. 3,22,19,605/-**, are liable for confiscation under **Sections 113(i), 113(ia) and 113(ja)** of the Customs Act, 1962.

8.6 As the impugned goods have been held liable for confiscation under Section 113(i),113(ia) and 113(ja)) of the Customs Act, 1962, I now proceed to consider whether an option to redeem the goods on payment of redemption fine under Section 125 of the Customs Act, 1962 should be given to the exporter.

8.7 Section 125(1) of the Customs Act, 1962 reads as under:

> *"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 … an option to pay in lieu of confiscation such fine as the said officer thinks fit."*

8.8 I further find that the above view of the Hon'ble Madras High Court in *M/s Visteon Automotive Systems India Limited* (supra), has been followed by the Hon'ble Gujarat High Court in *M/s Synergy Fertichem Pvt. Ltd.* reported in 2020 (33) G.S.T.L. 513 (Guj.), and the same has not been challenged by any of the parties concerned. Hence, I find that any goods improperly imported as provided under Section 111 of the Customs Act, 1962 are liable to confiscation, and merely because the importer was not caught at the time of clearance, they cannot be given differential treatment.

In view of the above, I find that the decision of the Hon'ble Madras High Court in *M/s Visteon Automotive Systems India Limited* (supra), which also relied upon the decision of the Hon'ble Bombay High Court in *M/s Finesse Creations Inc.* reported in 2009 (248) ELT 122 (Bom.), upheld by the Hon'ble Supreme Court in 2010 (255) ELT A.120 (S.C.), is squarely applicable in the present case. Accordingly, I conclude that in the present case, redemption fine in lieu of confiscation of the goods under Section 125 of the Customs Act, 1962 is required to be imposed.

9. SECOND ISSUE — REJECTION OF IGST REFUND AND COMPENSATION CESS CLAIM:

9.1 I find that the total IGST refund and Compensation Cess claimed by M/s. Beontime Exim in the four Shipping Bills amounts to **Rs. 5,18,64,332/-** (IGST Refund — Rs. 90,71,932/- + Compensation Cess — Rs. 4,27,92,400/-). As communicated by the IGST Section, Custom House, Mundra vide email dated 17.10.2024 and 08.11.2024, the IEC of the exporter has already been suspended and no scroll has been generated in respect of these four Shipping Bills.

9.2 I find that the following facts conclusively establish that the IGST refund and compensation cess claims are not admissible:

(i) M/s. Beontime Exim has been found to be a non-existent, fictitious firm registered with the sole malafide intention of availing and passing on ineligible ITC without actual movement of goods and of claiming high-value IGST refunds.

(ii) The GSTIN of M/s. Beontime Exim was cancelled suo-moto with effect from 12.01.2023 — i.e., prior to any of the four Shipping Bills. IGST paid on exports under Shipping Bills filed with a cancelled GSTIN cannot be the basis for any legitimate IGST refund claim, as the exporter was not a registered taxpayer at the time of filing the Shipping Bills.

(iii) All sales invoices issued by M/s. Beontime Exim in the supply chain were found to be bogus. The IGST paid on the basis of such bogus invoices and bogus input tax credit availment cannot give rise to a valid refund claim.

(iv) No foreign exchange inward remittance has been received against any of the four Shipping Bills, establishing the fictitious nature of the entire export transaction.

9.3 In view of the above, I find that the claim of **Rs. 5,18,64,332/-** (IGST Refund — Rs. 90,71,932/- + Compensation Cess — Rs. 4,27,92,400/-) made by the exporter in these four Shipping Bills is **not admissible and is liable to be rejected**.

10. THIRD ISSUE — REJECTION OF DUTY DRAWBACK:

10.1 I find that M/s. Beontime Exim had claimed duty drawback amounting to **Rs. 48,329/-** in respect of the four Shipping Bills. As per Rule 18 of the Customs and Central Excise Duties Drawback Rules, 2017, where drawback has been paid to an exporter but the sale proceeds in respect of such export goods have not been realized within the period allowed under FEMA 1999, the drawback shall be recovered. In the present case, no foreign inward remittance has been received by the exporter within the prescribed time period or thereafter against any of the four Shipping Bills.

10.2 I further find that the exporter has violated Rule 13 of the Customs and Central Excise Duties Drawback Rules, 2017, which requires the exporter to make a truthful declaration on the shipping bill that a claim for drawback is being made, and to furnish to the proper officer a copy of the shipment invoice giving particulars of the description, quantity and value of the goods to be exported. In the present case, the exporter is a non-existent, fictitious firm; all invoices issued by M/s. Beontime Exim are bogus; the supply chain was fabricated; and the GSTIN was cancelled. The declaration made for claiming drawback was therefore false and incorrect in material particulars, and the drawback claim was made by deliberate misrepresentation, willful misstatement and suppression of facts.

10.3 I also find that no relevant documents to support genuine purchase, valuation and exportation of the goods were presented by the exporter or are available on record. The exporter has not realized foreign exchange against any of the four Shipping Bills. Under these circumstances, the claim for drawback amounting to **Rs. 48,329/-** is inadmissible and the said amount is liable to be rejected and recovered in terms of Rules 3 and 18 of the Customs and Central Excise Duties Drawback Rules, 2017.

11. FOURTH ISSUE — PENALTIES:

11.1 Penalty under Section 114(iii) of the Customs Act, 1962:

I find that Section 114(iii) of the Customs Act, 1962 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 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, in the case of any other goods.

I find that M/s. Beontime Exim — a fictitious firm — caused the export of goods under four Shipping Bills by making false and incorrect declarations in material particulars, claiming fraudulent export incentives totalling Rs. 5,19,12,661/-, and doing so through a fabricated supply chain with a cancelled GSTIN. These acts and omissions have rendered the goods having declared FOB value of **Rs. 3,22,19,605/-** liable for confiscation under Sections 113(i), 113(ia) and 113(ja) of the Customs Act, 1962. Accordingly, M/s. Beontime Exim has rendered itself liable for penalty under **Section 114(iii)** of the Customs Act, 1962.

11.2 Penalty under Section 114AA of the Customs Act, 1962:

I find that Section 114AA of the Customs Act, 1962 provides that 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, such person shall be liable to a penalty not exceeding five times the value of goods.

I find that M/s. Beontime Exim has knowingly and intentionally caused to be made, signed and used the following declarations and documents which are false and incorrect in material particulars for the purposes of the Customs Act, 1962:

(i) All four Shipping Bills filed under Section 50 of the Customs Act, 1962 contain declarations as to the truth of their contents — declarations which were false and incorrect, inasmuch as the exporter was a non-existent, fictitious entity registered with the sole malafide intention of availing fraudulent export incentives, the GSTIN was cancelled, the supply chain was bogus and the invoices were fake.

(ii) The declarations made on the Shipping Bills claiming entitlement to drawback under Rule 13 of the Customs and Central Excise Duties Drawback Rules, 2017 were false and incorrect, as the exporter had no genuine export transaction to support any claim for drawback.

(iii) The IGST/Compensation Cess refund claims were based on bogus invoices and fabricated supply chains, and were thus based on false and incorrect documents.

In view of the above, M/s. Beontime Exim has rendered itself liable for penalty under **Section 114AA** of the Customs Act, 1962.

12. In view of the above facts of the case and findings on record, I pass the following order:-

ORDER

(i) I hold that the goods exported by M/s. Beontime Exim (IEC: CUNPK8958A) vide Shipping Bills No. 3051015 dated 08.08.2023, No. 3491930 dated 26.08.2023, No. 3731915 dated 05.09.2023 and No. 4261345 dated 28.09.2023 from Mundra Port, having declared FOB value of **Rs. 3,22,19,605/- (Rupees Three Crore Twenty Two Lakh Nineteen Thousand Six Hundred and Five Only)**, are liable for **confiscation** under

Sections 113(i), 113(ia) and 113(ja) of the Customs Act, 1962. I also note that the goods have already been cleared and are not available physically for confiscation; however, as discussed above, I impose redemption fine of **Rs. 30,00,000/- (Rupees Thirty Lakh only)** under Section 125(1) of the Customs Act, 1962, in lieu of confiscation.

(ii) I order **rejection of the claim of IGST Refund of Rs. 90,71,932/- (Rupees Ninety Lakh Seventy One Thousand Nine Hundred and Thirty Two Only)** and **Compensation Cess of Rs. 4,27,92,400/- (Rupees Four Crore Twenty Seven Lakh Ninety Two Thousand Four Hundred Only)** totaling **Rs. 5,18,64,332/- (Rupees Five Crore Eighteen Lakh Sixty Four Thousand Three Hundred and Thirty Two Only)** claimed by M/s. Beontime Exim in respect of the subject four Shipping Bills.

(iii) I order **rejection of the duty drawback claim of Rs. 48,329/- (Rupees Forty Eight Thousand Three Hundred and Twenty Nine Only)** claimed by M/s. Beontime Exim in respect of the subject four Shipping Bills.

(iv) I impose a penalty of **Rs. 10,00,000/- (Rupees Ten Lakh Only)** on **M/s. Beontime Exim** under **Section 114(iii)** of the Customs Act, 1962.

(v) I impose a penalty of **Rs. 5,00,000/- (Rupees Five Lakh Only)** on **M/s. Beontime Exim** (Proprietor-Sunil Ramjivanbhai Khatik) under **Section 114AA** of the Customs Act, 1962.

13. This Order-in-Original is issued without prejudice to any other action that may be taken against the Noticee or any other person, company or conveyance under the provisions of the Customs Act, 1962 or rules made thereunder, or under any other law for the time being in force, whether named in this Order or not.

14. The Show Cause Notice bearing No. 38/2025-26/ADC/AKM/ADJ/MCH dated 03.07.2025 is hereby disposed of on the above terms.

Digitally signed by
AMIT KUMAR MISHRA
Date: 28-08-2026
16:54:39

AMIT KUMAR MISHRA
Additional Commissioner of Customs,
Export Assessment Cell,
Custom House, Mundra

List of Noticee:

To,

M/s. Beontime Exim located
at 1st Floor, Milkat No. 6290,
F8 Kesar Plaza, Kathlal, Kheda, Vadodara

Copy to:

1. The Dy. Commissioner of Customs, SIIB, Mundra
2. The Dy. Commissioner of Customs, Export Assessnent, Mundra
3. The Dy./Asstt. Commissioner (RRA/TRC), Customs House, Mundra.
4. The Dy. Commissioner of Customs, EDI, Mundra
5. Guard File.