



## सीमाशुल्क(अपील) आयुक्तकाकार्यालय,अहमदाबाद

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

चौथीमंजिल 4th Floor, हडकोभवनHUDCO Bhawan, ईश्वरभुवनरोड़Ishwar Bhuvan Road  
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad - 380 009  
दूरभाषक्रमांक Tel. No. 079-26589281

DIN - 20260371MN0000555C0D

क	फ़ाइलसंख्या FILE NO.	S/49-72/CUS/MUN/2025-26
ख	अपीलआदेशसंख्या ORDER-IN-APPEAL NO. (सीमाशुल्कअधिनियम, 1962 कीधारा 128ककेअंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	MUN-CUSTM-000-APP-898-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	17.03.2026
ङ	उदभूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	MCH/ADC/AKM/292/24-25 dated 15.02.2025
च	अपीलआदेशजारीकरनेकीदिनांक ORDER- IN-APPEAL ISSUED ON:	17.03.2026
छ	अपीलकर्ताकानामवपता NAME AND ADDRESS OF THE APPELLANT:	M/s. Exxelo Exim, B-601, Mondeal Heights, Nr. Novotel SG Highway, Ahmedabad- 380015.



1	यह प्रतिउसव्यक्तिकेनिजीउपयोगकेलिएमुफ्तमेंदीजातीहैजिनकेनामयहजारीकियागयाहै.
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्कअधिनियम 1962 कीधारा 129 डीडी (1) (यथासंशोधित) केअधीननिम्नलिखितश्रेणियोंकेमामलोंकेसम्बन्धमेंकोईव्यक्तिइसआदेशसेअपनेकोआहतमहसूसकरताहोतोइसआदेशकीप्राप्तिकीतारीखसे 3 महीनेकेअंदरअपरसचिव/संयुक्तसचिव (आवेदनसंशोधन), वित्तमंत्रालय, (राजस्वविभाग) संसदमार्ग, नईदिल्लीकोपुनरीक्षणआवेदनप्रस्तुतकरसकतेहै.
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखितसम्बन्धितआदेश/Order relating to :
(क)	बैगेज़केरूपमेंआयातितकोईमाल.
(a)	any goods exported
(ख)	भारतमेंआयातकरनेहेतुकिसीवाहनमेंलादागयालेकिनभारतमेंउनकेगन्तव्यस्थानपरउतारेगएमालयाउसगन्तव्यस्थानपरउतारेजानेकेलिएअपेक्षितमालउतारेनजानेपरयाउसगन्तव्यस्थानपरउतारेगएमालकीमात्रामेंअपेक्षितमालसेकमीहो.
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग)	सीमाशुल्कअधिनियम, 1962 केअध्यायX तथाउसकेअधीनबनाएगएनियमोंकेतहतशुल्कवापसीकीअदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षणआवेदनपत्रसंगतनियमावलीमेंविनिर्दिष्टप्रारूपमेंप्रस्तुतकरनाहोगाजिसकेअन्तर्गतउसकीजांचकीजाएगी औरउसकेसाथनिम्नलिखितकागजातसंलग्नहोनेचाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्टफीएक्ट, 1870केमदसं.6 अनुसूची 1 केअधीननिर्धारितकिएगएअनुसारइसआदेशकी 4 प्रतियां, जिसकीएकप्रतिमेंपचासपैसेकीन्यायालयशुल्कटिकटलगाहोनाचाहिए.
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्धदस्तावेज़ोंकेअलावासाथमूलआदेशकी 4 प्रतियां, यदिहो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षणकेलिएआवेदनकी 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षणआवेदनदायरकरनेकेलिएसीमाशुल्कअधिनियम, 1962 (यथासंशोधित) मेंनिर्धारितफीसजोअन्यरसीद, फीस, दण्ड, जब्तीऔरविविधमदोंकेशीर्षकेअधीनआताहैमेंरु. 200/- (रूपएदोसौमात्र)यारु. 1000/- (रूपएकहज़ारमात्र), जैसाभीमामलाहो, सेसम्बन्धितभुगतानकेप्रमाणिकचलानटी. आर. 6 कीदोप्रतियां. यदिशुल्क, मांगागयाब्याज, लगायागयादंडकीराशिऔररूपएकलाखयाउससेकमहोतोएसेफीसकेरूपमेंरु. 200 /- औरयदिएकलाखसेअधिकहोतोफीसकेरूपमेंरु. 1000/-
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the



	amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.				
4.	<p>मदसं. <span style="float: right;">2</span>  केअधीनसूचितमामलोंकेअलावाअन्यमामलोंकेसम्बन्धमेंयदि कोईव्यक्तिइसआदेशसेआहतमहसूसकरताहोतोवेसी  माशुल्कअधिनियम 1962 कीधारा 129 ए (1) केअधीनफॉर्मसी.ए.-3  मेंसीमाशुल्क,केन्द्रीयउत्पादशुल्कऔरसेवाकरअपीलअधिकरणकेसमक्षनिम्नलिखितपतेपरअपीलकरसकतेहैं</p>				
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :				
	<table border="1"> <tr> <td>सीमाशुल्क, केन्द्रीयउत्पादशुल्कवसेवाकरअपीलियअधिकरण,पश्चिमीक्षेत्रीयपीठ</td> <td><b>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</b></td> </tr> <tr> <td>दूसरीमंज़िल,बहुमालीभवन,निकटगिरधरनगरपुल,असारवा,अहमदाबाद-380016</td> <td>2<sup>nd</sup> Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016</td> </tr> </table>	सीमाशुल्क, केन्द्रीयउत्पादशुल्कवसेवाकरअपीलियअधिकरण,पश्चिमीक्षेत्रीयपीठ	<b>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</b>	दूसरीमंज़िल,बहुमालीभवन,निकटगिरधरनगरपुल,असारवा,अहमदाबाद-380016	2 <sup>nd</sup> Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
सीमाशुल्क, केन्द्रीयउत्पादशुल्कवसेवाकरअपीलियअधिकरण,पश्चिमीक्षेत्रीयपीठ	<b>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</b>				
दूसरीमंज़िल,बहुमालीभवन,निकटगिरधरनगरपुल,असारवा,अहमदाबाद-380016	2 <sup>nd</sup> Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016				
5.	सीमाशुल्कअधिनियम, 1962 कीधारा 129 ए (6) केअधीन,सीमाशुल्कअधिनियम, 1962 कीधारा 129 ए(1)केअधीनअपीलकेसाथनिम्नलिखितशुल्कसंलग्नहोनेचाहिए-				
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -				
(क)	अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपाँचलाखरूपएयाउससेकमहोतोएकहज़ाररूपए.				
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;				
(ख)	अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपाँचलाखरूपएसेअधिकहोलेकिनरुपयेपचासलाखसेअधिकनहोतो;पाँचहज़ाररूपए				
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;				
(ग)	अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपचासलाखरूपएसेअधिकहोतो;दसहज़ाररूपए.				
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees				
(घ)	इसआदेशकेविरुद्धअधिकरणकेसामने, मांगेगएशुल्कके 10% अदाकरनेपर, जहांशुल्कयाशुल्कएवंदंडविवादमेंहै, यादंडके 10% अदाकरनेपर, जहांकेवलदंडविवादमेंहै, अपीलरखाजाएगा।				
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.				
6.	उक्तअधिनियमकीधारा 129 (ए) केअन्तर्गतअपीलप्राधिकरणकेसमक्षदायरप्रत्येकआवेदनपत्र- (क) रोकआदेशकेलिएगलतियोंकोसुधारनेकेलिएयाकिसीअन्यप्रयोजनकेलिएकिएगएअपील : - अथवा (ख) अपीलयाआवेदनपत्रकाप्रत्यावर्तनकेलिएदायरआवेदनकेसाथरुपयेपाँचसौकाशुल्कभीसंलग्नहोनेचाहिए.				
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-				
(a)	in an appeal for grant of stay or for rectification of mistake or for any other purpose; or				
(b)	for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.				



**ORDER-IN-APPEAL**

The present Appeal has been filed by M/s. Exxelo Exim, B-601, Mondeal Heights, Nr. Novotel SG Highway, Ahmedabad-380015, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original no. MCH/ADC/AKM/292/24-25 dated 15.02.2025 (hereinafter referred to as 'the impugned order') issued by the Additional Commissioner, Customs, Mundra (hereinafter referred to as 'the adjudicating authority').

2. Facts of the case, in brief, are that the appellant had filed Bills of Entry Nos. 5818561 dated 05.05.2023 and 5818562 dated 05.05.2023 with Custom House, Mundra for clearance of 199.740 MTs of Heavy Melting Scrap-Iron and Steel Remeltable Scrap valued at Rs. 78,94,454/-. The details of the said Bills of Entry are as under:

Sr No	Bill of Entry No & Date	Country of Origin	Container No	Description of goods	Value of Goods (in Rs)	Weight as per B/L (in MT)	Duty (in Rs)
01	5818561 dated 05.05.2023	UAE	EGHU3104716, INBU3675270, MOAU0495891, TCKU2513153	Heavy Melting Scrap-Iron and Steel Remeltable Scrap	3644172/-	95.47	655951/-
02	5818562 dated 05.05.2023	UAE	EISU3744460, TCKU2883097, TCKU3418150, TTNU1776316	Heavy Melting Scrap-Iron and Steel Remeltable Scrap	4250282/-	104.27	765051/-
			Total		78,94,454/-	199.74	14,21,002/-

2.1 Based on a detailed risk analysis, the NCTC has identified two Bills of Entry no. 5818561 dated 05.05.2023 and 5818562 dated 05.05.2023 filed by the appellant to be risky in relation to mis-declaration/forged documents and mis declaration of COO. As mentioned in NCTC, the appellant had filed two Bills of Entry no. 5818561 dated 05.05.2023 and 5818562 dated 05.05.2023 for import of Heavy Melting Scrap-Iron and Steel Remeltable Scrap from UAE, hence examination of the bill of entry consignment was carried out by the officers of Docks Examination, Custom House, Mundra and examination report dated 19.05.2023 for both Bills of Entry are as below: -



Bill of Entry No & date	Examination report
5818561 dated 05.05.2023	The examination of goods was done in Honeycomb CFS under supervision of DC(DE) and Supdt(DE) and in presence of CHA M/s. Aman Seatrans Private Limited. During examination goods appears to be as declared i.e., Heavy Melting Scrap-Iron and Steel Remeltable Scrap. Further no marks, numbers and signs have been found indicating the goods being originating from country other than the declared in BOE.
5818562 dated 05.05.2023	The examination of goods was done in Honeycomb CFS under supervision of DC(DE) and Supdt(DE) and in presence of CHA M/s. Aman Seatrans Private Limited. During examination goods appears to be as declared Le., Heavy Melting Scrap-Iron and Steel Remeltable Scrap. Further no marks, numbers and signs have been found indicating the goods being originating from country other than the declared in BOE.

2.2 From the dock examination officers report it appears that during the examination nothing adverse was found regarding the mis-declaration of country of origin.

2.3 Further, during the scrutiny of import documents (1) bill of entry (2) invoice (3) packing list (4) Form-6 (5) bill of lading (6) pre-shipment inspection certificate (PSIC) submitted by the importer have revealed that the Country of Origin of the subject consignment was mentioned as "United Arab Emirates" in the above said Bills of Entries and Port of Loading as Jebel Ali, U.A.E. In below mentioned Pre-Shipment Inspection Certificate, shows the Country of Inspection as UAE, place of Inspection as Jebel Ali. The details of the Pre-Shipment Inspection Certificate submitted by the appellant is as under:

Sr No	Bill of Entry No & Date	Country of Origin	Place of Inspection	Date of Inspection	PSIC No
01	5818561 dated 05.05.2023	UAE	Jabel Ali	19.04.2023	PSIC ASIA INSPECTION LIMITED 132471AM24 dated 19.04.2023
02	5818562 dated 05.05.2023	UAE	Jabel Ali	25.04.2023	PSIC ASIA INSPECTION AGENCY LIMITED 132603AM24 dated 25.04.2023



2.5 The Pre-Shipment Inspection Certificate (PSIC) is one of the mandatory documents for the import of shredded, un-shredded, compressed, and loose forms of metallic waste and scrap. According to the Foreign Trade Policy of India, the importer needs to furnish the original copy of the PSIC document for Customs clearance.

2.6 In the instant case, it appears that imported metallic scrap was not inspected at the Jebel Ali Port at UAE and the PSIC was issued without inspecting the imported scrap. Therefore, it appears that the metallic scrap imported are without mandatory PSIC certificate in violation and contrary to condition imposed under Foreign Trade Policy of Government of India, rendering the said goods as 'restricted' for import into India.

2.4 Further, Post-Shipment Inspection was also carried out for these consignments by the Agency approved by the DGFT, M/s. Ravi Energie Inc. They have submitted reports as per below mentioned table and certified that the consignment was checked and found that it does have radiation level in excess of natural background.

Sr No	Bill of Entry No & Date	Post-Shipment Inspection Ref. No.
01	5818561 dated 05.05.2023	007/ANSP-RN/IIBEA64/2023 19.05.2023
02	5818562 dated 05.05.2023	008/ANSP-RN/IIBEA65/2023 19.05.2023

2.5 The DGFT, vide their Office Memorandum dated 13.06.2023 clarified that UAE has banned export of Ferrous Scrap under ITC HS 72047. It further clarified that any PSICs showing the place of inspection in UAE and import item banned by UAE for export, it may be tantamount to mis-declaration on the part of PSIA and such PSIC may be treated as invalid. In the instance case all the PSICs were showing place of inspection as UAE, therefore, the PSICs are liable to be treated as invalid and the goods are liable to be treated without PSIC.

2.6 Therefore, the goods were seized vide seizure memo dated 22.05.2023 for bills of entries no. 5818561 & 5818562 both dated 05.05.2023 However; the goods were released provisionally on 30.06.2023 for bills of entry no. 5818562 dated 05.05.2023 and on 24.07.2023 for bill of entry no. 5818561 dated 05.05.2023 upon execution of bond of full value of the imported goods and BG of 10% of the Value of the imported goods.

2.7 It appears from the above discussion and evidences available on record that the appellant had wilfully and intentionally produced invalid Pre-



Shipment Inspection Certificates. It also appears that the appellant had deliberately by wilful mis-statement and suppression of the facts in contravention of various provisions of the Customs Act and Rules made thereunder as discussed above with intent to clear goods without valid PSICs. The said acts of omission and commission on the part of the appellant have rendered themselves liable for penalty under the provisions of Section 112(a) of the Customs Act, 1962.

2.8 In view of above, the SIIB, Customs House Mundra vide Investigation Report No. 10/2024-25 proposed that:

- (i) 1,99,740 Kgs of Heavy Melting Scrap-Iron and Steel Remeltable Scrap imported under Bills of Entries mentioned above, valued at Rs. 78,94,454/-, is liable for confiscation under Section 111(d) and 111(m) of the Customs Act, 1962.,
- (ii) The appellant is liable for Penalty under Section under the provisions of Section 112(a) of the Customs Act, 1962,
- (iii) Bond executed by the appellant to be enforced in terms of Section 143(3) of the Customs Act, 1962 and the Bank Gurantees having total value amounting to Rs. 7,89,447/-(10% of value) to be encashed for the recovery of fine and penalty leviable against the appellant.

2.9 Consequently, the Adjudicating Authority observed that as per para 2.32 of FTP 2023, import of metallic waste and scrap is free subject to the conditions as mentioned in para 2.51 of the Handbook of Procedures. Para 2.51 of the Handbook stipulates that freely importable metallic waste and scrap should be accompanied by a pre shipment inspection certificate (PSIC) and a copy of the contract with the Exporter, among other things. In the absence of these documents, these goods become restricted/prohibited for import. He further observed that the DGFT, vide their Office Memorandum dated 13.06.2023 clarified that UAE has banned export of Ferrous Scrap under ITC HS 7204. It further clarified that any PSIC showing the place of inspection in UAE and import item banned by UAE for export, such PSIC may be treated as invalid.

2.10 In the view of the above, the adjudicating authority found that the imported metallic scrap was not inspected at the Jebel Ali Port at UAE and the PSIC was issued without inspecting the imported scrap as UAE has banned export of Ferrous scrap under CTH 7204. The adjudicating authority vide the impugned order:



(i) Ordered to confiscate the goods i.e. 1,99,740 Kgs of Heavy Melting Scrap-Iron and Steel Remeltable Scrap imported under subject Bills of Entry, valued at Rs. 78,94,454/- under Section 111(d) and 111(m) of the Customs Act, 1962. He further held that as the goods already redeemed by the appellant availing option for home consumption, he imposed a redemption fine of Rs. 7,80,000/- under Section 125 of Customs Act, 1962 in lieu of confiscation of the goods;

(ii) He imposed penalty of Rs. 1,00,000/- upon the appellant under Section 112(a)(i) of the Customs Act, 1962.

(iii) He ordered to enforce the Bond and to encash the Bank Guarantee having amounting to Rs. 7,89,447/- furnished by the appellant at the time of provisional release of the goods Le. by way of Home Consumption. If the amount of redemption fine & penalty (as confirmed above) paid in full by the appellant, the Bond may be cancelled and Bank Guarantee may be released by the competent authority.

**SUBMISSIONS OF THE APPELLANT:**

3. Being aggrieved with the impugned order, the Appellant has filed the present appeal against the impugned order and mainly contended as under:

- The appellant hereby says and submits that the Adjudicating Authority has erred in referring to DGFT Office Memorandum dated 13.06.2023 (F. No. 01/53/8/E/AM24/PSIC/Import Cell/918) to hold that where PSIC shows place of inspection in UAE where there is export ban on ferrous scrap, such PSIC may be treated as invalid, inasmuch as the impugned order does not take into account crucial part of para 5 of the said Office Memorandum, which is as under:

*"5. Regarding the issue of export ban by UAE on ferrous scrap, it is noted that UAE has banned export of Ferrous Scrap under ITC HS 7204. In this regard, if there are cases where PSIC shows places of inspection in UAE and import item is banned by UAE for export, it may tantamount to mis-declaration on the part of PSIA and such PSIC may be treated as invalid."*

Thus, the charge of mis-declaration, if any, as well as the consequential proceedings ought to have been directed against PSIA and not the appellant. On this ground, it is submitted that the impugned order is mis-directed so far as appellant is concerned.

- Further, Custom House, Mumbai vide Letter F. No. SG/Misc-13/2023-



24/Admin/SIIB (1) JNCH dated 25.07.2023 that was issued in the context of aforesaid DGFT Office Memorandum, has issued following clarification to deal with scrap originating from UAE in a uniform manner:

*"3. In sum, therefore, live consignments of scrap originating from UAE be subjected to a thorough 100% examination, including re-verifying content mentioned in the PSIC. As a matter of abundant caution, the contents of the PSIC submitted by the importer be thoroughly re-verified, including by the local PSIA through fresh inspection. To confirm the origin, the container movement may be verified if deemed fit. In case no discrepancies are found, apart from the PSIC originating from UAE, the consignments be released by following the regular checks and procedures stipulated under the Customs Act, 1962 and rules made there under."*

- The impugned order does not contain any evidence to support the apprehension expressed by NCTC at para (vii) *ibid* that *"goods could be originating in a third country including Iran/Pakistan/Yemen and are being transshipped via UAE to evade the higher duty (Pakistan @200%) or circumvent the restriction on import of only shredded scrap from Iran/Yemen (para 2.51 (c) of the Handbook), aside from posing safety/security risk"*.

Thus, by applying DGFT OM dated 13.06.2023, mis-declaration, if any, lies with the PSIA.

- The appellant hereby says and submits that in the instant case, the impugned order would fairly concede in respect of the bill of entry that goods appear to be as declared; that no marks, numbers and signs have been found indicating the goods being originated from country other than the declared in bills of entry. Thus, it is evident that the requirement of DGFT OM *supra* have been fully complied with and the apprehension expressed by NCTC stand completely allayed.
- He further submitted that as no material discrepancy was found, there is no legal authority to place the goods under seizure and obtain bond and bank guarantee from the appellant, inasmuch as the same have become redundant in face of procedure set out by Custom House, JNCH, Nhava Sheva. Moreover, there is no restriction or prohibition against import of goods under consideration from UAE (inasmuch as the same is placed at the other end and not in India). Therefore, it is preposterous to assume that inspection of goods in UAE by a Pre-Shipment Inspection Agency



would automatically render the certificate issued by such an agency as invalid and render the goods found tallying with the description at the time of import into India as questionable, without even making the agency a noticee by Customs, Mundra.

- The appellant hereby says and submits that in the facts and circumstances where PSIC is found to be unacceptable, the goods cannot be held liable to confiscation under Section 111 (d) when no mis-declaration is found, in view of following decisions of Hon'ble High Court of Gujarat:
  - (i) Commissioner of Customs v/s Senor Metals Pvt. Ltd., 2009 (236) ELT 445 (Guj.)
  - (ii) Commissioner of Customs v/s Moolchand Steels Pvt. Ltd., 2008 (224) ELT 57 (Guj.)
- He further submitted that as goods were found as per declaration, invocation of Section 111 (d) and (m) of Customs Act, 1962, is not good in law. Moreover, it is a settled law that redemption fine is imposed to wipe out profit. In this case, no evidence is disclosed to show that appellant made any undue gain by importing the goods under consideration that were undisputedly loaded from UAE and were found as per description declared in the bills of entry. Hence, Ld. Adjudicating Authority has erred in imposing redemption fine.
- He in respect of penalty submitted that on the basis of above submissions and citations that Ld. Adjudicating Authority has erred in holding the goods liable to confiscation under Section 111 (d) and (m) of Customs Act, 1962. Hence, the appellant is not liable to penalty under Section 112 (a) of Customs Act, 1962.

**PERSONAL HEARING:**

4. Personal hearing was granted to the Appellant on 09.03.2026, following the principles of natural justice wherein Shri Vikas Mehta, Consultant, appeared for the hearing and re-iterated the submissions made at the time of filing the appeal.

**DISCUSSION AND FINDINGS:**

5. Before going into the merits of the case, it is observed that the appeal filed by the appellant, have been filed beyond normal period of 60 days but within the condonable period of 30 days as stipulated under Section 128(1) of the Customs Act, 1962. Appellant has requested for condoning the delay in filing the said appeal on the grounds that several orders have been passed by



the adjudicating authority on similar issue. It took some time for the importers to appoint a common consultant for handling the appeal work causing delay in filing the appeal. Therefore, taking a lenient view to meet the ends of justice, I allow the appeal, as admitted condoning the delay in filing the appeal beyond the normal period of 60 days under proviso to the Section 128(1) of the Customs Act, 1962.

6. I have carefully gone through the case records, the impugned order, and the submissions made by the appellant in the appeal memorandum. I have also examined the findings recorded by the adjudicating authority. It is observed that the adjudicating authority has primarily relied upon Office Memorandum dated 13.06.2023 issued by the Directorate General of Foreign Trade (DGFT), wherein it has been stated that the UAE has imposed a ban on the export of Ferrous Scrap under ITC (HS) 7204. The said memorandum further clarifies that where Pre-Shipment Inspection Certificates (PSICs) indicate the place of inspection as UAE for goods which are reportedly banned for export from UAE, such PSICs may be treated as invalid, as the same may amount to mis-declaration on the part of the Pre-Shipment Inspection Agency (PSIA). Relying on the aforesaid Office Memorandum dated 13.06.2023, the adjudicating authority concluded that the PSIC submitted in the present case was not valid and accordingly proceeded to confiscate the goods, namely 1,99,740 Kgs of Heavy Melting Scrap-Iron and Steel Remeltable Scrap valued at Rs. 78,94,454/-, under Sections 111(d) and 111(m) of the Customs Act, 1962. The adjudicating authority, however, extended an option to the appellant to redeem the confiscated goods on payment of a redemption fine of Rs. 7,80,000/- under Section 125 of the Customs Act, 1962. Further, a penalty of Rs. 1,00,000/- was imposed on the appellant under Section 112(a)(i) of the Customs Act, 1962, and directions were also issued for enforcement of the bond and encashment of the Bank Guarantee furnished by the appellant.

6.1 I have also perused para 5 of the office memorandum dated 13.06.2023 issued by the DGFT, which was relied heavily by the adjudicating authority and the same is reproduced as under:

*“5. Regarding the issue of export ban by UAE on ferrous scrap, it is noted that UAE has banned export of Ferrous Scrap under ITC HS 7204. In this regard, if there are cases where PSIC shows place of inspection in UAE and import item is banned by UAE for export, it may tantamount to mis-declaration on the part of PSIA and such PSIC may be treated as invalid.”*



Relying on the aforesaid clarification, the adjudicating authority has concluded that the imported metallic scrap was not inspected at Jebel Ali Port, UAE, as declared, and that the Pre-Shipment Inspection Certificate (PSIC) was issued without the actual inspection of the subject consignment. On this basis, the adjudicating authority held that the PSIC submitted by the appellant was not valid.

6.2 In this regard, the appellant has contended that any allegation of mis-declaration, if at all, would be attributable to the Pre-Shipment Inspection Agency (PSIA) that issued the PSIC, and that any consequential action ought to have been directed against the PSIA rather than against the appellant. On examination, it is observed that paragraph 5 of the Office Memorandum dated 13.06.2023 issued by the Directorate General of Foreign Trade (DGFT) states that in cases where the PSIC indicates the place of inspection as UAE for items reportedly banned for export from UAE, such PSIC may be treated as invalid. The wording of the said Office Memorandum does not declare such PSICs to be automatically or invariably invalid in all cases. However, in the present case, the adjudicating authority has treated the PSIC as invalid solely on the basis of the aforesaid Office Memorandum. Such a conclusion does not appear to be strictly aligned with the clarification issued by the DGFT, which only indicates that such PSICs may be treated as invalid. Therefore, the finding recorded by the adjudicating authority in this regard is not fully consistent with the tenor and scope of the Office Memorandum dated 13.06.2023 issued by the DGFT

6.3 It is further observed that the appellant has also relied upon the Letter F. No. SG/Misc-13/2023-24/Admin/SIIB (1) JNCH dated 25.07.2023 of JNCH, Nava Sheva on the issue of Clearance of scrap Imported from UAE kept on hold or pending Examination at various CFSs at JNCH, Nhava Sheva on basis of NCTC Alerts. The same is as under:

*2 In a few cases of scrap consignments originating from UAE which were studied thoroughly, during verification, the PSIC submitted by the importer was found to be available on the website of DGFT. Further, the conditions mentioned at para 2.51 of HBP 2023 were found to have been complied with in case of these consignments, as on examination of such consignments, it was found to not contain any type of arms, ammunition, mines, shells, cartridges, or any other war material either used or otherwise. The port authorities too have categorically stated that the Radiation Portal Monitors have not suggested any increased level of radiation (gamma and neutron) in excess of natural background. Thus,*



*nothing contrary to the declaration in the PSIC was found. Thus, the three conditions mentioned in para 2.51 (d) were being complied by the importer and nothing adverse was noticed, in the declarations made by the importers. Moreover, the importers claim that they are not at fault since no war materials or radioactivity was found in the consignments.*

*3 In sum, therefore, live consignments of scrap originating from UAE be subjected to a thorough 100% examination, including re-verifying content mentioned in the PSIC. As a matter of abundant caution, the contents of the PSIC submitted by the importer be thoroughly re-verified, including by the local PSIA through fresh inspection. To confirm the origin, the container movement may be verified if deemed fit. In case no discrepancies are found, apart from the PSIC originating from UAE, the consignments be released by following the regular checks and procedures stipulated under the Customs Act 1962 and rules made there under.*

6.4 It is observed that, in the present case, in accordance with the procedure prescribed by the Customs House at JNCH, Nhava Sheva, the goods covered under both the Bills of Entry were subjected to examination by the Preventive Officer (PO) in the presence of the Superintendent, Deputy Commissioner, and the representative of the appellant. During the course of examination, the container was destuffed and the goods were visually inspected. On visual examination, the goods appear to be as declared i.e. Heavy Melting Scrap Iron and Steel Remeltable Scrap. Further, no marks, numbers and signs have been found indicating the goods being originated from country other than the declared in BOE. The goods were found to be in conformity with the declaration made by the importer, and no adverse discrepancy was noticed during the physical examination. Additionally, the PSIC submitted by the importer was verified through the online verification facility available on the official website, and the same was found to be duly available on the website of the Directorate General of Foreign Trade (DGFT), thereby confirming its authenticity

6.5 It is further observed that a Post-Shipment Inspection of the consignment was also conducted by a DGFT-approved agency, namely M/s. Ravi Energie Inc. The said agencies submitted its inspection report certifying that the consignment was duly examined and that the radiation levels were within permissible limits and did not exceed the natural background radiation level. The report further indicates that the container was destuffed and the goods were subjected to visual examination. On visual examination, the goods appear to be as declared i.e. Heavy Melting Scrap Iron and Steel Remeltable



Scrap. Further, no marks, numbers and signs have been found indicating the goods being originated from country other than the declared in BOE.

6.6 It is further observed that, in terms of Letter F. No. SG/Misc-13/2023-24/Admin/SIIB (1) JNCH dated 25.07.2023 issued by JNCH, Nhava Sheva regarding the clearance of scrap imported from the UAE, the Pre-Shipment Inspection Certificate (PSIC) submitted by the importer was verified and found to be available on the official website of the Directorate General of Foreign Trade (DGFT). Further, upon examination, the consignment was found to be in conformity with the declaration made by the importer. In addition, a Post-Shipment Inspection of the consignment was carried out by a DGFT-approved inspection agency, which confirmed that the consignment was duly checked and that the radiation levels were within permissible limits and did not exceed the natural background radiation level

6.7 Further I have also perused Para 2 and 3 of the office memorandum dated 13.06.2023 of DGFT and the same is reproduced as under:

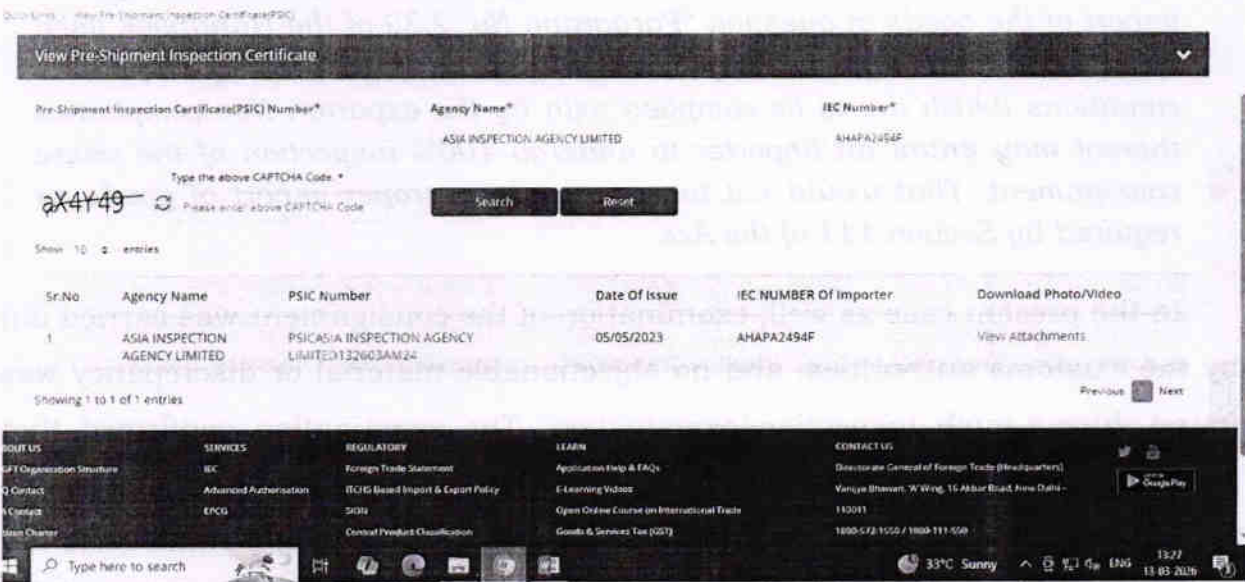
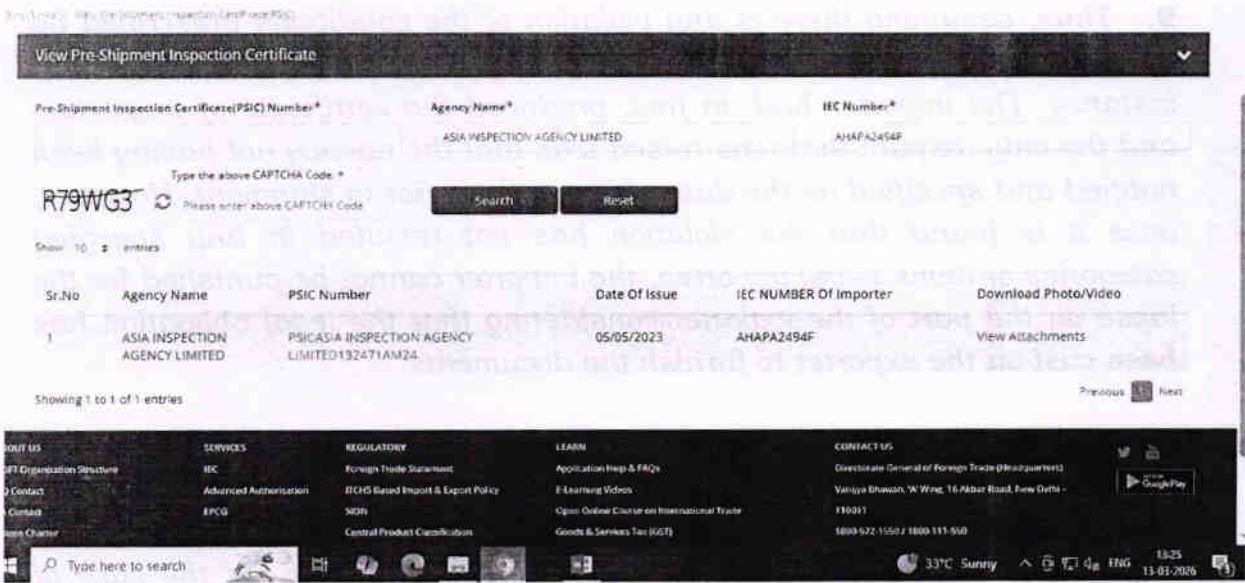
*2. In this regard, kindly note that as per the PSIC online module, PSIA is required to upload the inspection photos/videos on the website while generating PSIC. The photos could be uploaded in image format or in PDF format. It may be noted that online system does not allow generating PSIC if photos/videos are not uploaded.*

*3. It is intimated that there is a verification facility available on the website, through which authenticity of PSIC could be checked and certificate could be downloaded by filling in PSIC certificate number, PSIA name and IEC number of importer. However, photos/videos are not accessible in this facility.*

From the above, it is evident that the online system does not permit generation of a Pre-Shipment Inspection Certificate (PSIC) unless the requisite photographs and videos of the inspection are uploaded by the Pre-Shipment Inspection Agency (PSIA). Therefore, the generation of the PSIC itself indicates that the prescribed inspection process was undertaken and the necessary evidentiary documents were uploaded in the system. In the present case, the appellant has submitted the PSIC pertaining to the imported consignment, and the same has been duly verified from the official website of the Directorate General of Foreign Trade (DGFT). The certificate was found to be available and verifiable on the DGFT portal, thereby corroborating its authenticity and confirming that the prescribed inspection procedure had been followed. Screen



shot of the on line verification of PSIC from the official website of the Directorate General of Foreign Trade (DGFT) is as under:



6.8 The appellant has further contended that where PSIC is found to be unacceptable, the goods cannot be held liable to confiscation under Section 111 (d) when no mis-declaration is found and relied upon the decision in the case of COMMISSIONER OF CUSTOMS Vs SENOR METALS PVT. LTD [2009 (236) E.L.T. 445 (Guj.)] wherein the Hon'ble High Court of Gujarat held that when 100% inspection of the consignment was undertaken and nothing objectionable was found in the consignment the goods are not liable for confiscation and no penalty can be imposed. The relevant paras are as under:

**8.** *In absence of any of the aforesaid specified documents, or in absence of the specified conditions not being stated in the certificate which may be produced, the importer shall have to undergo physical inspection of the goods in question and the Customs authorities shall undertake such inspection in accordance with law. In other words, non-production of a pre-shipment certificate would require 100% goods carried by the consignment*



being subjected to inspection. This becomes clear when one finds that the adjudicating authority has undertaken such an inspection and recorded that no explosive and war materials have been noticed as extracted hereinbefore.

**9.** Thus, assuming there is any violation of the conditions prescribed by the Handbook of Procedures, such a violation is by the exporter in the first instance. The importer had, in fact, produced the certificate of inspection and the only dispute that was raised was that the agency not having been notified and specified on the date of inspection prior to shipment. However, once it is found that the violation has not resulted in any specified categories of items being imported, the importer cannot be punished for the lapse on the part of the exporter considering that the legal obligation has been cast on the exporter to furnish the documents.

**10.** Section 11(d) of the Act permits confiscation of goods improperly imported, namely, any goods imported : (i) contrary to any prohibition imposed by or under the Act, or (ii) contrary to any prohibition imposed by any other law for the time being in force. The former is not the case of revenue. In so far as the latter is concerned, there is no prohibition against import of the goods in question "Paragraph No. 2.32 of the Handbook itself specifies this. Only, the import is subject to fulfilment of stipulated conditions which are to be complied with by the exporter. Non-compliance thereof may entail an importer to undergo 100% inspection of the entire consignment. That would not tantamount to improper import of goods as required by Section 111 of the Act.

In the present case as well, examination of the consignment was carried out by the Customs authorities, and no objectionable material or discrepancy was found during such inspection/examination. The examination confirmed that the goods were in conformity with the declaration made by the appellant. In these circumstances, when the physical inspection of the consignment has not revealed any irregularity or violation, the action of ordering confiscation of the goods and imposing penalty is not justified. Accordingly, the confiscation of the goods as well as the imposition of penalty are unsustainable in law and liable to be set aside

6.10 In view of the foregoing facts and circumstances, I am of the considered view that the imported goods were found to be in conformity with the declaration made by the appellant. No discrepancy or mis-declaration with regard to the nature, description, or other relevant particulars of the goods was noticed during examination. Further, nothing adverse was found that was contrary to the particulars declared in the Pre-Shipment Inspection Certificate (PSIC). It is also observed that the authenticity of the PSIC submitted by the appellant was verified from the official website of the Directorate General of



Foreign Trade (DGFT). In addition, a post-shipment inspection of the consignment was carried out by the competent authority, wherein it was confirmed that the radiation level of the imported goods was within the permissible limits and did not exceed the natural background radiation level. Apart from the issue relating to the origin of the PSIC from the UAE, no other discrepancy or violation in respect of the imported goods has been brought on record. The examination and verification conducted do not indicate any attempt at mis-declaration, suppression of facts, or contravention of the provisions of the Customs Act, 1962. Accordingly, in the absence of any substantive violation, the imported goods are not liable to confiscation under the provisions of the Customs Act, 1962. Consequently, the imposition of penalty on the appellant is also not warranted.

7. Accordingly, the order of confiscation and imposition penalty is liable to be set aside. Impugned order set aside and appeal allowed with consequential relief, if any to the appellant.



સત્યાપિત/ATTESTED

*[Handwritten Signature]*

અધિકારી/SUPERINTENDENT  
સીઆર ડુઆર (અપીલ), અહમદાબાદ.

F. No. S/49-72/CUS/MUN/2025-26

*[Handwritten Signature]*

(AMIT GUPTA)

Commissioner (Appeals),  
Customs, Ahmedabad

Date: 17.03.2026

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3. The Additional Commissioner of Customs, Custom, Mundra.
4. Guard File.