



PREAMBLE

A	फाइल संख्या/File No.	:	ACC/Asse/145/2024-ACC-AHMD-CUS-COMMRTE-AHMEDABAD
B	SCN	:	ACC/Asse/145/2024-ACC-AHMD-CUS-COMMRTE-AHMEDABAD DTD. 30.10.2024
C	मूल आदेश संख्या/Order- in – Original No.	:	172/ADC/ACC/OIO/Hardik/2024-25
D	द्वारा पारित/Passed by	:	Arun Richard, Commissioner in situ
E	आदेश तिथि /Date of Order	:	04.03.2025
F	जारी करने की तारीख/Date of Issue	:	04.03.2025
G	नाम और पता/Name and Address of Noticees	:	1. Hardik International Pvt. Ltd. Plot No. G-2041-42/A, Kishan Gate, Lodhika GIDC, Kalwad Road, Metoda, Rajkot-360 021 2. Steadfast Logistics, (CB Code BJJPM5572FCH001) GF-26, Concord Complex, Alkapuri Road, Opp. Petrol Pump, Vadodara, Gujarat-390007.
H	DIN No.	:	20250371MN00005025BA

- (1) This is granted free of charge for the use of person to whom it is issued
- (2) Any person deeming himself aggrieved by this order may appeal against the order to the Commissioner of Custom (Appeals), 4th Floor, HUDCO Building, Ishwar Bhuvan Road, Navrangpura, Ahmedabad – 380009 within sixty (60) days from the date of receipt of the order.
- (3) The appeal should bear a Court Fee stamp of Rupees Two only (Rs. 2.00), and it must be accompanied by
 - i. A copy of the appeal and
 - ii. This copy or any copy of this order will must bear a Court fee Stamp of Rupees Two only (Rs. 2.00/-)
- (4) Any person desirous of appealing against this order shall deposit 7.5% (subject to maximum of Rs. 10 crores) of duty demanded, in case where duty or penalty levied, where such penalty is in dispute and produce proof of such payment along with the appeal, failing which the appeal is liable to be rejected for non-compliance of the provisions of Section 129 of the Customs Act, 1962.

Brief Facts of the Case:

The Importer M/s. Hardik International Pvt. Ltd. (IEC -No.0702006751/0) (hereinafter referred to as 'the Importer') Plot No. G-2041-42/A, Kishan Gate, Lodhika GIDC, Kalwad Road, Metoda, Rajkot-360 filed two Bills of entry declaring assessable value Rs.3,56,079/- & Rs.42,66,714.78 respectively and duty Rs. NIL by claiming Notification no. 45/2017 Sr No. 5 for clearance of goods declared as Orthopaedic Instruments and Implants classified under CTH 90189029 & 90211000 of the First

Schedule to the Customs Tariff Act, 1975 through Customs Broker Firm M/s. Steadfast Logistics (CB Code BJJGPM5572FCH001), at Air Cargo Complex, Ahmedabad. Details of BoE is as follows:

Table:01

S1. No.	BoE	Date	CTH	Quantity	Gross Weight	Assessable Value	Duty
1.	2632778	18.03.2024	9018902 9	161	52KG	3,56,079/-	Notification no. 45/2017 Sr No. 5
2.	2633123	18.03.2024	9021100 9018902	3919+43 =3962	31KG	42,66,715/-	
Total				4123	83KG	46,22,794/-	

2. The goods were examined under *panchnama* dated 06.04.2024 (RUD-02), at AIAL, Air Cargo Complex, Ahmedabad and significant discrepancies were found between the declared and actual contents. On 100% examination of the subject import shipments, it was found that the majority of the boxes were empty whereas few boxes contained few orthopaedic instruments and implants (k-wires). It was observed that the said declared imported items did not match with the goods declared in the Import Documents, namely, Bill of Entry, Invoice, Packing List On 16.04.2024 Shri Dinesh P. Jani, empanelled Charted Engineer -F-108975-3, has inspected the subject goods for ascertaining the value of the goods and issued a CE Certificate Ref. No. DPJ/2024-25/37 (RUD-03). The details of goods found during examination are as follows:

Table:02

BoE No. 2632778 dt. 18.03.2024			
S1. No.	Items	Qty	Market Value in INR (as per CE report)
1	Orthopaedic Implants Instruments Box No. 1 to 4, & 7 Box No. 5 & 6 empty	74 nos.	24 nos. X 200 = 4800 INR (Box No. 1,2,3) 42 nos. X 110 = 4620 INR (Box No.4) 8 nos. X 200 = 1600 INR (Box No. 7) Box No. 5 & 6 empty
2	Metallic Box	7 nos.	7 nos. X 2000 = 14000 INR
Total		74 items + 7 box	25020 INR
BoE No. 2633123 dt. 18.03.2024			
S1. No.	Items	Qty	Market Value in INR
1	Orthopaedic Implants Instruments Box No. 1, 3 & 4, Box No. 2 empty	19 items including coffee making machine	Box No. 1 & 3 18 nos. X 200 = 3600 INR 1 pillow 100 INR Box No. 2 empty Box No. 4 1 old coffee making machine (Lavaze Make Machine Blusoftstk brand)

			and 3 Marble Tiles 10,000 INR
2	Metallic Box	4 nos.	4 nos. X 2000 = 8000 INR
	Total	19 items + 4 box	21700 INR
	Gr. Total	93 items + 11 box	46720 INR

3. Brief Facts of the Case in Chronological Order:

- a. The importer has filed 2 Bill of Entry i.e.2632778 & 2633123 both dated 18.03.2024.
- b. Examination of subject goods was conducted on 06.04.2024 in the presence of PANCHAS and a detailed PANCHNAMA dated 06.04.2024 was drawn.
- c. On 16.04.2024 Shri. Dinesh P. Jani, empanelled Charted Engineer -F-108975-3 has inspected the subject goods for ascertaining the value of the goods and issued a CE Certificate Ref. No. DPJ/2024-25/37, and determined the value of the subject seized goods to Rs.46,720/-.
- d. Summons bearing DIN 20240247MN000000B2FB dated 19.04.2024 was issued to M/s Hardik International Pvt. Ltd.
- e. Statement of Shri Preyash Mukeshkumar Hadvani, Director of M/s Hardik International Pvt. Ltd., was recorded on 23.04.2024. It was stated that the importer had earlier exported the Orthopaedic instruments & implants vide Shipping Bill No. 4836440 dated 23.10.2023, to NE-HAS-KARS DZZD, Sofia Bulgaria (Buyer) through M/s Euro Medical Group Ltd, Bulgaria (Consignee). The importer has stated that it had payment dispute with NE-HAS-KARS DZZD, Sofia Bulgaria (Buyer) and M/s Euro Medical Group Ltd, Bulgaria (Consignee) and asked them to return their goods. The importer has submitted a letter dated 25.04.2024 (RUD-04) wherein it attached all the screenshots of WhatsApp chat related to their payment dispute with Consignee/Buyer. The importer has stated that the subject goods were returned by M/s Euro Medical Group Ltd, Bulgaria to M/s Hardik International Pvt. Ltd. under Bills of Entry Nos. 2632778 and 2633123, both dated 18.03.2024. The importer has stated that it had paid the Duty Drawback and RoDTEP claimed on export of the goods amounts totalling Rs. 70,700/- on 26.03.2024, vide Payment Challan No. 2102 (RUD-05).
- f. The subject import Goods were seized vide Seizure Memo 04.05.2024.
- g. Thereafter, goods were handed over vide SUPARTNAMA dated 04.05.2024 to Shri Parmar Dhruvilsinh Aniruddsinh, Cargo Assistant at AIAL, Ahmedabad, on 04.05.2024.
- h. A letter dated 05.08.2024 received from the M/s Hardik International Pvt. Ltd. and they requested for the relinquishment of title/abandonment of goods under section 26A of the Customs Act, 1962.

4. As per the provisions of Custom Act, the proviso of the sub section 2 of the section 23 of the Customs Act, 1962 reads as follows: "provided that the owner of the any such imported goods shall not be allowed to relinquish his title to such goods regarding which an offence appears to have been committed under this Act or any other law for the time being in force".

5. A summons bearing DIN 20240247MN000000B2FB dated 19.04.2024 (RUD-06) was issued to M/s Hardik International Pvt. Ltd. Statement of Shri Preyash Mukeshkumar Hadvani, Director of M/s Hardik International Pvt. Ltd., was recorded under section 108 of the customs act, 1962 on 23.04.2024 (RUD-07). During statement he has stated that:

- They had exported the goods i.e. Orthopaedic Implants (nos. 3919) & Orthopaedic Instruments (nos. 278) classified under CTH 90211000 & 90189029 respectively to NE-HAS-KARS DZZD, Sofia Bulgaria (Buyer)

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through M/s Euro Medical Group Ltd, Bulgaria (Consignee) vide Shipping Bill No. 4836440 dated 23.10.2023 (RUD-08) having FOB value Rs.43,00,620/-.

- They had payment dispute with NE-HAS-KARS DZZD, Sofia Bulgaria (Buyer) and M/s Euro Medical Group Ltd, Bulgaria (Consignee) and had communication with consignee through Call, e-mail and WhatsApp asked for payments repeatedly.
- Most of their communication with the said consignee is through WhatsApp only.
- Due to payment dispute they have asked their consignee M/s. Euro Medical Group Limited, Sofia Bulgaria to return their goods.

6. The subject import goods were seized on 04.05.2024 vide seizure memo dated 04.05.2024 (RUD-09) under section 110 of customs Act, 1962 on reasonable belief that the goods are in contravention of Section 111 (l) & 111 (m) Custom Act, 1962, due to non-conformity with the declared specifications. The seized goods were subsequently handed over vide SUPURTNAMA dated 04.05.2024 (RUD-10) to Shri Parmar Dhruvilsinh Aniruddsinh, Employee ID- BATS04438, Cargo Assistant, AIAL, Air Cargo Complex, Ahmedabad on 04.05.2024.

7. Valuation of the goods:

The subject seized Goods appears to be to be mis-declared in quantity and declaration, hence it appears that the value declared by the importer for customs purposes for clearance of the aforesaid imported goods does not appear as representing true transaction value under Rule 3 of CVR, 2007 in as much as the importer, as it appears by adopting this modus of mis-declaring the description and quantity, appears to have suppressed the actual transaction value of the goods imported and hence, it appears that the declared value is therefore, liable for rejection under Rule 12 of CVR, 2007. Under Rule 12 of CVR, 2007, where there are reasons to doubt the truth and accuracy of the value declared in relation to any imported goods then such value shall be rejected and the value will be re-determined in accordance with the provisions of the Rules. It appears that the said importer, have imported goods and mis- declared the value thereof while filing Bill of Entry. Therefore, it appears that the value declared in Bill of Entry filed by the importer appears liable to be rejected in terms of Rule 12 of CVR, 2007. As per rule 12 of CVR, 2007, "where the declared value is rejected, the value shall be determined by proceeding sequentially in accordance with Rules 4 to 9". Accordingly, the Rules were considered sequentially as follows:

- Application of Rule 4 of CVR, 2007 (Transaction value of the identical goods)- Since the values for identical goods were not available in the NIDB for the items, as the goods were of other than reputed brand and generic in nature, the rule 5 of CVR, 2007 was resorted to, for determination of the transaction value.
- Application of Rule 5 of CVR, 2007 (Transaction value of similar goods): - Since the values for similar goods were also not available in the NIDB for the items, as the goods are old, used and refurbished, the Rule 6 of CVR, 2007 was resorted to, for determination of Transaction Value.
- Application of Rule 6 of CVR, 2007 (Determination of value where value cannot be determined under Rules 3, 4, and 5 of CVR, 2007): Since the values for all items of the said Bill of Entry could not be ascertained on the basis of Rule, 3, 4, and 5, the Rule 7 of CVR, 2007 was resorted to, for determination of the transaction value.
- As per Rule 7 (Deductive Value) of the CVR, 2007, the Assessable value is to be calculated using deductive method, after giving necessary deductions of commissions paid, cost of transport and insurance and the customs duties and taxes payable etc. The impugned goods are orthopaedic implants instruments, metallic boxes, pillow, marble slab, old and used coffee maker machine, therefore, the value could not be ascertained on basis of Rule 7.
- Rule 8 (Computed Value) of CVR, 2007 could not be employed for determination of assessable value as no data was available for the same.
- Rule 9 (Residual Method) was employed as the value could not be determined as per Rule 4-8 and on the basis of the Chartered Engineer

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report of the approved valuer, the valuation of the goods imported vide BE 2632778 & 2633123 both dated 18.03.2024 vide CE Certificate Ref. No. DPJ/2024-25/37 dated 16.04.2024 as shown below:

Table:03

BoE No. 2632778 dt. 18.03.2024			
Sl. No.	Items	Qty	Market Value in INR
1	Orthopaedic Implants Instruments Box No. 1 to 7, Box No. 5 & 6 empty	74 nos.	24 nos. X 200 = 4800 INR (Box No. 1,2,3) 42 nos. X 110 = 4260 INR (Box No.4) 8 nos. X 200 = 1600 INR (Box No. 7)
2	Metallic Box	7 nos.	7 nos. X 2000 = 14000 INR
Total		74 items + 7 box	25020 INR

BoE No. 2633123 dt. 18.03.2024

Sl. No.	Items	Qty	Market Value in INR
1	Orthopaedic Implants Instruments Box No. 1 to 4, Box No. 2 empty	19 items including coffee making machine	18 nos. X 200 = 3600 INR (Box No. 1&3) 1 pillow 100 INR 8 nos. X 200 = 1600 INR (Box No. 7) 1 old coffee making machine (Lavaze Make Machine Blusoftstk brand) and 3 Marble Tiles 10,000 INR
2	Metallic Box	4 nos.	4 nos. X 2000 = 8000 INR
Total		19 items + 4 box	21700 INR
Gr. Total		93 items + 11 box	46720 INR

The value of seized goods as per Rule 9 on basis of approved valuer report appears as Rs. 46,720/-.

8. Classification of the goods:

Table:04

Duty Calculation
BoE No. 2632778 dt. 18.03.2024

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Sl. No.	Box No.	Items found	Proposed Classification in subject SCN	Ass. value	BCD	Health Cess	SWS	IGST	Total Duty
1	Box no. 1, 2 and 3	Orthopaedic Instruments	9018 9029 (27.4%)	4800	@7.5% Rs.360	@5% Rs.240	@10% Rs.60	@12% Rs.655.2	@27.40% Rs.1315.20
2	Box no. 4	Orthopaedic Implant	9021 1000 (19.438%)	4620	@7.5% Rs.346.5	@5% Rs.231	@10% Rs.57.75	@5% Rs.262.77	@19.44% Rs.898.01
3	Box no. 7	Orthopaedic Instruments	9018 9029 (27.4%)	1600	@7.5% Rs.120	@5% Rs.80	@10% Rs.20	@12% Rs.218.40	@27.40% Rs.438.40
4		Metallic Box (7)	7326 9099, (50.45%)	1400 0	@25% Rs.3500	@0% Rs.0	@10% Rs.350	@18% Rs.3213	@50.45% Rs.7063
			Total	2502 0	Rs.432 7	Rs.55 1	Rs.487.8 0	Rs.4349.3 6	Rs.9714.6 1

BoE No. 2633123 dt. 18.03.2024

1	Box no. 1, 3	Orthopaedic Instruments	9018 9029 (27.4%)	3600	@7.5% Rs.270	@5% Rs.180	@10% Rs.45	@12% Rs.491.40	@27.40% Rs.986.40
		Pillow	9404 9000, (50.45%)	100	@25% Rs.25	@0% Rs.0	@10% Rs.2.50	@18% Rs.22.95	@50.45% Rs.50.45
2	Box No. 4	1 old coffee making machine (Lavaze Make Machine Blusoftst k brand)	8516 7100, (43.96%)	1000 0	@20% Rs.200	@0% Rs.0	@10% Rs.200	@18% Rs.2196	@43.96% Rs.4396
3		Metallic Box (4)	7326 9099, (50.45%)	8000	@25% Rs.2000	@0% Rs.0	@10% Rs.200	@18% Rs.1836	@50.45% Rs.4036
Total				2170 0	Rs.429 5	Rs.18 0	Rs.447.5 0	Rs.4546.3 5	Rs.4968.8 5
Grand Total				4672 0	Rs.862 2	Rs.73 1	Rs.935.3 0	Rs.8895.7 1	Rs.19183.46

9. Investigation has revealed that the description, quantity, value appears not match with the import document. Also, the importer has claimed the duty exemption as per Sr No. 5 of Notification no. 45/2017-Cus dated 30.06.2017, as amended. The identity of the imported goods vide Bill of Entry No. 2632778 dated 18.03.2024 and 2633123 dated 18.03.2024 does not establish with the export Shipping Bill No. 4836440 dated 23.10.2023. Therefore, the goods imported vide Bill of Entry No.

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2632778 dated 18.03.2024 and 2633123 dated 18.03.2024 appears not eligible for the re-import notification benefit.

10. The importer M/s. Hardik International Pvt. Ltd. (IEC: 0313031207) appears to have mis-declared and appears not properly classified all subject seized goods imported vide Bills of Entry no. 2632778 & 2633123 both dated 18.03.2024; declared under CTH 90189029 & 90211000, whereas the imported goods appears not in the conformity with the import documents. The importer while filing the said Bills of Entry claimed duty exemption as per Sr No. 5 of Notification no. 45/2017-Cus dated 30.06.2017, as amended. It appears that the goods were not found as declared and the importer appears to have failed to declare the correct description of the goods. The importer appears to evaded the applicable customs duty by mis-declaring the imported goods and declaring an inapplicable exemption Notification benefit. The importer appears to have suppressed the fact regarding the correct description and classification of the goods and appears to cite ineligible Notification benefit in the bills of entry and appears to have adopted this modus operandi to evade payment of custom duties. The subject seized goods, therefore, appear liable to confiscation under the provisions of Section 111(l) and (m) of the Custom Act.

11. Relevant legal provisions of the Customs Act, 1962 applicable in the instant case:

i. Section 17. Assessment of duty. -

(1) An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.

ii. Section 28. [Recovery of [duties not levied or not paid or short-levied or short-paid] or erroneously refunded.

(4) Where any duty has not been [levied or not paid or has been short-levied or short-paid] or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,-

(a) collusion; or

(b) any wilful mis-statement; or

(c) suppression of facts,

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been 11[so levied or not paid] or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

iii. Section 46. Entry of goods on importation. -

(4) The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods as may be prescribed.

(4A) The importer who presents a bill of entry shall ensure the following, namely: -

(a) the accuracy and completeness of the information given therein;

(b) the authenticity and validity of any document supporting it; and

(c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

iv. Section 111. Confiscation of improperly imported goods, etc. -

(l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage

in the declaration made under section 77,

(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under trans-shipment, with the declaration for trans- shipment referred to in the proviso to sub-section (1) of section 54.

v. Section 112. Penalty for improper importation of goods, etc.-

Any person, -

(a) 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 111, or abets the doing or omission of such an act, or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111.

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 not exceeding the value of the goods or five thousand rupees, whichever is the greater;
- ii. Section 114A. Penalty for short-levy or non-levy of duty in certain cases.

Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub- section (8) of section 28 shall also be liable to pay a penalty equal to the duty or interest so determined:]

[Provided that where such duty or interest, as the case may be, as determined under sub-section (8) of section 28, and the interest payable thereon under section 28-AA, is paid within thirty days from the date of the 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 duty or interest, as the case may be, so determined:

Provided further that the benefit of reduced penalty under the first proviso shall be available subject to the condition that the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso:

Provided also that where the duty or interest determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the Court, then, for the purposes of this section, the duty or interest as reduced or increased, as the case may be, shall be taken into account:

Provided also that in a case where the duty or interest determined to be payable is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the Court, then, the benefit of reduced penalty under the first proviso shall be available if the amount of the duty or the interest so increased, along-with the interest payable thereon under section 28-AA, and twenty-five per cent. of the consequential increase in penalty have also been paid within thirty days of the communication of the order by which such increase in the duty or interest takes effect:

Provided also that where any penalty has been levied under this section, no penalty shall be levied under section 112 or section 114.

Explanation. -For the removal of doubts, it is hereby declared that-

(i) the provisions of this section shall also apply to cases in which the order determining the duty or interest under sub-section (8) of section 28 relates to notices issued prior to the date on which the Finance Act, 2000 receives the assent of the President;

(ii) any amount paid to the credit of the Central Government prior to the date of communication of the order referred to in the first proviso or the fourth proviso shall be adjusted against the total amount due from such person.]

vii. 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.]

12. Therefore, it appears that:

- a. With the introduction of the Self-Assessment, the importer is required to declare the correct description, value, classification, notification number, if any, on the imported goods. The importer is squarely responsible for self-assessment of duty on imported goods and filing all declaration and related documents and confirming these are true, correct and complete. Importers would face penal action on account of wrong self-assessment made with intent to evade duty or avoid compliance of conditions of notifications, Foreign Trade Policy or any other provisions under the Customs Act, 1962 or the allied acts. While filing the Bills of Entry Importer is bound to declare the correct particular of the goods which they failed do to in this case. Section 46(4) of Customs Act, 1962 stipulates that the importer while presenting a Bill of Entry shall make and subscribe to a declaration as to the truth of the contents of such Bill of Entry. It appears that the importer failed to bring out the truth relating to the declaration and valuation of the imported goods, which it is bound statutorily as per the Act.
- b. the importer M/s. Hardik International Pvt. Ltd. (IEC: 0313031207) appears to have mis-declared and not properly classified all subject seized goods imported vide Bill of Entry no. 2632778 & 2633123 both dated 18.03.2024 under CTH 90189029 & 90211000, whereas the imported goods are not in the conformity with the import documents. The imported goods found during examination are classifiable under respective heading of Custom tariff which is mentioned in Table-04. Many boxes were empty and some had the orthopaedic instruments / implants, pillow, marble slabs/tiles and old coffee maker machine. The importer has declared the value of the goods Rs.46,22,794/- whereas the per the CE certificate value of the imported goods is Rs.46,720/-.
- c. The importer M/s. Hardik International Pvt. Ltd. appears to have mis-declared the description and quantity of goods and classifying them under CTH 90189029 & 90211000 whereas the correct classification appears to be as mentioned in Table-04. The goods imported vide Bill of Entry No. 2632778 dated 18.03.2024 and 2633123 dated 18.03.2024 appear liable to confiscation under sub-section (l) and (m) of Section 111 of the Customs Act, 1962. Further, as it appears that the subject goods have been improperly imported and therefore appear liable to be rendered liable to confiscation; therefore importer appears to have rendered itself liable for penalty under section 112(a) Custom Act..
- d. The importer M/s. Hardik International Pvt. Ltd. appears to have mis-declared the description and quantity of goods and appears to have classified them under CTH 90189029 & 90211000 instead of correct classification as it appears as mentioned in Table -04. The importer appears to have suppressed these facts and appears to have wilful mis- statement by mis-declaring the description, quantity of the imported goods and appears to evade the applicable duty by claiming the duty exemption as per re-import Notification

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No. 45/2017-Cus dated 30.06.2017. Therefore, it appears that the provisions of Section 28(4) of the Customs Act, 1962 are to be invoked in subject matter.

e. The importer M/s. Hardik International Pvt. Ltd. appears to have mis-declared the description and quantity of goods and classifying them under C T H 90189029 & 90211000 instead of, as it appears the proposed classification as proposed in Table 04. The importer appears to claim the duty exemption vide Notification No. 45/2017-Cus dated 30.06.2017 which appears ineligible in subject matter. By these acts of omission and commission, the importer, as it appears by reason of suppression of facts and wilful mis-statement, has claimed ineligible Notification benefit for duty exemption and thereby it appears that applicable custom duties has not been levied, therefore the importer appears liable to penalty under Section 114A of the Custom Act.

f. Further, it was due to the Investigation carried out, it appeared that importer made wrong declaration and used incorrect documents in subject matter in the transaction of business for the purposes of the Custom Act and therefore it appears that the importer has rendered itself liable to penalty under Section 114AA Custom Act.

g. The Customs Broker Firm M/s. Steadfast Logistics (CB Code BJJGPM5572FCH001) appears to have failed to comply with the provisions of the Custom Act and CB appears to have failed to advise the importer to comply with the provisions of the Act. It appears that the CB had not exercised due diligence to ascertain the correctness of description of goods and their CTH in subject matter. The Customs Broker Firm M/s. Steadfast Logistics (CB Code BJJGPM5572FCH001) who had filed these bills of export therefore appears to have abetted with the importer M/s. Hardik International Pvt. Ltd. in filing the said Bills of Entry and appears to have abetted in rendering the subject goods liable to confiscation and with subject filing of said bills of entry it appears that there is evasion of the applicable customs duty as the subject matter appears to involve mis-declaring the description and mis-classifying the imported goods. It therefore appears that Penalty appears liable to be invoked on the Customs Broker Firm M/s. Steadfast Logistics (CB Code BJJGPM5572FCH001) for their act of omission and commission under the provisions of Section 112 (a) of the Customs Act, 1962.

13. **Now, therefore, M/s. Hardik International Pvt. Ltd., (IEC -0313031207),** having address at Plot No. G-2041-42/A, Kishan Gate, Ladhika GIDC, Kalwad Road, Metoda, Rajkot-360 021 is hereby called upon to show cause within 30 days from the issuance of the notice, to the Additional Commissioner of Customs, Air cargo Complex, as to why:

- i. the declared classification under CTH 90189029 & 90211000 of all imported items in Bill of Entry no. 2632778 & 2633123 both dated 18.03.2024 should not be rejected and same should not be re-assessed under proposed CTH of first Schedule to the Customs Tariff Act,1975 as mentioned in Table-04; and assessed accordingly.
- ii. the declared value Rs.46,22,794/- (Rupees Forty-Six Lakh Twenty-Two Thousand Seven Hundred and Ninety-Four only) for the goods imported vide Bill of Entry no. 2632778 & 2633123 both dated 18.03.2024 should not be rejected and the assessable value should not be determined as Rs.46,720/- (Rupees Forty-Six Thousand Seven Hundred and Twenty only).
- iii. The applicable duty Rs. 19,183/- (Rupees Nineteen Thousand One Hundred Eighty-Three only) should not be demanded and recovered under Section 28(4) of the Customs Act, 1962.
- iv. The interest at appropriate rate on the duty demanded at sr no (iii) above should not be demanded and recovered from the importer under Section 28AA of the Custom Act.
- v. the goods imported vide Bill of Entry no. 2632778 & 2633123 both dated 18.03.2024 having declared value Rs.46,22,794/- (Rupees

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Forty-Six Lakh Twenty-Two Thousand Seven Hundred and Ninety Four only), seized on 04.05.2024, should not be held liable to confiscation under Section 111 (l) and 111 (m) of the Customs Act, 1962

- vi. a penalty under 112(a) of the Customs Act, 1962 should not be imposed on the importer M/s. Hardik International.
- vii. a penalty under section 114A of the customs Act, 1962 should not be imposed on the importer M/s. Hardik International.
- viii. a penalty under section 114AA of the customs Act, 1962 should not be imposed on the importer M/s. Hardik International.

14. **Now, therefore, Customs Broker Firm M/s. Steadfast Logistics (CB Code BJJGPM5572FCH001)**, GF-26, Concord Complex, Alkapuri Road, Opp. Petrol Pump, Vadodara, Gujarat-390007 is hereby called upon to show cause within 30 days from the issuance of the notice, to the Additional Commissioner of Customs, Air cargo Complex, Ahmedabad-380003, having office at 5th Floor, Custom House, Althan Bhimrad Road, Althan, Surat-395017, as to why:

- i. penalty under 112(a) of the Customs Act, 1962 should not be imposed on the Custom Broker M/s. Steadfast Logistics (CB Code BJJGPM5572FCH001).

15. **Defence Submissions by Importer Hardik International Pvt. Ltd. vide letter dated 29.11.2024:**

'We, M/s. Hardik International Pvt. Ltd., acknowledge receipt of the Show Cause Notice (SCN) No. ACC/Asse/145/2024-ACC-AHMD-CUS-COMMRTE - AHMEDABAD dated 30.10.2024 regarding the adjudication of goods imported under Bill of Entry Nos. 2632778 and 2633123, both dated 18.03.2024. We respectfully submit the following for your kind consideration:

a). *Classification of Goods (CTH 90189029 & 90211000)*

- *The goods were originally exported as Orthopaedic Instruments and Implants falling under CTH 90189029 and 90211000. Upon re-import, we declared the same classification in good faith based on the assumption that the returned goods were same as exported ones.*
- *However, after receipt of the consignment, during customs examination we discovered that the foreign buyer substituted the original goods with waste material, an act of fraud that was beyond our control.*
- *We humbly submit that the declared classification was based on the original goods exported and the available export documentation. The proposed reassessment under a different CTH category is unwarranted as the misdeclaration, if any, was neither intentional nor deliberate.*

b). *Declared Value of ₹46,22,794/-*

- *The declared value of ₹46,22,794/- represents the value of the originally exported goods. At the time of re-import, the same value was declared in good faith, as we were unaware of the substitution.*
- *We have attached supporting documents, including the original export invoice, shipping documents, and correspondence with the buyer, to substantiate the declared value.*

c). *Duty and Interest under Sections 28(4) and 28AA*

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- The demand for additional duty and interest is unwarranted, as the declared classification and value were made based on bona fide information available at the time of filing the Bills of Entry.
- We respectfully request that no duty or interest be demanded as there was no intentional misstatement, misclassification, or undervaluation from our side. We are victims of fraudulent conduct by the foreign buyer.

d). Confiscation under Sections 111(l) and 111(m)

- The goods in question were re-imported following the buyer's refusal to make payment, solely to mitigate financial loss.
- The substitution of waste material was beyond our knowledge or control, and we immediately brought this to the attention of the authorities upon discovery.
- We submit that the confiscation of goods under Sections 111(l) and 111(m) is not justified, as there was no fraudulent intent or willful suppression of facts.

e). Penalties under Sections 112(a), 114A, and 114AA

- We reiterate that the misdeclaration, if any, occurred due to the fraudulent actions of the foreign buyer and was not intentional on our part.
- Imposing penalties under Sections 112(a), 114A, and 114AA would be unjustified and disproportionate given the facts of the case.
- We request leniency, considering that we have fully cooperated with the investigation and are victims of fraudulent conduct by the foreign buyer.

f). Request for Relief

- In this case we are victim of mischief by our overseas buyer and we had immediately reported the same to DGFT and Indian Embassy. Enclosed DGFT acknowledgment File No. IMAQCTDFICOM00000029AM25, dated 09.04.2024 for your ready reference. Also enclosed mail copy dated 11.04.2024 from Embassy of India, Sofia in which they have clearly mentioned that their official at Bulgaria have taken up the matter with the buyer and found the buyer is already black listed by their local tax department. We have submitted all the bonafide details in our statement recorded by your office and hence claim ourselves non guilty in the subject matter.
 - The declared classification under CTH 90189029 and 90211000 be accepted.
 - No additional duty or interest be demanded.
 - The goods not be held liable for confiscation under Sections 111(l) and 111(m).
 - No penalties under Sections 112(a), 114A, or 114AA be imposed.
 - Allow us to relinquish the title of goods and abandon these goods to customs.

16. **Defence Submissions by CHA Steadfast Logistics (CB CODE: BJGPM5572FCH001) vide letter dated 13.11.2024:**

With reference to the allegation impose on us under point no. 11(g) of the SCN, we want to clarify that we have completely complied with all the provisions of The

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Customs Act, 1962 from our end and also advised regarding the provisions of the act to the importer.

We have fully exercised our due diligence to ascertain the correctness of description of goods and their CTH based upon the commercial documents submitted by importer and not only this, we also verified the description and CTH based upon the shipping bill no 4836440 DT 23-OCT-23 filed by importer which was examined and cleared by the authorities at the time of export of goods from Ahmedabad airport and as this was the case of reimport, we were assured by the importer through the declarations submitted by them about the correctness of the goods. We had e-sanchit the declaration of importer at the time of filing BoE No 2632778 & 2633123 both dated 18/03/2024.

We have not abetted the importer in any of the unlawful act under our knowledge. Under this case of re-import we had filed the BE under exemption notification 045/2017 which was declared by the importer and hence we have not abetted the importer in any evasion of the applicable duties.

With reference to the point no 13 of the SCN, below is the section 112 of The Customs Act, 1962 just for the reference.

SECTION 112. Penalty for improper importation of goods, etc.-

Any person, -

(a) 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 111, or abets the doing or omission of such an act, or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,

shall be liable, -

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty 1 [not exceeding the value of the goods or five thousand rupees], 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:

The penalty under section 112 should not be applicable on us as we have not abetted the importer in any of the unlawful act under our knowledge.

We had filed the BEs under "FIRST CHECK" subscription and also uploaded (e-sanchit) the declaration given by the importer at the time of filing BEs. We have enclosed the importer's declaration for your ready reference.

We had advised importer about the provisions of The Customs Act, 1962 and made them follow the same by upfront surrendering the export benefits (DBK + RoDTEP) as per sec 75(1) proviso-3 along with the applicable interest as per sec 28AA.

Considering the above points, the element of abetment of the Customs Brokers cannot be established and referring to CBIC Instruction No. 20/2024-Customs DT 03-09-2024 , we request your good office not to implicate us as co-noticee and grant us waiver form the subject matter.

17. Personal Hearing

Shri Mukesh Hadvani (Director), Shri Preyash Hadvani (Director), Shri Nimesh Rathod (Manager) from M/s. Hardik Internatiol Pvt. Ltd. (importer) has attended the personal hearing on 29.01.2025 at 11:30 hrs. and reiterated the facts submitted vide their letter dated 29.11.2024.

Shri Harshwardhan Mote (Proprietor) of M/s. Steadfast Logistics (CHA) has attended the personal hearing on 29.01.2025 at 12:05 hrs. and reiterated the facts submitted vide their letter dated 13.11.2024.

18. Discussion and Findings:

18a. I have carefully studied the case records and considered the subject matter. I find that the issues for consideration before me are as follows:

- i. issue of classification, valuation and confiscation of subject goods.
- ii. Liability of M/s Hardik International Pvt. Ltd. to penal provisions under the provisions of Custom Act, 1962.
- iii. Liability of CHA Steadfast Logistics (CB CODE: BJGPM5572FCH001) to penal provisions under the provisions of Custom Act, 1962.

18b. Issue of classification, valuation and confiscation of subject goods.

I note that the importer M/s. Hardik International Pvt. Ltd. had imported goods declared as Orthopaedic Instruments and Implants in the subject bills of entry but during the examination of the goods the goods were found to be mis declared in declaration and quantity as reflected in the Table 2/ Table 3 of the subject Order. Further, I find that undeclared goods such as metallic boxes, coffee making machine had been found in the subject consignment during the examination. I note that the importer declared Rs.46,22,794/- (Rs.3,56,079/- and Rs.42,66,714.78) as the assessable value in subject bills of entry. In this regard, the empaneled Chartered engineer vide Certificate DPJ/2024-25/37 had valued the seized goods at Rs.46,720/- vide the detailed chartered engineer's certificate wherein the value of the actual goods had been separately indicated goods wise in the said chartered engineer's certificate. I note that the importer claimed duty exemption vide exemption notification 45/2017 in the subject bills of entry.

18c. On careful study of the *Panchnama* dated 06.04.2024 and the Chartered engineer's Certificate dated 16.04.2024, I find that the subject seized goods are not as per the description and quantity as declared in the subject bills of entry and with the description of the seized goods as found during the examination, I hold that the CTH

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applicable for the subject goods as proposed in the subject SCN dated 30.10.2024 Table 04 holds ground. With the true description of the subject goods, which are different in description and quantity of the declared particulars made vide subject bills of entry, I find it fit to reject the declared value for the purposes of the customs valuation and hold the value arrived by the chartered engineer as the assessable value for the purposes of Custom Act. I find that the subject goods do not correspond in respect of description, classification and valuation with the particulars declared in the subject bills of entry and thereby I find that the subject goods have been improperly imported and are thereby liable to confiscation under section 111(l) and (m) of the Custom Act, 1962. I note that the said importer had submitted to relinquish the title/ abandon the subject seized goods. In this regard I note that as per the provisions of Custom Act, the proviso to the sub section 2 of the section 23 of the Customs Act, 1962 reads as follows: "provided that the owner of the any such imported goods shall not be allowed to relinquish his title to such goods regarding which an offence appears to have been committed under this Act or any other law for the time being in force". Thus as per the provisions of custom act, the importer shall not be allowed to abandon the goods and thereby the subject SCN dated 30.10.2024 was issued to the Noticees.

18d. Further, I note that as per the provisions of Section 112 Custom Act, 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 111, or abets the doing or omission of such an act, shall be liable to penalty under the provisions of Section 112 of the Custom Act. I hold that the importer had rendered itself liable to penalty under the provisions of Section 112(ii) of the Custom Act as the subject goods had been rendered liable to confiscation under Section 111 of the Custom Act.

18e. At this juncture, I draw attention to Section 125(1) Custom Act, reproduced as follows:

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 [or, where such owner is not known, the person from whose possession or custody such goods have been seized,] [Inserted by Act 80 of 1985, Section 9 (w.e.f. 27.12.1985).] an option to pay in lieu of confiscation such fine as the said officer thinks fit:

[Provided that where the proceedings are deemed to be concluded under the proviso to sub-section (2) of section 28 or under clause (i) of sub-section (6) of that section in respect of the goods which are not prohibited or restricted, the provisions of this section shall not apply:

Provided further that] [Substituted by Finance Act, 2018 (Act No. 13 of 2018), dated 29.3.2018.] without prejudice to the provisions of the proviso to sub-section (2) of section 115, such fine shall not exceed

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the market price of the goods confiscated, less in the case of imported goods the duty chargeable thereon.

18f. With the subject goods not being prohibited goods, I find that as per Section 125(1) Custom Act, the adjudicating authority shall give an option to the importer an option to pay fine in lieu of confiscation. Further, from the provision of section 125(3) of Custom Act, where the fine imposed is not paid within a period of 120 days from the date of option given, such option shall become void, unless an appeal against such order is pending. As per the provisions of Section 125(1) Custom Act, I find it apt to impose redemption fine in lieu of confiscation. Further, as per the provisions of Section 125(2) Custom Act, I find that the importer if exercises the option to pay the Redemption fine, shall be liable to the duty payable in respect of such goods. Thus I hold that in case of redemption fine option is exercised by the said importer, the duty liability of BCD amounting to Rs.8,622/-, Health Cess of Rs.731/-, SWS of Rs.935.30/-, & IGST of Rs.8895.71/-, Total Rs.19,183.46/- shall be payable by the said importer.

18g. I note that vide letter dated 29.11.2024, the said importer submitted that orthopedic instruments and implants under CTH CTH 90189029 and 90211000 were exported but due to certain issues with the foreign buyer, the said importer re-imported the goods and that the foreign buyer substituted the original exported goods and that the importer was victim of mischief by their overseas buyer. Further, I find that the importer reported this issue to the DGFT and had made correspondence with the Indian Embassy, Bulgaria. The importer submitted to accept the declared classification and neither to hold the subject goods liable to confiscation nor impose penalties. However, on the basis of the facts on record regarding the misdeclaration of the description of the seized goods in the subject bills of entry, misclassification of seized goods in the subject bills of entry, misdeclaration of the value for custom assessment in the subject bills of entry and misdeclaration of ineligible exemption notification in the subject bills of entry, as the subject seized goods are rendered liable to confiscation, penalty under Section 112 Custom Act shall be liable to be imposed on the importer.

18h. I note that the importer submitted its correspondence made with the DGFT in this regard, submitted as follows:

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ACCOUNT-HIPL

From: noreply-dgftbo@gov.in
Sent: 09 April 2024 14:02
To: account@hardikinternational.com
Cc: account@hardikinternational.com
Subject: Your Complaint has been raised successfully

Dear HARDIK INTERNATIONAL PRIVATE LIMITED,

Unique Reference Number: IMAQCTDFICOM00000029AM25 Summary: We are an ethical and professional manufacturing company who has supplied our products to a Bulgarian client, they have committed financial fraud as they have not paid to us for 2 invoices for 5 months and more. They are not co-operating. They gave us FAKE payment SWIFT TT copies when we asked for payment. Also, they claim that they have sent back all the goods but on reaching the Indian airport, the customs officer finds out that they have sent coffee machines, tiles and marbles etc. The payment value is quite large, Hence, In order to receive our payment, We are writing to you this email. We sincerely request and expect that you would look into this matter positively and hopefully recover the money which they have to pay us. We are writing the details of the client as below. If you need any other details like bank statements, company letters, custom documents, shipping bills, cargo company invoices, etc please feel free to contact us anytime. Also, you can check the banking authorities, the payment is pending. So you will get verified information. Buyer- NE-HAS-KARZ DZZD Mr Radi Bozhidarov (Manager) 08778614412 0876633211 INVOICE NUMBER- E 105 (16231.35 USD) PENDING AMOUNT INVOICE NUMBER - E 116 (57159.32 USD) PENDING AMOUNT

Your complaint has been registered with DGFT as Unique Reference Number IMAQCTDFICOM00000029AM25.

We will update you when your complaint is resolved or in case we need any additional information.

You can track complaint status on <https://www.dgft.gov.in> under View Complaint section of Trade Dispute and Quality Complaint.

Thanks for contacting DGFTQCTD Cell.

Note: This is system generated mail; please do not reply to this e-mail Id. Mails to this mail box are not monitored.

Regards,

DGFT QCTD Cell,

Directorate General of Foreign Trade

Further I note that the importer submitted the correspondence made with the Indian Embassy, Bulgaria, submitted as follows:

ACCOUNT-HIPL

From: Preyash Hardikinternational <preyash@hardikinternational.com>
Sent: 12 April 2024 11:06
To: Account Hardikinternational
Subject: Fwd: Debt payment to me for 2 unpaid invoices from Bulgaria

----- Forwarded message -----

From: Commercial Section <com.sofia@mea.gov.in>
Date: Thu, 11 Apr 2024 at 18:08
Subject: Re: Debt payment to me for 2 unpaid invoices from Bulgaria
To: <preyash@hardikinternational.com>

Dear Sir

Mrs Dzambaska was in the Embassy today 11.04.2024 and shared with me the information she has the right to receive and had obtained through accountancy channels.

According to her she has a copy of the payment documents and will provide them. In her opinion they are genuine and the only reason you have not received the funds are the tax problems of the buyer.

From her explanations the Bulgarian Revenue office has stopped all the payments of the company not only to you as the company buying the materials from you has some tax issues.

If this is the case may be it is best to hire a lawyer and/ or contact the Indian Bulgarian Business Chamber that will provide guidance, as they might be able to advise at least how you can get back the goods /if possible/.

Kind regards,

Ms Miroslava Ivanova
Commercial Section
Embassy of India Sofia

From: preyash@hardikinternational.com
To: "Commercial Section" <com.sofia@mea.gov.in>
Sent: Thursday, April 11, 2024 12:17:31 PM
Subject: Re: Debt payment to me for 2 unpaid invoices from Bulgaria

Greetings



DIN-20250371MN00005025BA

Ok, I understand your email. But I would request you to still have a word with the buyer and consignee both, justify the information they say.
I have not received the money, I assume my products and money are both being looted and I am a fraud victim.

Your support and your proper investigation in this matter will be helpful and beneficial for me. Therefore, I request you to kindly organize the meeting with them once again and hence please update me with the discussion after the meeting.

Thanking You

With best regards,

Preyash Mukesh Hadvani (Director)

Cell/Whatsapp : +91 97370 47474

HARDIK INTERNATIONAL PVT. LTD.

Plot No. G-2041/2042/A, G.I.D.C. Lodhika, Kalawad Road.
Metoda RAJKOT-360 021 (INDIA) Cell: +(91)-95740 01818.
website: www.hardikinternational.com

On Thu, 11 Apr 2024 at 13:43, Commercial Section <com.sofia@mea.gov.in> wrote:
Dear Sir

We were supposed to have a meeting with the lady from Medical Expo mentioned as a contact on the invoice you have provided.

Unfortunately yesterday she did not come to the Embassy as promised.

Please get in touch with the IBBC - Indian Bulgarian Business Chamber and follow their advice on the matter as they are dealing with such cases.

They might provide information and direct you to experts that will provide adequate law information and actions that need to be taken in your case.

I hope this will be help to you.

If you need any other information, please do not hesitate to contact us.

Kind regards,

Ms Miroslava Ivanova
Commercial Section
Embassy of India Sofia



2

From: preyash@hardikinternational.com
To: "Commercial Section" <com.sofia@mea.gov.in>
Sent: Tuesday, April 9, 2024 3:30:26 PM
Subject: Re: Debt payment to me for 2 unpaid invoices from Bulgaria

Greetings Dear

Did you successfully find out the information regarding my unpaid debts of 2 invoices please?
A gentle reminder to please send me back the information with respect to your meeting and proper investigation with buyer and consignee.
Your help and support is highly appreciated.

Thanking You

With best regards,

Preyash Mukesh Hadvani (Director)

Cell/Whatsapp : +91 97370 47474

HARDIK INTERNATIONAL PVT. LTD.

Plot No. G-2041/2042/A, G.I.D.C. Lodhika, Kalawad Road.
Metoda RAJKOT-360 021 (INDIA) Cell: +(91)-95740 01818.
website: www.hardikinternational.com

On Mon, 8 Apr 2024 at 17:15, Preyash Hardikinternational <preyash@hardikinternational.com> wrote:
Greetings
Ok, I am waiting for your detailed information from your side once your meeting is finished. It is highly important and valuable for me.
I am attentive to any queries and questions anytime here in email or in whatsapp.

Thanking You

With best regards,

Preyash Mukesh Hadvani (Director)

Cell/Whatsapp : +91 97370 47474

HARDIK INTERNATIONAL PVT. LTD.

Plot No. G-2041/2042/A, G.I.D.C. Lodhika, Kalawad Road,



DIN-20250371MN00005025BA

Metoda RAJKOT-360 021 (INDIA) Cell: +(91)-95740 01818,
 website: www.hardikinternational.com

On Mon, 8 Apr 2024 at 15:28, Commercial Section <com.sofia@mea.gov.in> wrote:
 Dear Sir

Mrs Dzambaska has called us and asked for a meeting.

We will inform you about any further developments after the meeting.

Kind regards,

Ms Miroslava Ivanova
 Commercial Section
 Embassy of India Sofia

From: preyash@hardikinternational.com
To: info@ibbc.bg
Cc: "Commercial Section" <com.sofia@mea.gov.in>, "Soni Dahiya" <hoc.sofia@mea.gov.in>
Sent: Sunday, April 7, 2024 8:41:59 AM
Subject: Debt payment to me for 2 unpaid invoices from Bulgaria

Greetings Respectfully
 Indian-Bulgarian Business Chamber (IBBC)

My name is Preyash. I am from HARDIK INTERNATIONAL PRIVATE LIMITED, INDIA. I am the Business Development Director in the company. We manufacture orthopedic medical devices and export them. We have been in the field since 1990.

We are an ethical and professional manufacturing company who has supplied our products to a Bulgarian client, they have committed financial fraud as they have not paid to us for 2 invoices for 5 months and more. They are not co-operating. They gave me FAKE payment SWIFT TT copies when we asked for payment.

Also, they claim that they have sent back all the goods but on reaching the Indian airport, the customs officer finds out that they have sent coffee machines, tiles and marbles etc.

The payment value is quite large, Hence, In order to receive my payment, I am writing to you this email. I sincerely request and expect that you would look into this matter positively and hopefully recover the money which they have to pay me. I am writing the details of the client as below. If you need any other details like bank statements, company letters, custom documents, shipping bills, cargo company invoices, etc please feel free to contact me anytime.

Also, you can check the banking authorities, the payment is pending. So you will get verified information.

Also, they have given false information to the Indian embassy, Sofia, that payment is done. It is completely false information. Kindly check with their bank statements, ledgers, invoke national finance agency to verify the information.

Buyer- NE-HAS-KARZ DZZD
Mr Radi Bozhidarov (Manager)
08778614412



0876633211

Consignee- EURO MEDICAL GROUP LTD
Mrs Zornitsa Dzhambazka (Partner)
+359 879170000

INVOICE NUMBER- E 105 (16231.35 USD) attached
INVOICE NUMBER - E 116 (57159.32 USD) attached

Kindly please acknowledge this email and reply back.

Thanking You

With best regards,

Preyash Mukesh Hadvani (Director)

Cell/Whatsapp : +91 97370 47474

HARDIK INTERNATIONAL PVT. LTD.

Plot No. G-2041/2042/A, G.I.D.C. Lodhika, Kalawad Road,

Metoda RAJKOT-360 021 (INDIA) Cell: +(91)-95740 01818,

website: www.hardikinternational.com



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Further, as the penalty under Section 112 Custom Act is imposed on the said importer and that as per the submission of the said importer that it was a victim of fraud, I find no reason to invoke the provisions of section 114A and 114AA of the Custom Act against the said importer. For the same reason that the Custom Broker M/s Steadfast Logistics (CB CODE: BJGPM5572FCH001) (i): prepared the electronic declaration Bill of entry based on the particulars submitted by the importer and that the custom broker submitted that it had *verified the description and CTH based upon the shipping bill no 4836440 DT 23-OCT-23 and that the custom broker was assured by the importer of the declarations submitted by them about the correctness of the goods*; (ii): *further that the custom broker had filed the subject bills of entry under first check and uploaded the declaration of the importer*; (iii) *further vide letter dated 13.11.2024, the custom broker referred to the CBIC Instruction 20/2024 dated 03.09.2024, I find that as per the submissions on record, there appears no ground to invoke penalty provisions under Section 112 of the Custom act on the custom broker.*

In conspectus of Discussion and findings, I pass the Order:

Order

1. I order to reject the declared Classification of subject seized goods and order to re-classify the subject goods under Customs Tariff Heading as proposed in Table 04 and reassess the subject Bill of Entry accordingly.
2. I order to reject the declared value of Rs.46,22,794/- (Rupees Forty-Six Lakh Twenty-Two Thousand Seven Hundred and Ninety-Four only) for the subject goods in the subject bills of entry and order to re-determine the value of the goods at Rs. 46,720/- (Rupees Forty-Six Thousand Seven Hundred and Twenty only).
3. I order for confiscation of subject goods under Section 111 (l) and Section 111 (m) of the Customs Act, 1962. However, I give the option to importer to redeem the goods on payment of Fine of Rs.5,000/- (Rupees Five Thousand Only) under Section 125 of the Customs Act, 1962. Where the fine imposed under sub-section (1) of section 125 Custom Act is not paid within a period of one hundred and twenty days from the date of option given thereunder, such option shall become void, unless an appeal against such order is pending.
4. I confirm the Customs demand of Rs.19,183/- (BCD Rs.8,622/-, Health Cess of Rs.731/-, SWS of Rs.935.30/-, & IGST of Rs.8895.71/-) under Section 28(4) of the Custom Act and order recovery of the Rs.19,183/- (Rupees Nineteen Thousand One Hundred and Eighty Three Only) from the Importer, in case the Importer opts for payment of redemption fine.
5. As the subject seized goods are not cleared out of customs, thereby recovery of interest under Section 28AA Custom Act does not arise.
6. I impose a penalty of Rs. 5,000/- (Rupees Five Thousand Only) on M/s Hardik International Pvt. Ltd. under Section 112(v) of the Customs Act, 1962.
7. I refrain from imposition of penalty under Section 114A & 114AA of the Customs Act, 1962 on M/s. Hardik International Pvt. Ltd. for reasons discussed at para 18h; and I refrain from imposition of penalty under Section 112(a) of the Customs Act, 1962 on M/s Steadfast Logistics (CB CODE: BJGPM5572FCH001) for reasons discussed at para 18h.

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(Arun Richard)

Commissioner (in situ)

To,

1.

1. M/s. Hardik International Pvt. Ltd. (IEC-.0702006751/0), Plot No. G-2041-42/A, Kishan Gate, Lodhika GIDC, Kalwad Road, Metoda, Rajkot-360 021.
2. M/s. Steadfast Logistics, (CB Code BJGPM5572FCH001), GF-26, Concord Complex, Alkapuri Road, Opp. Petrol Pump, Vadodara, Gujarat-390007.

Copy to:

- i. The Principal Commissioner of Customs, Ahmedabad.
- ii. The Asst. Commissioner of Customs, Air Cargo Complex, Ahmedabad.
- iii. The Dy. Commissioner of Customs (Task Force), Ahmedabad.
- iv. The System In-Charge, Customs, HQ, Ahmedabad for uploading on the official web-site.