

	<b>OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE: MUNDRA, KUTCH MUNDRA PORT &amp; SPL ECONOMIC ZONE, MUNDRA- 370421 Phone No.02838-271165/66/67/68 FAX.No.02838- 271169/62</b>
A. File No.	: CUS/ESHD/OBJ/31/2024-O/o Pr-Commr-Cus-Mundra
B. Order-in- Original No.	: MCH/ADC/MK/117/2024-25
C. Passed by	: Mukesh Kumari, Additional Commissioner of Customs, Customs House, AP & SEZ, Mundra
D. Date of order /Date of issue	: 13-08-2024
E. Show Cause Notice No. & Date	: Waiver of Show Cause Notice and Personal Hearing
F. Noticee(s)/Party/ Exporter	: M/s Astron Packaging Pvt. Ltd., Plot No.22/23/24/25/34/35/36/37 (337), Survey No.427/P, Mahagujarat Industrial Estate, Sarkhej-Bavla Highway, Village-Moraiya, Sanand, Dist:-Ahmedabad-382213
G. DIN	: 20240871M0 0000 213087

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

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

2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 128 A के अंतर्गत प्रपत्र सीए- 1- में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

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

"सीमा शुल्क आयुक्त (अपील),

7 वीं मंजिल, मृदुल टावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड, अहमदाबाद 380 009"

"THE COMMISSIONER OF CUSTOMS (APPEALS),

Having his office at 7<sup>th</sup> Floor, Mridul Tower, Behind Times of India,  
Ashram Road, Ahmedabad-380 009."

3. उक्त अपील यह आदेश 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 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 जापन के साथ इयूटि/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, सीमा शुल्क और सीमा शुल्क 1982, अपील) नियम) के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना, अधिनियम 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.

Subject:- Mis-declaration of Self-Adhesive Tapes under Shipping Bill No.2661047 dated 24.07.2024 filed by M/s Astron Packaging Pvt. Ltd.- Reg.

#### **BRIEF FACTS OF THE CASE:**

M/s Astron Packaging Pvt. Ltd., Plot No.22/23/24/25/34/35/36/37 (337), Survey No.427/P, Mahagujarat Industrial Estate, Sarkhej-Bavla

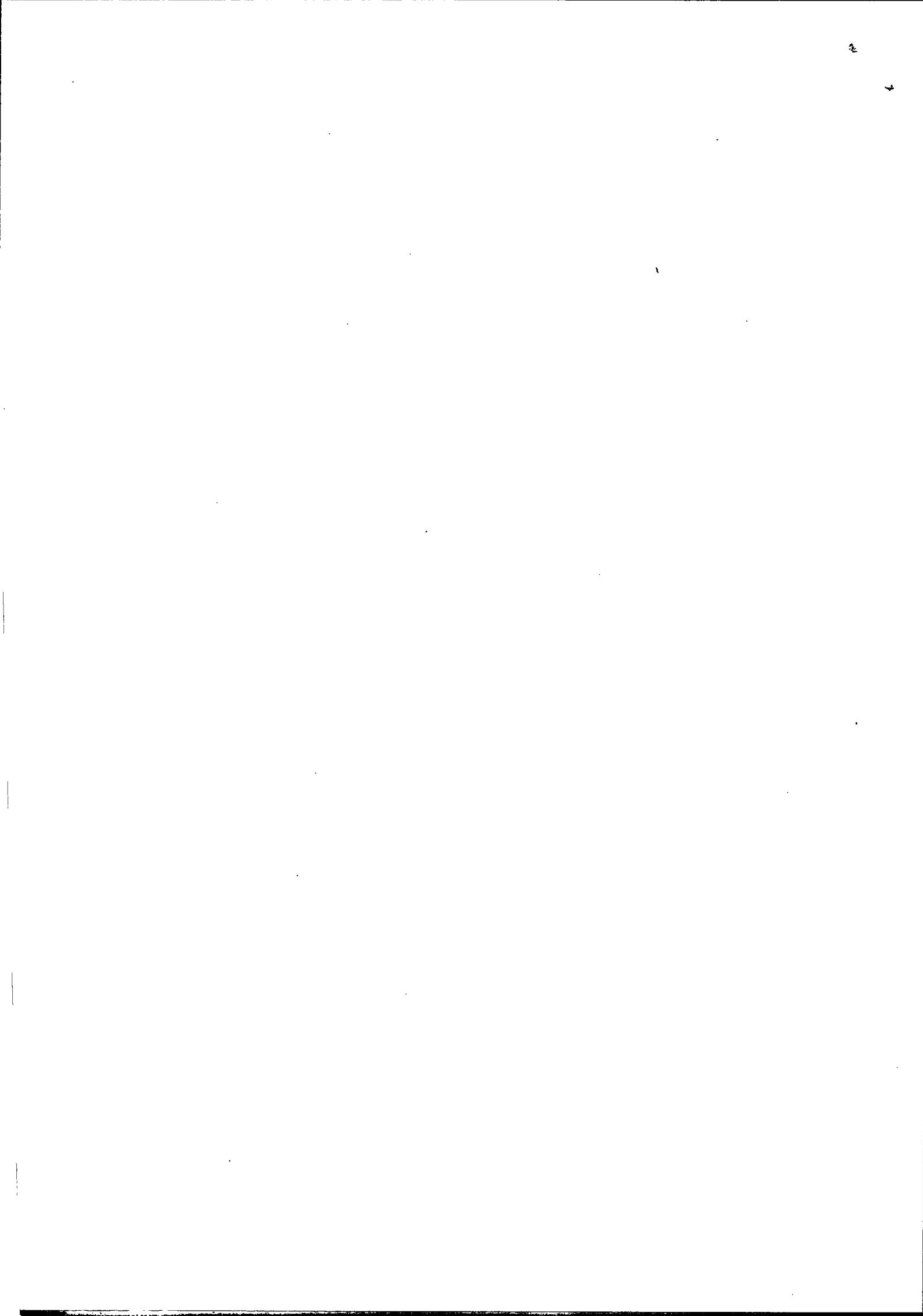


Highway, Village-Moraiya, Sanand, Dist:-Ahmedabad-382213, IEC No.0807004421 has filed Shipping Bill No.2661047 dated 24.07.2024 having FOB value of Rs.42,82,688/- through their CHA-M/s Sai Clearing and Forwarding Agency for export of goods declared as "Paper Labels" under CTH-48211020.

2. The details of the cargo item-wise in Shipping Bill is as under:-

Sr. No.	Description of Goods	CTH	Net Weight (in Kg)	FOB Value Declared (in Rs.)
1	AG BANANA VODKA 200 ML 50x75 MM	48211020	289.36	151707.82
2	AG CARIBBEAN GINGER 100 ML 40x60 MM	48211020	359.38	176879.02
3	AG ROOTS POWER 200 ML 50x75 ML	48211020	56.65	30515.94
4	AG ROOTS POWER GIZER 330ML 150x43mm	48211020	2751.3	1246438.08
5	AG VOLTAGE ENERGY VODKA 200ML LABEL 50 X 75MM	48211020	27.65	14240.77
6	AG ROOTS WITH MORINGA 330 ML 150x43 MM	48211020	239.505	107941.39
7	AG HERBAL CATUBA BITTERS 150x43 MM	48211020	237.83	109792.80
8	AG ATADWE HERBAL BITTERS 330 ML 150x43 MM	48211020	234.77	109792.80
9	Victory Herbal Bitter CALAMARIE Label 200ml 117x42mm	48211020	1411.5	743411.52
10	VIC ROOTS POWER GIZER 330 ML 150x43 MM	48211020	1859.55	848727.82
11	VICTORY CARIBBEAN GINGER - 100ML 40X60MM	48211020	73.77	35478.14
12	VICTORY VOLTAGE ENERGY VODKA 200 ML 50x75 MM	48211020	180	97651.01
13	VICTORY MORINGA BITTERS 150x43 MM	48211020	315.6	150696.00
14	VICTORY V DYNAM 12x1 LTR 66x127 MM	48211020	329	190572.48
15	VICTORY V DYNAM 6x5 LTR 171x164 MM Silver PP Film	48211020	109.49	67342.48
16	VICTORY V DYNAM 20 LTR 181X120 MM	48211020	319.68	181709.57
17	L-Herbal Bitter Calamarie 146x42 MM 200 ml	48211020	45.26	19789.20
Grand Total			8840	42,82,688

3. During examination of the cargo covered in above Shipping Bill, the Dock Officer submitted that the goods appears to be labels of plastic material, whereas, the exporter claimed that label made of paper material (under RITC - 4821).



4. As per the examination done by the Docks Officer, it is appears that the cargo declared by the exporter is Labels of Plastic Material. Plastic Stickers, whether or not printed, embossed, or impregnated are covered under HSN-3919-9010 of the Custom Tariff, 1975. Chapter-3919 is re-produced as under:

<b>3919</b>	<b>SELF-ADHESIVE PLATES, SHEETS, FILM, FOIL, TAPE, STRIP AND OTHER FLAT SHAPES, OF PLASTICS, WHETHER OR NOT IN ROLLS</b>
3919 10 00	- In rolls of width not exceeding 20 cm kg.
3919 90	- Other :
<b>3919 90 10</b>	<b>--- Plastic stickers, whether or not printed, embossed, or impregnated</b>
kg.	
3919 90 20	--- Cellulose adhesive tape kg.
3919 90 90	--- Other
kg.	

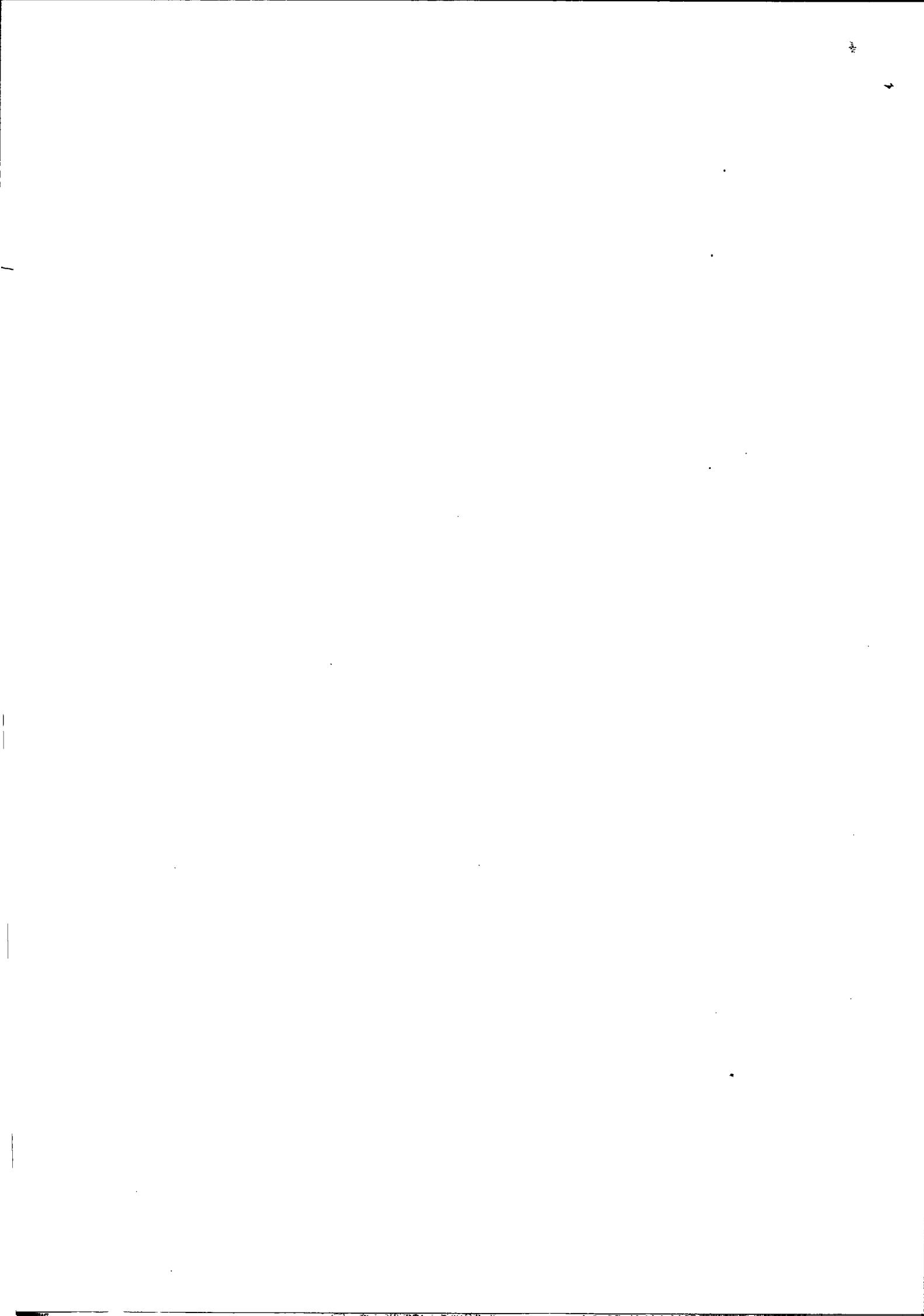
5. Further, the exporter vide letter dated 06.08.2024 submitted that they had filed the Shipping Bill No.2661047 dated 24.07.2024 for export of Self-Adhesive PP Labels. As per Customer requirements, they specifically produce and used various PP Silver Film and PE clear Film. But due to some clerical mistakes by their production department they forgot to change the HSN code in this product and they admitted that the correct HSN for the subject shipment is 39199010 instead 48211020.

6. From the above facts, it appears that the exporter has mis-declared and mis-classified the cargo covered under Shipping Bill No.2661047 dated 24.07.2024. Thus, the Exporter has contravened the provisions of the Section 50 of the Customs Act, 1962 and therefore the impugned goods covered under above Shipping Bill is liable for confiscation under Section 113(i) of the Customs Act, 1962 which is reproduced as under:

***SECTION 113. Confiscation of goods attempted to be improperly exported, etc. -***

*The following export goods shall be liable to confiscation as per:*

*( 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;*



7. Whereas, for the acts and omission on the part of the exporter for making the impugned goods to be exported covered under Shipping Bill No.2661047 dated 24.07.2024, the Exporter has made themselves liable for penal action under Section 114 (iii) of the Customs Act, 1962 and the same is reproduced here-in-below:

**SECTION 114 : Penalties 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, -

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(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;

8. In view of above, it appears that:

(i) The classification of the impugned goods to be exported under Shipping Bill No.2661047 dated 24.07.2024 under CTH-48211020 as "Paper Labels" are liable to be rejected and required to be re-classified under CTH-39199010 as "Plastic Stickers".

(ii) The impugned goods attempted to be export vide Shipping Bill No.2661047 dated 24.07.2024 having FOB value of Rs.42,82,688/- is liable for confiscation under Section 113(i) of the Customs Act, 1962;

(iii) The exporter, M/s Astron Packaging Pvt. Ltd. is liable for penalty under the provisions of Sections 114(iii) of the Customs Act, 1962.

9. The exporter, vide letter dated 06.08.2024 submitted that they are engaged in the manufacturing of various label, Carton Boxes, Corrugated Box, Aluminium foil, Pallet, Self-Adhesive Paper or label and self-adhesive film or label. They had filed the Shipping Bill No.2661047 dated 24.07.2024 for export of Self-Adhesive PP Labels. As per Customer requirements, they specifically produce and used various PP Silver Film and PE clear Film. But due to some clerical mistakes by their production department they forgot to change the HSN code in this product. The correct HSN for the subject shipment is 39199010 instead 48211020 and they need to rectify the same to export the cargo. There are many line items in ref Shipping bill so amendments are not be possible to avoid any further mistakes. After the above explanation and facts they are ready to pay the nominal fine/penalty, if any applicable and requested for waiver of Show Cause Notice and Personal Hearing in this regards.



They requested for cancellation of referenced shipping bill.

**RECORDS OF PERSONAL HEARING :**

10. The exporter, vide letter dated 06.08.2024 submitted that in this matter they do not want any Show Cause Notice or Personal Hearing.

**DISCUSSION AND FINDINGS:**

11. The exporter, vide letter dated 06.08.2024 submitted that in this matter they do not want any Show Cause Notice or Personal Hearing so as per principles of natural justice as provided in Section 122A of the Customs Act 1962 has been complied with and therefore, I proceed to decide the case as under:

11.1 The issues to be decided by me are:

( i ) The classification of the impugned goods to be exported under Shipping Bill No.2661047 dated 24.07.2024 under CTH-48211020 as "Paper Labels" are liable to be rejected and required to be re-classified under CTH-39199010 as "Plastic Stickers".

(ii) The impugned goods attempted to be export vide Shipping Bill No.2661047 dated 24.07.2024 having FOB value of Rs.42,82,688/- is liable for confiscation under Section 113(i) of the Customs Act, 1962;

(iii) The exporter, M/s Astron Packaging Pvt. Ltd. is liable for penalty under the provisions of Sections 114(iii) of the Customs Act, 1962.

11.2 I find that in the present case, the exporter attempted to export different types of "Paper Labels" under CTH-48211020. However, during the examination of the goods by the Dock Officer the goods found as "Plastic Sticker".

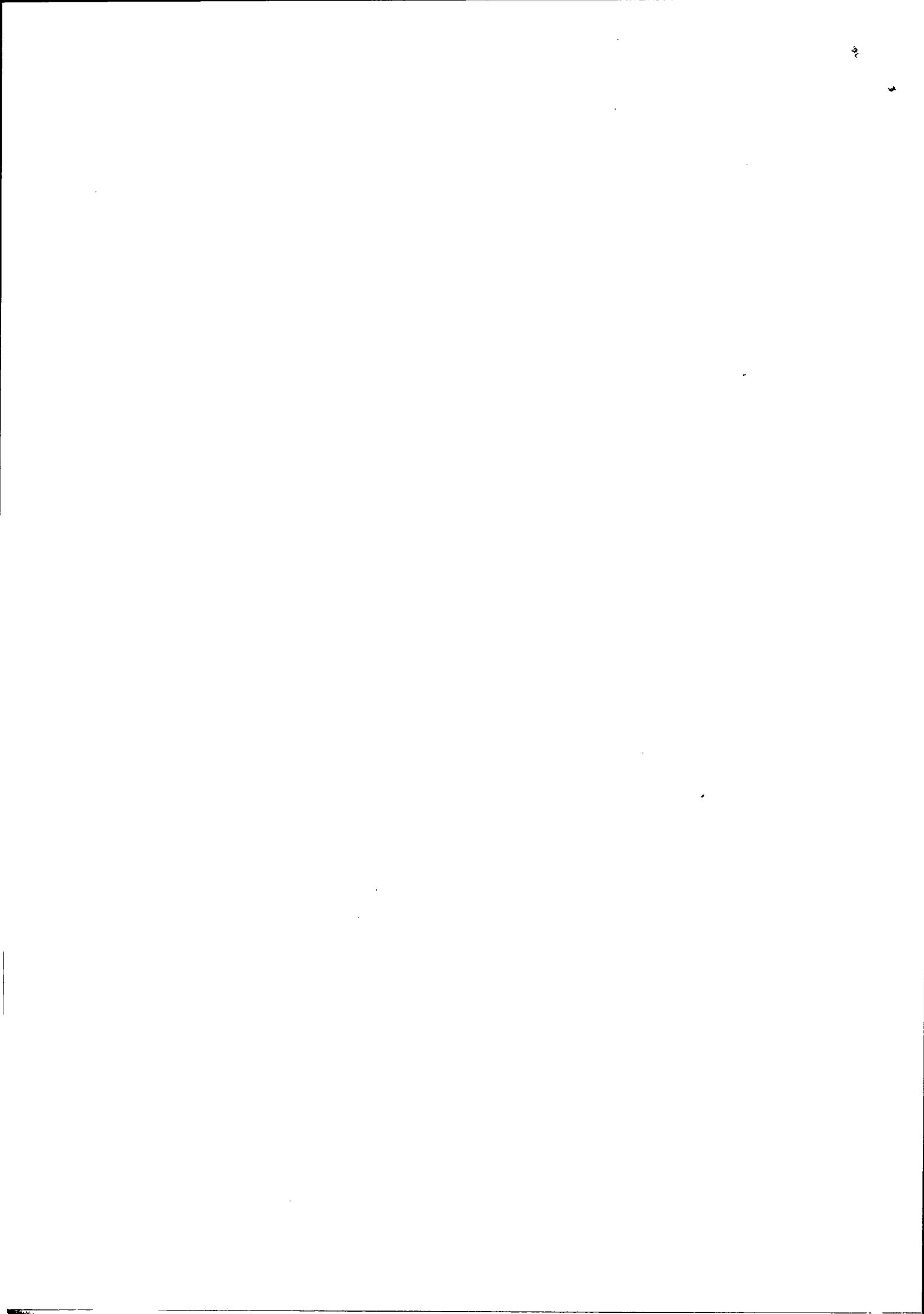
11.3 I find that Plastic Stickers, whether or not printed, embossed, or impregnated are covered under HSN-39199010 of the Custom Tariff, 1975. Chapter-3919 is re-produced as under:

**3919  
FOIL,  
OF**

**SELF-ADHESIVE PLATES, SHEETS, FILM,  
TAPE, STRIP AND OTHER FLAT SHAPES,  
PLASTICS, WHETHER OR NOT IN ROLLS**

**3919 10 00** - In rolls of width not exceeding 20 cm  
kg.

**3919 90** - Other:



<b>3919 90 10</b>	<b>--- Plastic stickers, whether or not printed, kg.</b>
<b>3919 90 20</b>	<b>--- embossed, or impregnated kg.</b>
<b>3919 90 90</b>	<b>--- Cellulose adhesive tape kg.</b>

<b>3919 90 90</b>	<b>--- Other kg.</b>
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11.4 In view of above, I find that the correct classification of the impugned goods attempted to be exported is HSN-39199010 of the Custom Tariff, 1975 as "Plastic Stickers". Hence, the impugned goods are found mis-declared and mis-classified and therefore, are liable for confiscation under Section 113(i) of the Customs Act, 1962.

**11.5 I find that Section 114 of the Customs Act, 1962 stipulates that:**

*Any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act, shall be liable, -*

*(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty <sup>1</sup>[<sup>2</sup>]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;*

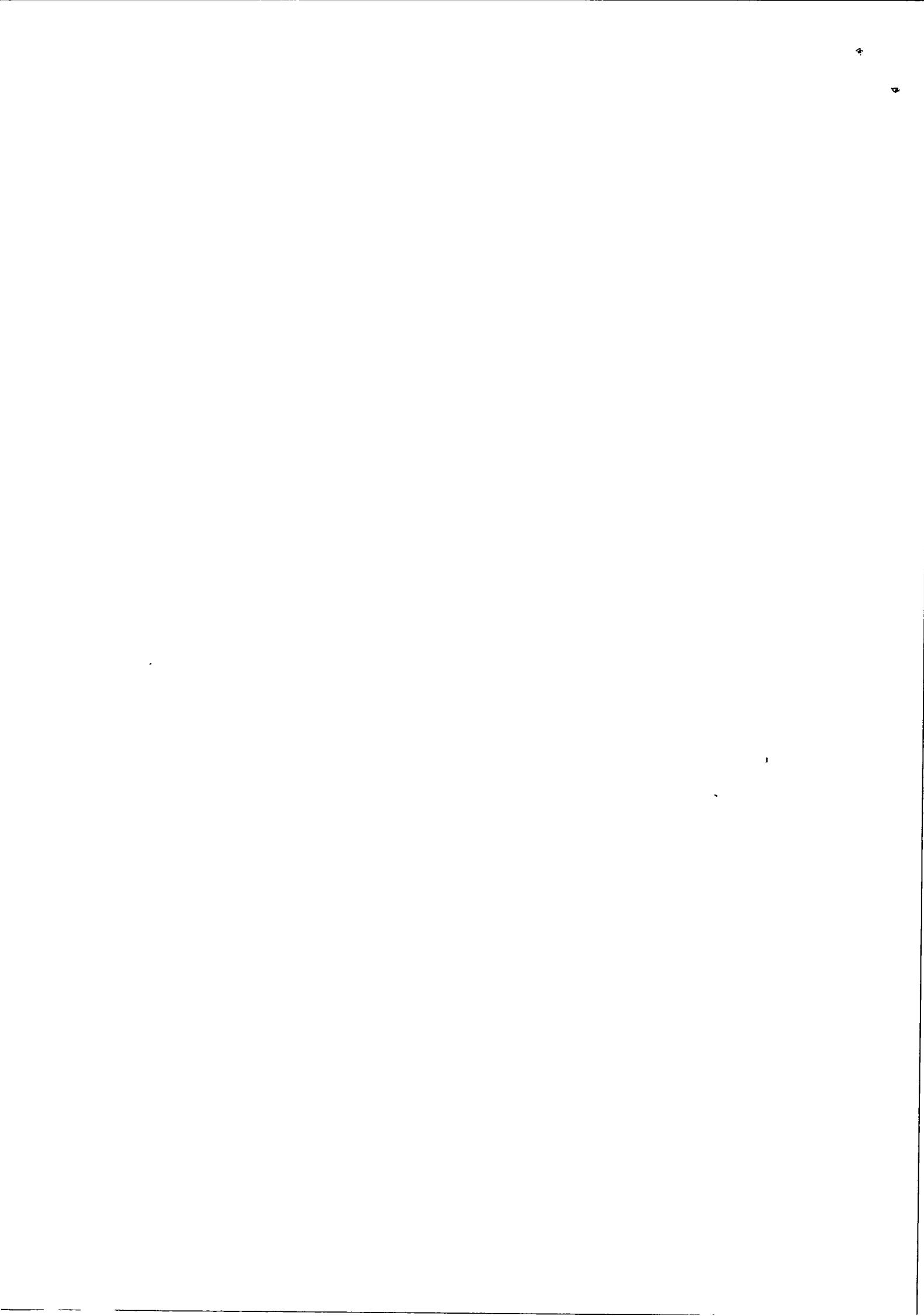
*(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher:*

**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.*

11.6 In view of above, I find that for the acts and omission on the part of the exporter for making the impugned goods to be exported covered under Shipping Bill No.2661047 dated 24.07.2024 liable for confiscation, the Exporter has made themselves liable for penal action under Section 114 (iii) of the Customs Act, 1962

12. In view of the forgoing discussions and findings, I pass the following order:



**ORDER**

(i) I reject the classification of the impugned goods to be exported under Shipping Bill No.2661047 dated 24.07.2024 under CTH-48211020 as "Paper Labels" and order to classify the same under CTH-39199010 as "Plastic Stickers".

(ii) I order to confiscate the impugned goods declared as "Paper Labels" under CTH-48211020 attempted to be export vide Shipping Bill No.2661047 dated 24.07.2024 having FOB value of Rs.42,82,688 under Section 113(i) of the Customs Act, 1962. However, I give option to redeem the same on payment of redemption fine of Rs. 3,00,000/- (Rupees Three Lakhs only);

(iii) I impose and order to recover Penalty of Rs. 1,50,000/- (Rupees One Lakh Fifty Thousand only) upon the exporter, M/s Astron Packaging Pvt. Ltd. is liable for penalty under the provisions of Sections 114(iii) of the Customs Act, 1962.

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

Signed by  
Mukesh Kumari  
Date: 13-08-2024 11:03:17

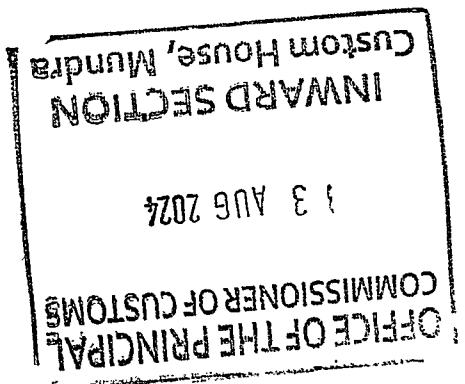
(Mukesh Kumari)  
Additional Commissioner (Export)  
Customs House, Mundra

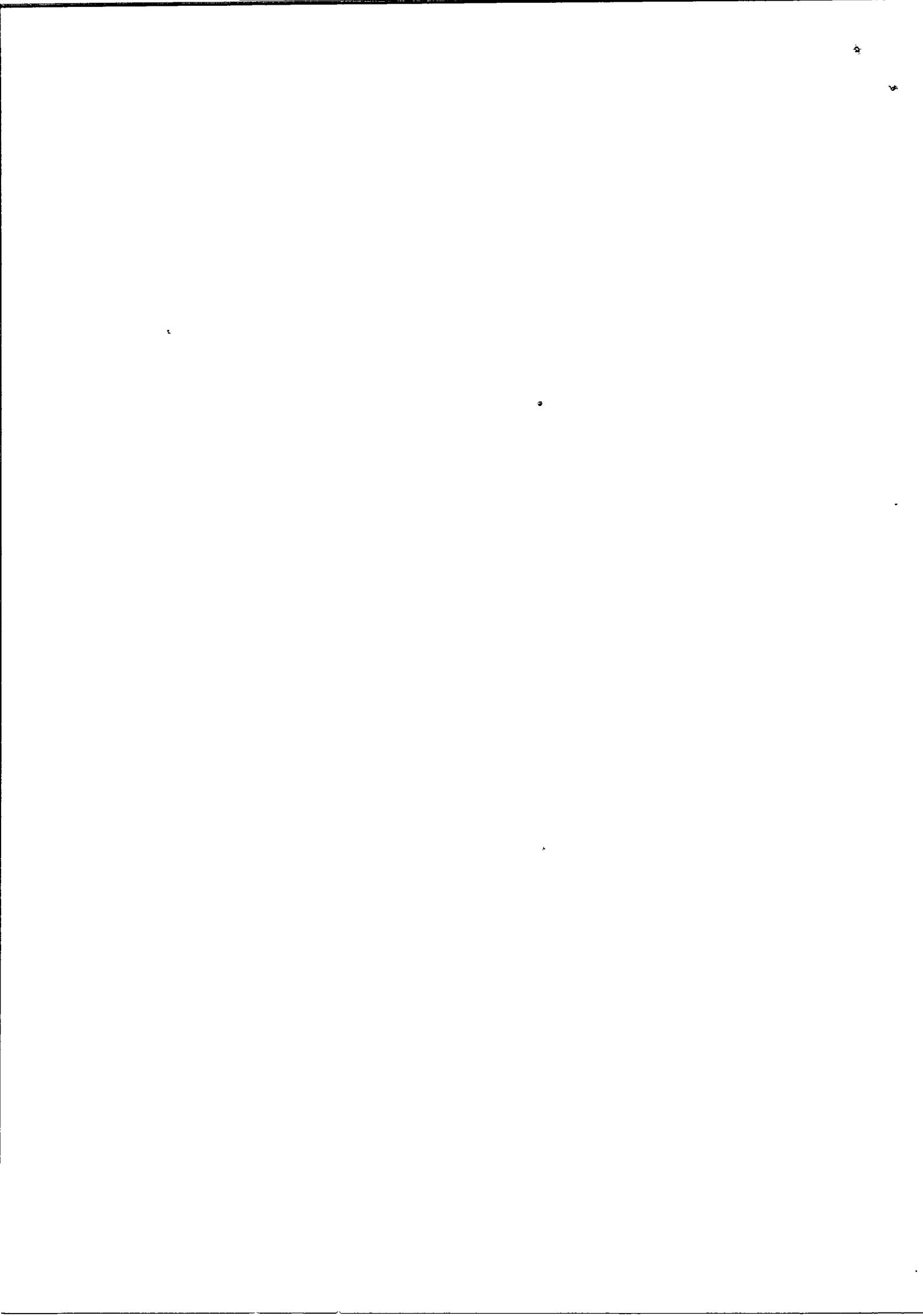
F.No. CUS/ESHD/OBJ/31/2024

Dated:- 13.08.2024

**BY SPEED POST**

To,  
M/s Astron Packaging Pvt. Ltd.,  
Plot No.22/23/24/25/34/35/36/37 (337),  
Survey No.427/P, Mahagujarat Industrial Estate,  
Sarkhej-Bavla Highway, Village-Moraiya,  
Sanand, Dist:-Ahmedabad-382213





Copy to:- (1) The Deputy Commissioner(TRC)/RRA /Review Section/EDI/Guard File.

