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
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A	फा. सं./ FILE NO.	GEN/ADJ/ADC/1958/2025-Adjn-O/o Pr Commr-Cus-Mundra
B	मूल आदेश सं. ORDER-IN- ORIGINAL NO.	MCH/ADC/AKM/194/2026-27
C	द्वारा पारित किया गया PASSED BY	**Amit Kumar Mishra,** Additional Commissioner of Customs, Custom House, Mundra
D	आदेश की तिथि DATE OF ORDER	18.06.2026
E	जारी करने की तिथि DATE OF ISSUE	18.06.2026
F	कारण बताओ नोटिस सं. एवं तिथि SCN NO. & DATE	47/2025-26/ADC/AKM/MCH issued on 08.08.2025
G	नोटिसी/पार्टी / आयातक NOTICEE/PARTY/ EXPORTER	1. M/s. Alcan Logistics LLP, Customs Broker 2. M/s. MSC Agency (India) Private Limited, Shipping Line 3. M/s Zircon Marine Services Pvt. Ltd., Surveyor of Shipping Line
H	डिन DIN	20260671MO000000A698

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 धारा 128 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 60 दिन 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, 1982 और 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

M/s. Mundra Solar Energy Limited (AANCM0140K) (hereinafter referred as "the export" for brevity) had filed Shipping Bill No. 8869315 dated 28.03.2023 through their Customs Broker - M/s Alcan Logistics LLP (hereinafter referred as "the Customs Broker" for brevity), for the export of goods declared as "Solar PV Modules under" (CTH 85414300). The said shipping bill was filed under Scheme code 50 i.e. EPCG & Advance License and self-sealing, Total Nt. Wt. 17360 Kgs, FOB amount INR 1,09,32,732.33. On verification from the EDI System, it was observed that the said Shipping Bill was assessed by RMS and after assessment the Bill was never registered for export and purged in system after 30 days. The details of the consignment are as under:-

Name of Exporter	:	M/s Mundra Solar Energy Limited
Address of Exporter	:	Adani Corporate House, Shantigram, Near Vaishnodevi Circle, S.G Highway, Ahmedabad, Gujarat-382421.
IEC No.	:	AANCM0140K
Name of CB	:	M/s. Alcan Logistics LLP
GSTIN No.	:	24AANCM0140KIZL
Description of Goods	:	M540 Solar PV Modules (BI-Facial) (Model-No. ASB —M10-144-AAA) (CTH-85414300)
Shipping Bill No. & Date	:	8869315 dated 28.03.2023
Container No.	:	TRLU8191111

Country of Final Destination	:	USA

1.1 The Customs Broker vide their letter dated 25.10.2023 (enclosing Exporter's letter dated 17.10.2023) requested Deputy Commissioner of Customs, Export Assessment, Mundra, to issue "shipment certificate" for the said shipment by stating that in the month of March 2023, they had filed 23 shipping bills for a lot of 50 containers against P.O. NO. BPRME-1599, these containers were loaded on vessel AMERICA / IU312A, sailed on 02nd April 2023; that since there was a year-end rush and 23 shipping bills were filed together; that one of the shipping bill nos. 8869315 Dated 28th March 2023 was filed against container no. TRLU8191111, however, due to oversight, their operational person missed obtaining the LEO for subject Shipping Bill and somehow subject container was loaded along with another container on the same vessel along with other containers. They had provided following documents: -

i. Exporter request letter dated 17.10.2023

ii. HBL and MBL copies

iii. Shipped on Board confirmation mail from MSC line

iv. Assessed copy of S/B- 8869315 Dated: 28.03.2023

v. Tracking report from MSC

1.2 The matter was forwarded to SIIB, Mundra, through e-file, for further enquiry in the matter, with the approval of the competent authority.

INVESTIGATION:-

2. The documents submitted by the Customs Broker vide their letter dated 25.10.2023 including the exporter's letter dated 17.10.2023, were examined and following has been found: -

i. The exporter had stuffed container no. TRLU8191111 at their plant on 27th March 2023 and accordingly their Customs Broker M/s. Alcan Logistics LLP had filed Shipping bill no 8869315 dated 28.03.2023 and container was gated in at Mundra Terminal on same day;

ii. The subject shipping bill no. 8869315 dated 28.03.2023 was filed under Scheme code 50 i.e. EPCG & Advance License and self-sealing and the subject container TRLU8191111 was "Self Seal".

iii. The copy of the shipping bill and the details therein were verified. It was found that, although assessment of the referred Shipping Bill was done through RMS, LEO was not granted and shipping bill got purged after 30 days, in ICES system.

iv. the subject container was loaded on vessel America – IU312A on 2nd April, 2023 through MBL No. MEDUIU342586 and HBL No. 440973000111 dated 2nd April, 2023;

v. As per exporter's submission, the cargo reached their consignee M/s Lantana Solar on 11th May, 2023 and after de-stuffing of the cargo the empty container was sent to MSC nominated empty yard on 18th May, 2023;

Thereafter, Exporter asked their CB for the LEO Copy, but after understanding from CB, they got know that LEO Copy was not generated but the container was loaded on vessel and the subject S/bill had gone in 'HIST'.

v. HBL and MBL were verified and accordingly container was tracked through MSC line and it was found that the subject container had been exported on to the vessel and reached at destination on 11th May 2023, as informed by the exporter and their CB.

vi. The Customs broker, vide their letter dated 25.10.2023, submitted that in the month of March 2023, they had filed 23 shipping bills for a lot of 50 containers against P.O. NO. BPRME-1599, these containers were loaded on vessel AMERICA / IU312A, sailed on 02nd April 2023; that since there was a year-end rush and 23 shipping bills were filed together; that one of the shipping bill nos. 8869315 Dated 28th March 2023 was filed against container no. TRLU8191111, however, due to oversight, their operational person missed obtaining the LEO for subject Shipping Bill and somehow subject container was loaded along with another container on the same vessel along with other containers

3. SUMMONS AND STATEMENT

3.1 Since the goods were loaded on the vessels and unloaded on port of discharge without completing due procedures of export of goods, as prescribed under the Customs Act, 1962, for further investigation, Summons dated 24.02.2024 was issued to the Customs Broker i.e. M/s Alcan Logistics LLP for recording their statement under Section 108 of the Customs Act, 1962.

Accordingly, Shri Anil Ananda Suvarna, authorized person of CB M/s Alcan Logistics LLP, was appeared on 05.03.2024 and his statement was recorded under Section 108 of the Customs Act, 1962, wherein he inter-alia stated that :-

- They have filed the Shipping Bill No. 8869315 dated 28.03.2023 on behalf of the exporter i.e. M/s Mundra Solar Energy Limited.
- They submitted that in general after LEO of the SBs, they handover LEO copy of the Shipping Bills by way of uploading the same on the 'ODeX' Portal. 'ODeX' stands for Online Documents Exchange. Thereafter, rest of the works related to handling/loading on board of containers is looked after by the terminal, shipping line or the surveyor. Thereafter, upon loading of the containers on the vessel, we do receive the Master BL as well as confirmatory mail from the Shipping Line regarding the loading of containers on the vessel;
- They have not booked export container TRLU8191111 in respect of SB 8869315 dated 28.03.2025; that the container was booked by the forwarder M/s Alisped India Pvt. Ltd., New Delhi, who is the forwarder in the present case; that the Shipping Line M/s MSC Line has raised tax invoice no. GJ0 1EMI352631222 dated 31.03.2023 for sea freight charges and other related charges for INR 2,33,945/-. The same must have been paid to the shipping line as without payment the shipping line does not release the Bill of Lading and DO of the container at Port of Discharge i.e. USA.
- On being asked, when they came to know about LEO has not been taken in respect of Shipping Bill No. 8869315 dated 28.03.2023, he stated that they came to know that LEO has not been taken in respect of Shipping Bill No. 8869315 dated 28.03.2023 in first week of Oct.-2023, when the exporter asked for the LEO copy of the Shipping Bill. As soon as they came to know this error, they informed the exporter M/s Mundra Solar Energy and to the department and requested to regularize the SB.
- They also submitted that in the month of March, 2023, more than 200 containers were stuffed by their customer/exporter M/s. Mundra Solar Energy Ltd. and exported to the USA. In the Month of March, 2023, they had filled 23 Shipping Bills for a lot of 50 containers against Purchase Order No. BPRME1599. Those containers were loaded on vessel America/U312A, which sailed on 2nd Apr., 2023. There was a year-end rush and 23 S/B were filled together, including S/B- 8869315 Dated: 28.03.2023, container No.: TRLU 8191111 hence, unintentionally due to

oversight LEO could not be obtained for that S/B- 8869315 Dated: 28.03.2023, and the said container No.: TRLU 8191111 was also loaded along with other containers on the same vessel.

3.2 Further, Summons dated 16.04.2024 was issued to M/s. MSC Agency (India) Private limited, Shipping Line and accordingly, statement of Shri Rohan Milind Phadnis, authorized person of Shipping Line M/s MSC Agency (India) Private limited, was recorded on 24.04.2024, under Section 108 of the Customs Act, 1962, wherein he inter-alia stated that:-

- M/s MSC Agency (India) Private Limited is a subsidiary company of M/s MSC Mediterranean Shipping Company and acting as their India Agent; that they are a Private Limited company engaged in provision of services related to transportation of cargo through sea route; that they are registered with GSTN (GSTIN- 24AACCM7663A1ZR since Jul.-2017) for the provision of said services.
- They are completely aware about our responsibilities as a shipping line/carrier entrusted vide Sea Cargo Manifest and Transhipment Regulations, 2018.
- the container TRLU8191111 (40'HC) was booked from them by the shipper/forwarder M/s Alisped India Pvt. Ltd., New Delhi, who is the shipper in their BL; that this container was meant factory stuffing of cargo 'Solar PV Modules' at the factory premises of M/s Mundra Solar Energy Private Limited, Mundra; that the load port was Mundra (POL) and the port of discharge (POD) was Houston, USA.
- On being asked for the container tracking report i.r.o subject cargo, he submitted container tracking report in respect of cargo exported by M/s Mundra Solar Energy Limited, Mundra in container No. TRLU8191111 in respect of Bill of Lading No. MEDUIU342586 dated 02.04.2023 issued by them. He further stated that the empty container was handed over to the shipper/forwarder M/s Alisped India Pvt. Ltd., New Delhi on 27.03.2023, export container received back at Mundra port terminal on 28.03.2023 and loaded on vessel 'America V. IU312A on 02.04.2023; that the container was discharged from the said vessel directly at POD Houston USA on 11.05.2023 and DO was released by us on 15.05.2023; that the container was de-stuffed at the premises of the consignee and empty container was received back on 18.05.2023.

- He perused statement of Shri Anil Ananda Suvarna authorized person of the Customs Broker firm M/s Alcan Logistics LLP, Mumbai.
- they have raised tax invoice no. GJ01EMI352631222 dated 31.03.2023 for INR 2,33,945/- to the shipper/forwarder M/s Alisped India Pvt. Ltd. towards sea freight and other related charges; that the same have also been paid by M/s Alisped India Pvt. Ltd. as without payment do not release the Bill of Lading and DO of the container at Port of Discharge ie. USA in this case.
- On being asked about the documentation and other container handling process done at their end, he stated that after due processing of shipping bill at Customs, Customs Broker of the shipper/exporter provided them export documents (i) Let Export Order (LEO) copy of Shipping Bill No. 8869315 dated 29.03.2023, (ii) Check List for Shipping Bill No. 8869315 dated 28.03.2023 issued by Customs Broker M/s Alcan Logistics LLP, (iii) Invoice No. 192400005146 dated 27.03.2023, concerned Packing List and Self Sealing Examination Report in respect of goods exported by M/s Mundra Solar Energy Limited, Mundra in Container No. TRLU8191111 online through the 'ODeX' Portal.
- He further stated that 'ODeX' stands for Online Documents Exchange, which is India's first Digital Platform for Online Documents Exchange & convenience for making the Payments for Ocean Shipping Industry & EXIM trade. Thereafter, rest of the works related to handling/loading on board of container was looked after by them.
- He further stated that their surveyor M/s Zircon Marine Services Pvt. Ltd., Adanı Preadvice Gate, Rangoli Parking Area, Adani Port Road, Office No: C, Mundra (Kutch-Gujarat)370421 retrieves and verifies the documents uploaded on 'ODeX' and we prepare Export Advance List (EAL) containing the details viz. Line code, Import/Export, Name of the Vessel, Voyage no., Container no., gross weight, seal no., Port of Loading (POL), Port of Discharge (POD), Shipping Bill no. etc..The said Export Advance List (EAL) also bears a declaration from our side as under:

  > "All containers mentioned in the EXPORT ADVANCE LIST for the mentioned vessel are cleared under LET export and allowed for shipment by customs. We are also in possession of the shipping bills for the containers mentioned in the EXPORT ADVANCE LIST"

- He further stated that duly signed and stamped copy of that EXPORT ADVANCE LIST was handed over to the terminal for further handling and loading of the Container No. TRLU8191111 on the vessel; that upon loading

of the containers on the vessel 'America V. IU312A', they had issued the Master Seaway Bill of Lading No. MEDUIU342586 dated 02.04.2023 as well as sent a confirmatory mail to the shipper/exporter and Customs Broker regarding the loading of container on the vessel

- He further stated that export goods was stuffed into the said container at the factory premises of M/s Mundra Solar Energy Limited, Mundra; that after due processing of the shipping bill no. 8869315 CHA has provided them related export documents online through 'ODeX' portal which was verified by their surveyor M/s Zircon Marine Services Pvt. Ltd.. they have prepared Export Advance List of the basis those documents and handed over it to the terminal for further handling and loading of container on the vessel. After loading of container on the vessel, they have issued Master Seaway Bill of Lading No. MEDUIU342586 dated 02.04.2023.

3.3 Further, Summons dated 31.12.2024 was issued to M/s. Zircon Marine Services Pvt. Ltd., Surveyor of Shipping Line M/s. MSC Agency (India) Private limited, and accordingly, statement of Shri Bijoy B Pillai, Manager of M/s Zircon Marine Services Pvt. Ltd., was recorded on 20.01.2025, under Section 108 of the Customs Act, 1962, wherein he inter-alia stated that:-

- Shri Bijoy B Pillai Manager of M/s Zircon Marine Services Pvt. Ltd. has been duly authorised by Shri Evret Fernandes Sr.Manager Operations of M/s. Zircon Marine Services Pvt. Ltd. to tender statement in the present case on behalf of Company; that he had been looking after entire surveyor operations in respect of Customs works related to import/export at Mundra Port on behalf of Shipping line M/s. MSC Agency (India) Pvt. Ltd.for more than five years.
- On being asked about the role of their Surveyor company, he stated that they had been working as a surveyor appointed by M/s. MSC Agency (India) Pvt. Ltd. to receive the documents and verify the same in respect of containers/consignments arrive at port for export/import.
- He further stated that all the factory stuffed/self-sealed containers are getting inward by Mundra port only after verification of seal by Customs officer posted at gate through RFID hand readers they have; that the respective port is staking the containers in designated are demarcated for storage of such containers inside the port till further communication from shipping line/exporter. As soon as receipt of final documents, especially the let export order from respective CHA/exporter through the

ODEX System, they confirm the same to shipping line M/s. MSC Agency (India) Pvt. Ltd. on receipt of the confirmation about the customs clearance; that on request of CHA/exporter, the shipping line further proceeds for the movement/ loading of the containers to respective vessels and containers/shipment get discharged.

- Yes. They are completely aware about our responsibilities as a shipping line/carrier entrusted vide Sea Cargo Manifest and Transhipment Regulations, 2018. He further stated that their company is well aware about the same and always do comply with the same.
- On being asked, about the ODEX portal and what it's used in export of container of goods in Mundra port, he stated that "ODEX" stands for Online Documents Exchange in the ODEX' Portal., which is India's first Digital Platform for Online Documents Exchange & convenience for making the Payments for Ocean Shipping Industry & EXIM trade.; that they, surveyor M/s Zircon Marine Services Pvt. Ltd., retrieves and verifies the documents uploaded on 'ODEX' and confirm the let export order of shipment and send the confirmation information of like container Number, Seal No, Shipping Bill no. etc. to Shipping line M/s. MSC Agency (India) Pvt. Ltd. for further proceeds for the movement/ loading of the containers to respective vessels and containers/shipment get discharged.
- On being asked, whether they received the confirmation document like Let export order from respective CHA/exporter through the ODEX System in case of Shipping Bill No. 8869315 dated 28.03.2023, he stated that in case of subject shipping Bill No. 8869315 dated 28.03.2023 they received let export order from CHA M/s. Alcan Logistics LLP on behalf of exporter M/s. Mundra Solar Energy Limited through the ODEX' Portal. Further, as per the procedure they had given confirmation to respective shipping line about the receipt of document from exporter CHA M/s. Alcon Logistics LLS on behalf of exporter M/s. Mundra Solar Energy Limited for further process of documents toward the movement of containers for its shipment.
- They had not verified each page of let export order copy of Shipping Bill. uploaded in the ODEX' Portal. They verified only the first page of let export order copy of Shipping Bill. 8869315 dated 29.03.2023 which contain required details like container No, shipping Bill No, dated, shipper details, consignee details, LEO No. dated etc. in the ODeX' Portal

and sent the confirmation details to Shipping line M/s. MSC Agency (India) Pvt. Ltd. for further proceeds.

- He further stated that they did not verify the remaining pages of let export order copy of Shipping Bill. 8869315 dated 29.03.2023 uploaded in the ODEX' Portal. So they did not notice that uploaded shipping bill's remaining pages showing pertain to another shipping Bill. No. 8902821 dated 29.03.2023.

3.4 For Further investigation, Summons dated 31.01.2025 (RUD-7) and 21.02.2025 & 06.03.2025 were again issued to Customs Broker i.e. M/s Alcan Logistics LLP for recording their statement under Section 108 of the Customs Act, 1962. Accordingly, Shri Anil Ananda Suvarna, authorized person of CB M/s Alcan Logistics LLP, was appeared on 06.03.2025 and his statement was recorded under Section 108 of the Customs Act, 1962, wherein he inter-alia stated that:-

- On being perused statement dated 20.01.2025 of Shri Bijoy B Pillai, Manager of M/s Zircon Marine Services Pvt. Ltd, Surveyor of Shipping Line, wherein Shri Bijoy B Pillai had stated that the copy of let export order of Shipping Bill 8869315 had been uploaded by the CB – M/s Alcan Logistics LLP on the 'ODEX' portal;
- he stated that they did not fabricate the LEO Copy of the said Shipping bill; that one of their employee mistakenly uploaded the LEO copy of the said shipping bill which have different shipping bill numbers and other details on the other pages of that LEO copy.

4. FINDINGS OF THE INVESTIGATION

4.1 On October 25, 2023, M/s Alcan Logistics LLP. Customs Broker, enclosing a letter from the exporter dated October 17, 2023, requested a "shipment certificate", whereby they explained that amidst a year-end rush in March 2023, when 23 shipping bills for 50 containers against P.O. No. BPRME-1599 were filed for vessel AMERICA / IU312A (sailed April 2, 2023), their operational person "missed obtaining the LEO" for the subject Shipping Bill (container no. TRLU8191111)" but the container was somehow loaded and exported.

4.2 On the basis of above submission of Exporter M/s. Mundra Solar Energy Limited (AANCM0140K), Customs Broker – M/s Alcan Logistics LLP, Shipping line -

M/s. MSC Agency (India) Pvt. Ltd. and its Surveyor – M/s. Zircon Marine Services Pvt. Ltd., it is confirmed that the declared goods "Solar PV Modules" under Shipping Bill No. 8869315 dated 28th March, 2023, in factory stuffed self-seal container TRLU8191111, was loaded on vessel and exported to the destination without the mandatory Let Export Order (LEO) being granted by Customs Officer. Further, the subject shipping bill was got purged after 30 days in ICES system.

4.3. In view of the foregoing, as the declared goods "Solar PV Modules" under factory stuffed Self Sealed container TRLU8191111, was loaded on the vessel and exported to USA (destination country) without Let Export Order i.e. without the permission of proper officer, the subject goods are liable for confiscation under Section 113(g) of the Customs Act, 1962.

5.(i) **Role of M/s. Alcan Logistics LLP (Customs Broker) :-**

M/s Alcan Logistics LLP, the Customs Broker, submitted in their statements dated 05.03.2024 and 06.03.2025 that they filed Shipping Bill No. 8869315 dated 28.03.2023 on behalf of the exporter, M/s Mundra Solar Energy Limited, for the export of Solar PV Modules in container TRLU8191111.

The Customs Broker admitted to an operational oversight, wherein their employee failed to obtain the mandatory Let Export Order (LEO) for the said shipping bill, and the container was inadvertently loaded onto the vessel AMERICA / IU312A, which sailed on 02.04.2023. Furthermore, they uploaded a LEO copy on the 'OdeX' portal, in which first page contained details of Shipping Bill. 8869315 dated 29.03.2023 and on subsequent pages details of another shipping bill (No. 8902821 dated 29.03.2023), misleading the shipping line and its surveyor. This act facilitated the unauthorized export of goods without proper customs clearance, rendering the goods liable for confiscation under Section 113(g) of the Customs Act, 1962.

By their acts of omission in failing to obtain the LEO and commission in uploading a wrong LEO copy, M/s Alcan Logistics LLP have rendered themselves liable for penal action under Section 114(iii) of the Customs Act, 1962, for facilitating the export of goods without proper authorization.

Additionally, by submitting wrong documents on the 'OdeX' portal, M/s Alcan Logistics LLP is liable for a penalty under Section 114AA of the Customs Act, 1962, for using falsified documents to facilitate unauthorized export.

(ii) Role of M/s. MSC Agency (India) Private Limited (Shipping Line):

M/s MSC Agency (India) Private Limited, the Shipping Line, through their authorized representative Shri Rohan Milind Phadnis, stated on 24.04.2024 that they were responsible for the transportation of container TRLU8191111, booked by the forwarder M/s Alisped India Pvt. Ltd., for the export of Solar PV Modules by M/s Mundra Solar Energy Limited.

The Shipping Line received export documents, including a purported Let Export Order (LEO) copy for Shipping Bill No. 8869315 dated 28.03.2023, through the 'OdeX' portal, which they relied upon to prepare the Export Advance List (EAL). The EAL, bearing a declaration that all containers were cleared under LEO and allowed for shipment by customs, was submitted to the terminal, enabling the loading of container TRLU8191111 onto the vessel AMERICA / IU312A on 02.04.2023. However, the Shipping Line failed to verify the authenticity of the documents received via the 'ODeX' portal i.e LEO copy, resulting in the unauthorized export of goods without proper customs clearance. This renders the goods liable for confiscation under Section 113(g) of the Customs Act, 1962.

By their act of omission in not verifying the authenticity of the LEO and proceeding with the shipment, M/s MSC Agency (India) Private Limited has facilitated the export of goods in violation of customs regulations. Consequently, they have rendered themselves liable for penal action under Section 114(iii) of the Customs Act, 1962, for their role in the unauthorized export.

(iii) Role of M/s Zircon Marine Services Pvt. Ltd. (Surveyor):

M/s Zircon Marine Services Pvt. Ltd., the Surveyor appointed by M/s MSC Agency (India) Private Limited, through their authorized representative Shri Bijoy B Pillai, stated on 20.01.2025 that they were responsible for retrieving and verifying export documents uploaded on the 'OdeX' portal.

In the case of Shipping Bill No. 8869315 dated 28.03.2023, they received a purported Let Export Order (LEO) copy from the Customs Broker, M/s Alcan Logistics LLP, on behalf of the exporter, M/s Mundra Solar Energy Limited. However, they admitted to verifying only the first page of the LEO copy, which contained details such as container number, shipping bill number, and shipper details, and failed to check the subsequent pages, which pertained to another shipping bill (No. 8902821 dated 29.03.2023). This incomplete verification led to their confirmation to the Shipping Line that the documents were in order, facilitating the loading of container TRLU8191111 onto the vessel AMERICA / IU312A on 02.04.2023 without proper customs clearance. The export of goods

without a valid LEO renders them liable for confiscation under Section 113(g) of the Customs Act, 1962.

By their act of omission in failing to thoroughly verify the LEO copy, M/s Zircon Marine Services Pvt. Ltd. has contributed to the unauthorized export of goods, thereby rendering themselves liable for penal action under Section 114(iii) of the Customs Act, 1962, for their negligence in document verification.

6. <u>Relevant legal provision</u>

(i) Section 2(19) of Customs act, 1962 defined the terms "Exported Goods":

"export goods means any goods which are to be taken out of India to a place outside India"

(ii) Section 113* of Customs act, 1962*: Confiscation of goods attempted to be improperly exported, etc.*-*

"The following export goods shall be liable to confiscation:-

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(g) any goods loaded or attempted to be loaded on any conveyance, or water-borne, or attempted to be water-borne for being loaded on any vessel, the eventual destination of which is a place outside India, without the permission of the proper officer;

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(iii) Section 114* of Customs act, 1962*: 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, -

(iv) *in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty [not exceeding 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."

(iv) 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."

(v) 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"

7. Accordingly, M/s. Alcan Logistics, Piot No. 355/D, Sudarshan Bungalow, Near DAV Public School, Ward No. 6 A, Adipur, Gandhidham, Kachchha-370205, were called upon to show cause within thirty days from the date of receipt of this notice, to the Additional Commissioner of Customs, Mundra, having his office situated at First Floor, Port User Building, Custom House Mundra, Kutch, Gujarat-370421, as to why**: -**

(i) penalty under section 114 (iii) of the Customs Act, 1962 should not be imposed;

(ii) penalty under section 114AA of the Customs Act, 1962 should not be imposed;

8. Also, M/s. MSC Agency (India) Private Limited, Shipping Line, 2, 201, Siddhi Vinayak Complex, Ward-6, Near Rotary Circle, Kachchh, Gujarat-370201., were called upon to show cause within thirty days from the date of receipt of this notice, to the Additional Commissioner of Customs, Mundra, having his office situated at First Floor, Port User Building, Custom House Mundra, Kutch, Gujarat-370421, as to why**: -**

(i) penalty under section 114 (iii) of the Customs Act, 1962 should not be imposed;

9. Also, M/s Zircon Marine Services Pvt. Ltd., 1005/1006, Trishul Goldmine, Plot No. 04, Sector-15, CBD Belapur, Navi Mumbai-400614, were called upon to show cause within thirty days from the date of receipt of this notice, to the Additional Commissioner of Customs, Mundra, having his office situated at First Floor, Port User Building, Custom House Mundra, Kutch, Gujarat-370421, as to why**: -**

(i) penalty under section 114 (iii) of the Customs Act, 1962 should not be imposed;

WRITTEN SUBMISSION AND PERSONAL HEARING

10. M/s. Alcan Logistics, Customs Broker, submitted their written submission vide their letter dated 06.11.2025. Further, Shri Jaydeep C Patel, Advocate, authorized representative of M/s. Alcan Logistics, Customs Broker (Noticee no. 1) appeared for personal hearing on 07.11.2025 through virtual mode. During the personal hearing he re-iterated the written submission dated 06.11.2025. Their submission are as under:-

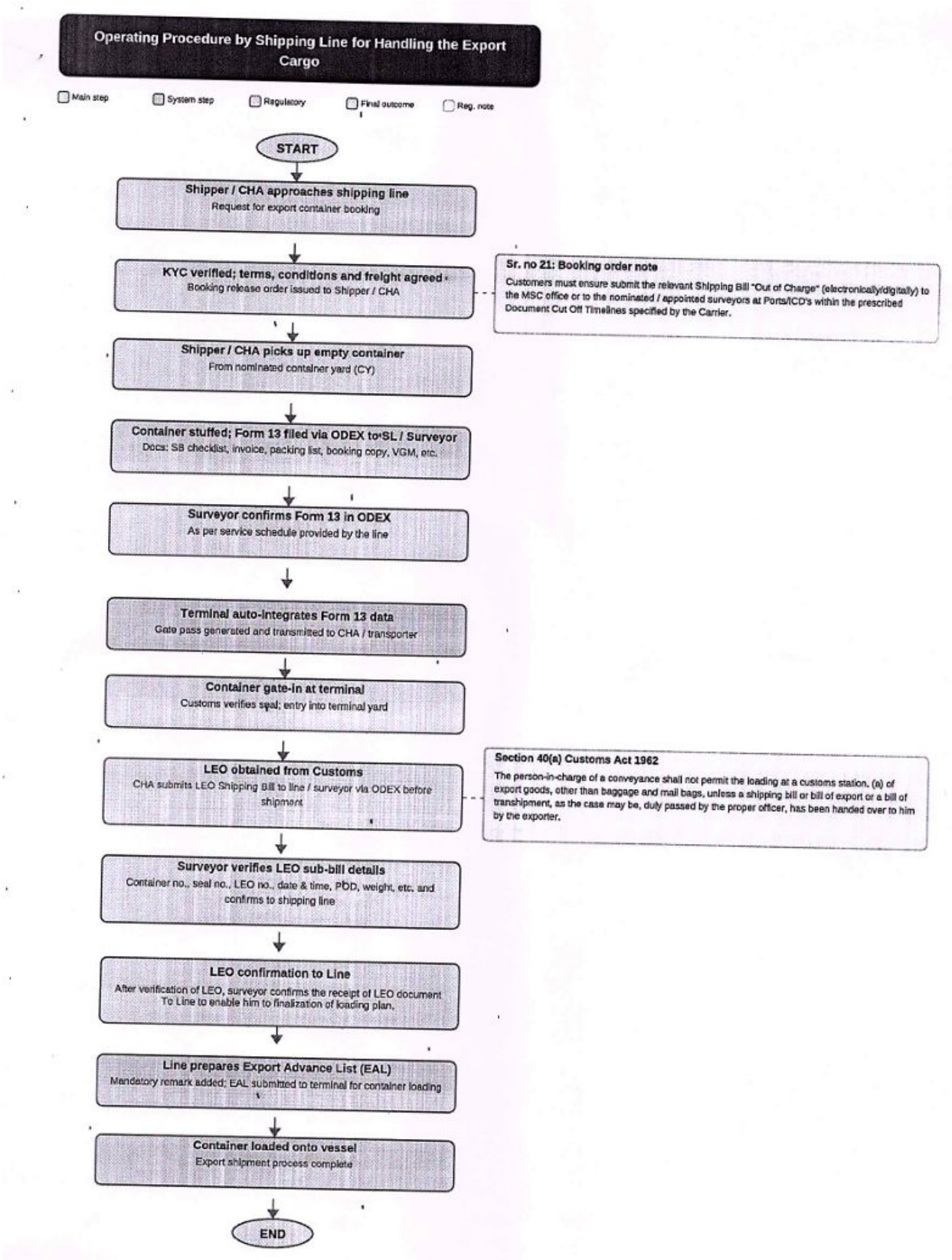
- Under Section 40(a) of the Customs Act, 1962, it is the responsibility of the person in charge of the conveyance not to permit export goods to be loaded on the vessel before the Let Export Order (LEO) is passed. Section 34 further provides that export goods shall not be loaded on any conveyance except under the supervision of the proper officer. Once the goods are

brought into the port, the Customs Broker has no control over the goods or their loading on the vessel. It is the duty of the person in charge of the vessel to ensure compliance. If the vessel loads the goods without LEO, the Customs Broker cannot be held liable, as held in *Permionics Membranes P. Ltd v CC - 2015 (323) ELT 595* and *Arvind Ltd v CC - 2017 (355) ELT 422*.

- The fact that Alcan Logistics had filed 23 Shipping Bills for one lot of 50 containers, and the oversight regarding the absence of LEO occurred in only one Shipping Bill, clearly rules out any mens rea or deliberate wrongdoing. There was no reason for the lapse except inadvertence/oversight. There was neither any undue benefit to the exporter or to them, nor any loss to the revenue. The Show Cause Notice itself acknowledges in Para 5(i) that it was an operational oversight/inadvertence on the part of their employee in not realizing that the Let Export Order had not been passed in one out of the 23 Shipping Bills. Section 114 does not provide for imposition of penalty on account of mere oversight or inadvertence.
- Upon realizing that there was no Let Export Order in respect of one Shipping Bill out of the 23, Alcan Logistics on their own brought the said fact to the notice of the department vide their letter dated 25th October 2023. This act itself establishes their bona fides and rules out any mens rea. Accordingly, no penalty is imposable on them, as held in the decisions relied upon by them, which state that penalty is not imposable on a person who, on realizing a mistake, himself approaches the department and brings the mistake to the notice of the department.
- They denied having fabricated the LEO copy of the Shipping Bill uploaded on ODEX and reiterated their submissions made in the written reply dated 6-11-2025 in this regard. The allegation of fabrication based merely on statements of co-noticees is not sustainable, particularly when the said persons have not been examined under Section 138B of the Customs Act, 1962.
- They further submitted that Section 114AA has no application in their case. They requested for dropping the proceedings against them and had nothing further to add.

11. M/s. Zircon Marine Services Pvt. Ltd, in their written submission vide letter dated 09.09.2025, 11.03.2026 and 16.03.2026, has submitted that:

- Their role in the transaction was limited to document verification and survey of the containers on behalf of the shipping line, M/s. MSC Agency (India) Pvt. Ltd., based on documents received through ODEX platform. As per the booking request made by M/s. Alisped India Pvt. Ltd. (on behalf of M/s. Mundra Solar Energy Ltd.), the shipping line issued Booking Release Order No. EBKG05313156-1 dated 24.03.2023 for 10 x 40' containers. The booking confirmation itself clearly mandates that exporters must submit "Shipping Bill - Let Export Order (LEO)" and other documents via ODEX, including submission to the surveyor (in this case, them) for further movement.
- They have no role as exporter, Customs Broker, or CHA, and they neither file Shipping Bills nor obtain LEO from Customs. They have no access to the Customs EDI system, ICEGATE backend, or LEO generation module.
- Zircon Marine submitted that the exporter, M/s. Mundra Solar Energy Ltd., and their Customs Broker, M/s. Alcan Logistics LLP, had submitted a fabricated Let Export Order for Shipping Bill No. 8869315 dated 28.03.2023 in respect of Container No. TRLU8191111 by forging another valid Shipping Bill. They contended that they had verified the documents in good faith, assuming the authenticity of the documents submitted by a licensed Customs Broker and a reputed exporter (a state government entity and part of the Adani Group). They had no access or authority to verify the backend status of the Shipping Bill with Customs. As a surveyor, they are not supposed to verify the authenticity or genuineness of the LEO from the Customs backend system, and there is no statutory provision under the Customs Act, 1962, imposing any such duty upon them.
- They further submitted that there was complete absence of mens rea, collusion, or any financial gain on their part.
- They emphasized that the primary responsibility for ensuring compliance with export procedures and submission of valid documents lies with the exporter and their authorized Customs Broker under the Customs Act, 1962. Issuing a Show Cause Notice to them, a third-party surveyor with a limited role, amounts to misdirection of accountability.
- They further enclosed the Operating Procedure followed by the shipping line for handling export containers, along with a copy of the Booking Release Order issued by M/s. MSC Agency (India) Pvt. Ltd. The same is as under:-



11.1 Shri Koshy Chacko and Shri Bijoy Pillai, authorised representative of M/s. Zircon Marine Services Pvt. Ltd, appeared for personal hearing, in person, on 07.11.2025, wherein they submitted that container was loaded on vessels on the basis of documents received from CHA on ODex portal. When asked to produce the

relevant documents, they have requested one month time to prepare and submit his submissions and all supporting documents.

11.1.1 Shri Koshy Chacko, authorized representative of M/s. Zircon Marine Services Private Limited, appeared for personal hearing, in person, on 05.02.2026, wherein he re-iterated their earlier submission dated 09.09.2025. Further, he stated that a telephonically request was made to MSC Shipping to forward all documents and correspondence received from ODex regarding container no. TRLU8191111 and all relevant emails and documentation will be submitted with clarification/reply within one week.

11.1.2 Shri Koshy Chacko, Shri Bijoy Pillai and Shri Evret Fernandes, authorized representative of M/s. Zircon Marine Services Pvt. Ltd., appeared for personal hearing, in person, on 11.03.2026, wherein they have re-iterated their earlier written submission. They have also given an additional submission dated 11.03.2026, in defence of their case. They further stressed that M/s. Zircon Marine Services Pvt. Ltd, is acting as surveyor and they are not supposed to verify the authenticity/genuineness of LEO, submitted by CB. They also promised to submit the operating procedure, the shipping lines follow for handling the Cargo, in a week time.

12. M/s. MSC Agency (India) Private Limited, Shipping Line, in their written submission vide letter dated 07.11.2025, 05.02.2026 and 11.03.2026 has submitted that:

- MSC Agency submitted that they are a global shipping line and had engaged M/s. Zircon Marine Services Pvt. Ltd. as their surveyor at Mundra Port for verification of export documents uploaded on the ODEX platform. Their role was limited to receiving confirmation from the appointed surveyor after document verification. They stated that the Let Export Order (LEO) copy for Shipping Bill No. 8869315 dated 28.03.2023 in respect of Container No. TRLU8191111 was received through the ODEX portal from the Customs Broker, M/s. Alcan Logistics LLP. The surveyor, after verification, gave confirmation to them for further processing.
- They emphasized that the lapse occurred due to the act of the Customs Broker, who admitted in their statement dated 05.03.2024 and 06.03.2024 that due to operational oversight, they failed to obtain the Let Export Order and uploaded a manipulated LEO copy on ODEX (first page belonging to SB

No. 8869315 and subsequent pages belonging to another Shipping Bill No. 8902821 dated 29.03.2023). This act misled both the surveyor and the shipping line.

- They submitted that there was absolutely no mala fide intent on their part in the said lapse and followed the procedural compliance getting LEO Shipping Bill with Containers prior to loading. They further submitted that it is not practically feasible for a shipping line handling thousands of containers daily to verify each and every line of each and every documents submitted.
- Therefore, there being absolutely no malafide intent on their part, they cannot be held liable in any way, shape or form and therefore penalty under section 114(iii) of the Customs Act 1962 is in no way applicable to them in this matter, nor are they liable for the same.

12.1 Shri Vikam Singh, Authorized representative of M/s. MSC Agency (India) Private Limited, appeared for personal hearing, in person, on 07.11.2025, wherein they submitted that container was loaded on vessels on the basis of documents received from CHA on ODex portal. When asked to produce the relevant documents, they have requested one month time to prepare and submit his submissions and all supporting documents.

12.1.1 Shri Vikam Singh, Authorized representative of M/s. MSC Agency (India) Private Limited, appeared for personal hearing, in person, on 05.02.2026, wherein he re-iterated their earlier submission dated 07.11.2025. Further, he stated that a request through mail was sent to the ODex portal to retrieve all documents submitted by the Customs Broker regarding container no. TRLU8191111 and all relevant emails and documentation will be submitted within one week.

12.1.2 Shri Vikam Singh, Authorized representative of M/s. MSC Agency (India) Private Limited, appeared for personal hearing, in person, on 11.03.2026, wherein they have re-iterated their earlier written submission. They have also given an additional submission dated 11.03.2026, in defence of their case. They further submitted that received shipping bill and supported documents through ODEX only and requested to drop any penalty as they have not done any malpractice or manipulation.

DISCUSSION AND FINDINGS

13. I have carefully gone through the Show Cause Notice, the relied upon documents, the submission made by the Noticee's both in written and in personal hearing, the legal provisions and the records available before me. I find that in the

present case, principle of natural justice have been complied with and therefore, I proceed to decide the case on the basis of applicable laws/rules, written submissions and documentary evidences available on record.

13.1 I now proceed to decide the issues framed in the instant SCN before me. On a careful perusal of the subject Show Cause Notice and case records, I find that following main issues are involved in this case, which are required to be decided at the stage of adjudication: -

I. Whether M/s. Alcan Logistics LLP (Customs Broker) is liable for penalty under Section 114(iii) and Section 114AA of the Customs Act, 1962?
II. Whether M/s. MSC Agency (India) Private Limited (Shipping Line) is liable for penalty under Section 114(iii) of the Customs Act, 1962?
III. Whether M/s. Zircon Marine Services Pvt. Ltd. (Surveyor) is liable for penalty under Section 114(iii) of the Customs Act, 1962?

14. I find that Shipping Bill No. 8869315 dated 28.03.2023 was filed by M/s. Alcan Logistics LLP on behalf of M/s. Mundra Solar Energy Limited for export of Solar PV Modules in container No. TRLU8191111. The subject shipping bill no. 8869315 dated 28.03.2023 was filed under Scheme code 50 i.e. EPCG & Advance License and self-sealing and the subject container TRLU8191111 was “Self Seal”. The said shipping bill was assessed under RMS but Let Export Order (LEO) was never granted by the proper officer. The shipping bill got purged after 30 days in the ICES system. Despite non-grant of LEO, the container was loaded on board the vessel AMERICA Voyage IU312A which sailed from Mundra Port on 02.04.2023 and the goods were eventually reached its destination in Houston, USA, where it was de-stuffed on May 11, 2023.

14.1 I find that M/s. Alcan Logistics LLP, Customs Broker, vide their letter dated 25.10.2023 (enclosing the Exporter’s letter dated 17.10.2023), requested the Deputy Commissioner of Customs, Export Assessment, Mundra, to issue a “shipment certificate” for the said consignment. In the said letter, it was stated that in the month of March 2023, they had filed 23 shipping bills for a lot of 50 containers against Purchase Order No. BPRME-1599, which were loaded on vessel AMERICA Voyage IU312A that sailed on 02.04.2023. It was further submitted that due to year-end rush and simultaneous filing of 23 shipping bills, an oversight occurred on the part of their operational staff, as a result of which the Let Export Order (LEO) could not be obtained for Shipping Bill No. 8869315 dated 28.03.2023 filed in respect of container No. TRLU8191111, and the said container was inadvertently loaded on the vessel along with other containers. Along with the

request, the Customs Broker enclosed the following documents: (i) Exporter's request letter dated 17.10.2023; (ii) HBL and MBL copies; (iii) Shipped on Board confirmation mail from MSC Line; (iv) Assessed copy of Shipping Bill No. 8869315 dated 28.03.2023; and (v) Tracking report from MSC. The matter was thereafter forwarded to SIIB for further investigation.

15. The investigation conducted by the SIIB, Mundra, established that the goods declared as "Solar PV Modules" under Shipping Bill No. 8869315 dated 28.03.2023 (Container No. TRLU8191111) were exported to Houston, USA, without the mandatory Let Export Order (LEO). The investigation revealed that while the Shipping Bill was assessed via RMS, it was never registered for export and subsequently purged from the ICES system after 30 days. Crucially, it was found that the Customs Broker, M/s Alcan Logistics LLP, uploaded a manipulated document on the 'OdeX' portal; the first page pertained to the subject Shipping Bill, but subsequent pages belonged to an entirely different Shipping Bill (No. 8902821). This act, coupled with the failure of the Shipping Line (M/s MSC Agency) and the Surveyor (M/s Zircon Marine Services) to thoroughly verify the document's authenticity, facilitated the unauthorized loading of the container onto the vessel AMERICA / IU312A on 02.04.2023. Consequently, the export is confirmed to have occurred in violation of the Customs Act, 1962, as no "permission of the proper officer" was obtained prior to loading.

16. I have carefully examined the question of whether the goods covered under Shipping Bill No. 8869315 dated 28.03.2023 — declared as "Solar PV Modules" (CTH 85414300), exported in factory stuffed self-sealed container No. TRLU8191111 — are liable for confiscation under Section 113(g) of the Customs Act, 1962, for having been loaded on vessel AMERICA / Voyage IU312A and exported to Houston, USA, without the mandatory Let Export Order i.e. without the permission of the proper officer.

16.1 Section 113(g) of the Customs Act, 1962 provides that any goods loaded or attempted to be loaded on any conveyance, the eventual destination of which is a place outside India, without the permission of the proper officer, shall be liable to confiscation. However, the question of whether confiscation should actually be ordered in the present case requires a careful consideration of the facts and circumstances obtaining herein.

16.2 I find that the following material facts are clearly established from the record:

(i) The exporter, M/s. Mundra Solar Energy Limited, is not a noticee in the present Show Cause Notice. No contravention, error, or culpable act or omission has been alleged against the exporter in these proceedings. The investigation has not attributed any role to the exporter in the failure to obtain the LEO or in the uploading of the wrong LEO copy on the ODeX portal — both of which lapses have been attributed to the Customs Broker, M/s. Alcan Logistics LLP.

(ii) I further note that M/s. Mundra Solar Energy Limited had issued a formal Authority Letter and Declaration to M/s. Alcan Logistics LLP, appointing them as their Customs Agent for filing Bills of Entry and Shipping Bills. In the said Authority Letter, M/s. Mundra Solar Energy Limited specifically declared: *"We hereby appoint and authorize M/s. Alcan Logistics LLP as our Custom Agent to file our Bills of Entries / Shipping Bills on our behalf and represent us before Customs and other allied agencies to complete all the documentation formalities up to delivery of import consignments or export of our export shipment on our behalf."* The Authority Letter further specifically provides: *"Appointment of CHA under this Authority is specific to and limited to process our documents as provided by us for Customs Clearance with Customs Authority as a Licensed Custom House Agent (CBR) only."* This Authority Letter establishes that the appointment of M/s. Alcan Logistics LLP was for the purpose of processing documents for customs clearance as provided by the exporter, and that the responsibility for proper compliance with export procedures — including obtaining the LEO — was squarely that of the Customs Broker within the scope of this mandate. The exporter had further declared in the said letter that they are solely responsible for any irregularities or misdeclaration, and that the CHA was not consulted in any manner while placing or receiving orders with overseas parties. This further reinforces that the exporter's role was limited to providing export documents to the Customs Broker, and the failure to obtain the LEO was entirely the Customs Broker's operational lapse.

(iii) The exporter is the owner and beneficial owner of the goods. It is a settled principle that confiscation is an action directed against goods, the consequences of which ultimately fall upon the owner. Since the exporter — the owner of the goods — has not been charged with any contravention and has not been made a noticee, the principles of natural justice would be violated if the goods were ordered to be confiscated and a redemption fine were imposed, as the ultimate burden of such action would fall upon the exporter.

(iv) The goods have already been exported to Houston, USA, where they were de-stuffed on 11.05.2023. The goods are therefore physically not available within the

jurisdiction of this authority and are incapable of being seized or confiscated. An order of confiscation of goods that are no longer available within the country and which have already reached their intended destination would be an exercise in futility, serving no substantive purpose.

(v) The declared goods i.e. Solar PV Modules — a legitimate commodity with no prohibition on their export. There is no allegation of mis-declaration of the nature, description, or value of the goods. The violation in the present case is purely procedural — the failure to obtain the mandatory LEO before loading — and is entirely attributable to the lapses of the Customs Broker and, to a lesser extent, the Surveyor and the Shipping Line. Against the Purchase Order (No. BPRME-1599), 23 Shipping Bills were filed and 22 out of 23 were properly processed with LEO.

16.3 In view of the foregoing, I am of the considered opinion that it would not be just, equitable, or legally appropriate to order confiscation of the goods or to impose a Redemption Fine under Section 125 of the Customs Act, 1962 in the facts and circumstances of the present case, for the following reasons: first, the owner of the goods - the exporter - is not a noticee in these proceedings and no culpability has been attributed to them; second, the goods are no longer available for physical confiscation, having already been delivered at the destination; and third, the violation being purely procedural in nature and entirely attributable to third parties rather than the owner of the goods, the harsh consequence of confiscation would fall upon an innocent party, which is neither the intent of Section 113 nor a just outcome in the present facts. Accordingly, I refrain from ordering confiscation of the goods or imposing any Redemption Fine in respect of the subject consignment.

DISCUSSION ON IMPOSITION OF PENALTIES ON NOTICEES

17. Penalty on M/s. Alcan Logistics LLP (Customs Broker):-

17.1 I have carefully considered the submissions made by M/s. Alcan Logistics LLP in their written reply dated 06.11.2025 and during the personal hearing conducted on 07.11.2025. As discussed above, since the subject goods have not been held liable for confiscation under Section 113(g) of the Customs Act, 1962, the condition for imposition of penalty under Section 114(iii) of the Customs Act, 1962 — namely, that the act or omission of the noticee must render the goods liable to confiscation under Section 113 — does not stand fulfilled in the present proceedings. Accordingly, no penalty under Section 114(iii) of the Customs Act, 1962 is imposable on M/s. Alcan Logisitics LLP (Customs Broker). Having held above that penalty under Section 114(iii) of the Customs Act, 1962 is not imposable

in the present facts, I now proceed to examine whether M/s. Alcan Logistics LLP is liable for penalty under Section 114AA of the Customs Act, 1962.

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

17.2 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 the Act, such person shall be liable to a penalty. It is significant to note that Section 114AA is an independent penal provision. Unlike Section 114(iii), it does not require the goods to be liable for confiscation as a precondition. Its trigger is the use of a false or incorrect document in the transaction of customs business — an act that stands on its own footing, independent of confiscation proceedings.

17.3 I find that the investigation has conclusively established that M/s. Alcan Logistics LLP uploaded a wrong/false LEO copy on the ODeX portal in respect of Shipping Bill No. 8869315 dated 28.03.2023 pertaining to container No. TRLU8191111. As confirmed by the statement of Shri Bijoy B Pillai, Manager, M/s. Zircon Marine Services Pvt. Ltd. (Surveyor), recorded on 20.01.2025 under Section 108 of the Customs Act, 1962, the document uploaded on ODeX bore the first page pertaining to Shipping Bill No. 8869315 (with LEO details), while the subsequent pages pertained to an entirely different Shipping Bill No. 8902821 dated 29.03.2023.

17.4 I find that the Surveyor M/s. Zircon Marine Services Pvt. Ltd. in their submission, submitted the false LEO copy uploaded on ODeX by M/s. Alcan Logistics LLP, a licensed Customs Broker. M/s. Zircon Marine Services Pvt. Ltd further confirmed that they verified only the first page and, on that basis, confirmed to the Shipping Line that the customs clearance was in order, which led to the loading and export of the container without a valid LEO being granted by the proper officer. This act of uploading a false LEO document clearly establishes mens rea on the part of the Customs Broker, as it was done knowingly to facilitate the shipment despite the absence of a valid Let Export Order.

17.5 I find that when confronted with the Surveyor's statement, Shri Anil Ananda Suvarna, authorized person of M/s. Alcan Logistics LLP, in his statement recorded on 06.03.2025 under Section 108, admitted that a document was indeed uploaded on the ODeX portal, though he claimed that one of their employees had "mistakenly" uploaded the LEO copy of another shipping bill, resulting in a

document with pages from two different Shipping Bills. This admission is significant and clinching. The LEO document was therefore false and incorrect in material particulars on its very face. Whether the creation of such a document is characterised as a "mistake" or deliberate fabrication does not alter the character of the document itself. The intentional uploading of this falsified document demonstrates clear mens rea attributable to the Customs Broker. The use of such a document on the ODeX portal — a regulated digital platform — in connection with the export transaction under Shipping Bill No. 8869315 dated 28.03.2023, squarely constitutes the use of a document false and incorrect in material particulars in the transaction of customs business within the meaning of Section 114AA of the Customs Act, 1962.

17.6 I find that the Customs Broker has submitted that they did not fabricate the LEO copy and that the allegation of fabrication based merely on statements of co-noticees is not sustainable since those persons have not been examined under Section 138B of the Customs Act, 1962. They have further submitted that Section 114AA has no application in their case. These submissions are considered and rejected.

(i) The uploading of the wrong composite document on ODeX is not based merely on the statements of co-noticees — it is confirmed by the Customs Broker's own authorized representative in his statement dated 06.03.2025, who admitted that such a document was uploaded. The admission by the Customs Broker's own representative is sufficient and cogent evidence, independent of co-noticees' statements.

(ii) Section 138B of the Customs Act, 1962 governs relevancy of statements in evidence — it does not impose any precondition that witnesses must be separately re-examined under that provision before their Section 108 statements can be relied upon in adjudication proceedings. The argument is legally untenable and is rejected.

(iii) The submission that Section 114AA has no application is belied by the plain facts. The Customs Broker uploaded, through its employee, a document that was false and incorrect in material particulars on the ODeX portal in the transaction of customs business — this falls squarely within the four corners of Section 114AA. The defence that it was a "mistake" of an employee does not exempt the Customs Broker, since Section 114AA uses the words "uses or causes to be used" — the Customs Broker, as the entity conducting customs business on ODeX, must be

held responsible for documents uploaded by its employees in the course of that business.

17.7 In view of the foregoing, I am satisfied that M/s. Alcan Logistics LLP used a document which was false and incorrect in material particulars on the ODeX portal in connection with the export transaction covered under Shipping Bill No. 8869315 dated 28.03.2023, in the transaction of customs business for the purposes of the Customs Act, 1962. Accordingly, M/s. Alcan Logistics LLP is liable for penalty under Section 114AA of the Customs Act, 1962.

18. Penalty on M/s. Zircon Marine Services Pvt. Ltd. (Surveyor):-

18.1 I have carefully considered the submissions made by M/s. Zircon Marine Services Pvt. Ltd. in their written replies dated 09.09.2025, 11.03.2026 and 16.03.2026, and during the personal hearings conducted on 07.11.2025, 05.02.2026 and 11.03.2026. I find that the following submissions made by M/s. Zircon Marine Services Pvt. Ltd. have substantial merit and operate in their favour:

(i) **Limited and specific role as Surveyor**: M/s. Zircon Marine Services Pvt. Ltd. was appointed by M/s. MSC Agency (India) Pvt. Ltd. as their surveyor at Mundra Port solely for the purpose of retrieving and verifying export documents uploaded on the ODeX portal and confirming the same to the Shipping Line. They are not the exporter, not the Customs Broker, and not the Shipping Line. They neither filed Shipping Bills nor had any role in obtaining or granting the LEO.

(ii) **No access to Customs EDI system**: M/s. Zircon Marine Services Pvt. Ltd. has specifically and categorically submitted — and this has not been contradicted by any evidence on record — that they have no access to the Customs EDI system, ICEGATE backend or the LEO generation module. They are a third-party surveyor operating entirely outside the Customs electronic system. They are therefore not in a position to independently verify whether a LEO shown on a document produced before them has actually been granted by the proper Customs officer in the ICES system. This is a factual and technological constraint, not a deliberate choice.

(iii) **Bonafide reliance on documents from a licensed Customs Broker**: The document uploaded on ODeX — the wrong/false LEO copy — was uploaded by M/s. Alcan Logistics LLP, a licensed Customs Broker. M/s. Zircon Marine Services Pvt. Ltd. received this document through the ODeX portal and verified the first page, which correctly showed the shipping bill number, container number, shipper details and LEO details pertaining to Shipping Bill No. 8869315. There was no reason apparent on the face of the first page of the document to doubt its

authenticity. A surveyor receiving documents from a licensed and professional Customs Broker through a recognized digital platform — the ODeX portal — is reasonably entitled to act on the basis of such documents in good faith, without suspecting that the Customs Broker may have uploaded a mixed-up or wrong document.

(iv) **No mens rea, no financial gain, no malpractice**: M/s. Zircon Marine Services Pvt. Ltd. had absolutely no financial stake in, or benefit from, the export of this particular container. There is no allegation — and no evidence — of any collusion between M/s. Zircon Marine Services Pvt. Ltd. and M/s. Alcan Logistics LLP or any other party. Their entire role was limited to document verification in good faith as per their mandate from the Shipping Line. The absence of any mens rea, collusion or financial gain is fully established.

18.3 In view of the foregoing, I find that M/s. Zircon Marine Services Pvt. Ltd. acted in a bonafide capacity as surveyor, on the basis of documents received from a licensed Customs Broker through the ODeX portal, without access to the Customs EDI system, and without any mens rea, collusion or financial benefit. The primary and proximate cause of the unauthorized export was the act of M/s. Alcan Logistics LLP in uploading a wrong/false LEO copy on ODeX and failing to obtain the LEO.

18.4 Further, as discussed above in para 16, since the subject goods have not been held liable for confiscation under Section 113(g) of the Customs Act, 1962, the condition for imposition of penalty under Section 114(iii) of the Customs Act, 1962 — namely, that the act or omission of the noticee must render the goods liable to confiscation under Section 113 — does not stand fulfilled in the present proceedings. Accordingly, no penalty under Section 114(iii) of the Customs Act, 1962 is imposable on M/s. Zircon Marine Services Pvt. Ltd. The Show Cause Notice issued to M/s. Zircon Marine Services Pvt. Ltd. is accordingly liable to be dropped in respect of penalty under Section 114(iii) of the Customs Act, 1962.

19. Penalty on M/s. MSC Agency (India) Private Limited (Shipping Line):-

19.1 I have carefully considered the submissions made by M/s. MSC Agency (India) Private Limited in their written replies dated 07.11.2025, 05.02.2026 and 11.03.2026, and during the personal hearings conducted on 07.11.2025, 05.02.2026 and 11.03.2026. I find that the following submissions made by M/s. MSC Agency (India) Private Limited operate substantially in their favour:

(i) **Appointed a surveyor for document verification**: M/s. MSC Agency (India) Private Limited specifically appointed M/s. Zircon Marine Services Pvt. Ltd. as their surveyor at Mundra Port for the purpose of verifying export documents uploaded on the ODeX portal. This appointment itself demonstrates that M/s. MSC Agency (India) Private Limited had put in place a professional and dedicated mechanism for document verification before proceeding with loading. The appointment of a surveyor is a reasonable and prudent step for a shipping line handling thousands of containers.

(ii) **Relied upon surveyor's confirmation in good faith**: The procedure followed by M/s. MSC Agency (India) Private Limited was that their surveyor M/s. Zircon Marine Services Pvt. Ltd. would verify the documents uploaded on ODeX and confirm to them that the customs clearance documents — including the LEO copy — were in order. It was only after receiving the confirmation from their appointed surveyor that M/s. MSC Agency (India) Private Limited prepared the Export Advance List (EAL) and proceeded with the loading of the container. The EAL bore the declaration that all containers were cleared under LEO — which declaration was made on the basis of the surveyor's confirmation. A Shipping Line that follows a structured process of appointing a professional surveyor, awaiting their verification and confirmation, and proceeding with loading only thereafter, cannot be held to have acted with negligence or bad faith.

(iii) **Not practically feasible to verify each document independently**: M/s. MSC Agency (India) Private Limited has rightly submitted that it is not practically feasible for a global shipping line handling thousands of containers daily to independently verify each and every document, including the authenticity of each LEO copy, from the Customs backend system. The ODeX portal is a recognized, industry-wide digital platform for exchange of export documents in the EXIM trade. A shipping line receiving documents on this platform from a licensed Customs Broker — through a verified surveyor's confirmation — is reasonably entitled to act on those documents in good faith.

(iv) **No mala fide intent — no financial gain from the procedural lapse**: M/s. MSC Agency (India) Private Limited has submitted that there was absolutely no mala fide intent on their part. The lapse occurred entirely due to the act of the Customs Broker, M/s. Alcan Logistics LLP, in uploading a mixed-up LEO copy on ODeX and failing to obtain the LEO, which misled the surveyor and consequently misled the Shipping Line. There is no allegation and no evidence of any collusion or

arrangement between M/s. MSC Agency (India) Private Limited and M/s. Alcan Logistics LLP or any other party.

(v) **Primary responsibility lies with Customs Broker**: The primary, direct and proximate cause of the unauthorized export was the failure of M/s. Alcan Logistics LLP to obtain the LEO and the subsequent upload of a mixed-up wrong LEO copy on ODeX. It was this act of the Customs Broker that set in motion the chain of events leading to the loading and export of the container. The Shipping Line was the last link in this chain and acted entirely on the basis of documents and confirmations received from the Surveyor and, through the Surveyor, from the Customs Broker.

19.3 In view of the foregoing, I find that M/s. MSC Agency (India) Private Limited acted in a bonafide manner by appointing a professional surveyor for document verification, proceeding with loading only after receiving the surveyor's confirmation, and without any mala fide intent, collusion or financial benefit from the procedural lapse. They were misled by the Customs Broker's act of uploading a wrong/false LEO copy on ODeX, which in turn misled the surveyor and consequently the Shipping Line.

19.4 Further, as discussed above in para 16, since the subject goods have not been held liable for confiscation under Section 113(g) of the Customs Act, 1962, the condition for imposition of penalty under Section 114(iii) of the Customs Act, 1962 — namely, that the act or omission of the noticee must render the goods liable to confiscation under Section 113 — does not stand fulfilled in the present proceedings. Accordingly, no penalty under Section 114(iii) of the Customs Act, 1962 is imposable on M/s. MSC Agency (India) Private Limited. The Show Cause Notice issued to M/s. MSC Agency (India) Private Limited is accordingly liable to be dropped in respect of penalty under Section 114(iii) of the Customs Act, 1962.

20. In view of the above findings, I pass the following order:

ORDER

I. I drop the penalty proposed on **M/s. Alcan Logistics LLP (Customs Broker)** under Section 114(iii) of the Customs Act, 1962, for the reasons discussed above.

II. I impose a penalty of **Rs. 1,00,000/- (Rupees One Lakh only)** on **M/s. Alcan Logistics LLP (Customs Broker),** under Section 114AA of the Customs Act, 1962.

III. I drop penalty on **M/s. Zircon Marine Services Pvt. Ltd. (Surveyor)**, under Section 114(iii) of the Customs Act, 1962, for the reasons discussed above.

IV. I drop penalty on **M/s. MSC Agency (India) Private Limited (Shipping Line)** under Section 114(iii) of the Customs Act, 1962.

21. This OIO is issued without prejudice to any other action that may be taken against the claimant under the provisions of the Customs Act, 1962 or rules made there under or under any other law for the time being in force.

22. The Show Cause Notice issued vide 47/2025-26/ADC/AKM/MCH issued on 08.08.2025 is hereby disposed of on above terms.

Digitally signed by
Amit Kumar Mishra
Date: 18-06-2026
18:52:52

Additional Commissioner of Custom,
Custom House, Mundra

To, (The Noticess): -

1. M/s. Alcan Logistics,
Plot No. 355/D, Sudarshan Bungalow,
Near DAV Public School, Ward No. 6 A,
Adipur, Gandhidham, Kachchha-370205

2. M/s. MSC Agency (India) Private Limited,
2, 201, Siddhi Vinayak Complex, Ward-6, Near Rotary Circle,
Kachchh, Gujarat-370201

3. M/s Zircon Marine Services Pvt. Ltd.,
1005/1006, Trishul Goldmine, Plot No.
04, Sector-15, CBD Belapur, Navi Mumbai-400614

Copy to:- -

(i) The Additional Commissioner (Export Assessment), Customs House, Mundra.
(ii) (The Additional Commissioner (SIIB), Customs House, Mundra.

(iii) The Deputy Commissioner (EDI), Custom House, Mundra ... (with the direction to upload on the official website immediately).

(iv) The Deputy Commissioner (RRA/TRC), Custom House, Mundra.