



प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद

“सीमा शुल्क भवन”, पहली मंजिल, पुरानेहाईकोर्ट के सामने, नवरंगपुरा, अहमदाबाद – 380 009.

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PREAMBLE

A	फाइल संख्या / File No.	:	VIII/10-140/ICD Khodiyar/O&A/HQ/2024-25
B	कारणबता ओनोटिस संख्या – तारीख / Show Cause Notice No. and Date	:	CUS/APR/BE/SAO/31/2024-ICD-AHMD-CUS-COMMRTE-AHMEDABAD dated 14.06.2024
C	मूल आदेश संख्या / Order-In-Original No.	:	95/ADC/VM/O&A/2024-25
D	आदेश तिथि / Date of Order-In-Original	:	04.07.2024
E	जारी करने की तारीख / Date of Issue	:	04.07.2024
F	द्वारा पारित / Passed By	:	Vishal Malani, Additional Commissioner, Customs, Ahmedabad.
G	आयातक का नाम और पता / Name and Address of Importer / Passenger	:	M/s. Naithani Oil & Gas Services Private Limited, 205, Sanket Avenue, Opp : Ambe Vidhy, Sama Savli Road, Baroda – 390024. (E-Mail : MARKETING@naithani.co.in ; sales@naithani.co.in)
(1)	यह प्रति व्यक्ति के उपयोग के लिए निःशुल्क प्रदान किया जाता है जिन्हे यह जारी किया जाता है।		
(2)	कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्त किया तारीख के 60 दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क (अपील), भवन, हुड़को भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।		
(3)	अपील के साथ केवल पांच (5.00) रुपये पे न्यायलय शुल्क टिकिट लगा होना चाहिए और इसके साथ होना चाहिए:		
(i)	अपील की एक प्रति और;		
(ii)	इस प्रति या इस आदेश की कोई प्रति के साथ केवल पांच (5.00) रुपये पे न्यायलय शुल्क टिकिट लगा होना चाहिए।		
(4)	इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को ७.५% अधिकतम १० करोड़ शुल्क हम करना होगा जहां शुल्क या इयूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने में असफल रहने पर सीमा शुल्क अधिनियम, १९६२ के धरा १२९ के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।		

BRIEF FACTS :-

M/s. Naithani Oil & Gas Services Private Limited, 205, Sanket Avenue, Opp : Ambe Vidhy, Sama Savli Road, Baroda - 390024 (herein after referred to as "M/s. Naithani" or "the importer", for the sake of brevity) has filed Bill of Entry No. 3437707 dated 11.05.2024 for home consumption at **ICD – Khodiyar** in respect of import of (i) 0.108-CS-25, 0.108' EIPS Carbon Steel Slickline to API9A 25; (ii) 0.108 - EIPS Carbon Steel Slickline to API9A 25; (iii) 0.125-CS-30, 0.125' EIPS Carbon Steel Slickline to API9A 30 (6 items - herein after referred to as the "said goods"), having Assessable Value of Rs.12,70,292/-, by classifying under Customs Tariff Item 72230099 of the First Schedule to the Customs Tariff Act, 1975 (herein after referred to as the "CTA, 1975"). The Bill of Entry has been self-assessed by the importer and declared duty is Rs.3,52,316/-. The aforesaid Bill of Entry has been facilitated through Risk Management System.

2.1 During scrutiny of the documents and other details submitted/ e-sanchit by the importer, through Customs Broker, it has been observed that the said goods have been classified under CTI 72230099. It has further been observed that goods falling under ITC (HS) Codes 72230099 have been mentioned at various Sr. Nos. (Sr. No. 49, 94, 95, 101, 107) of Table 1 of the Steel and Steel Products (Quality Control) Order, 2024 issued under Section 16 read with Section 17 and sub-section (3) of Section 25 of the Bureau of Indian Standards Act, 2016.

2.2 It has also been observed that the Ministry of Steel, Technical Division, vide Circular F.No. S-20011/14/2021-Tech dated 20.10.2023, has *inter-alia* clarified that the Quality Control Order mandates that all the steel products imported into the country must be having BIS license/ certification and accompanied with Mill Test Certificate and be marked with ISI and BIS license number; that for smooth implementation of the Quality Control Order, the Ministry of Steel has constituted a Technical Committee (w.e.f. October 2018) for examination and analysis of the application(s) received for issuance of clarification, whether the product(s) which are being imported without BIS certification are covered under Steel QCO or not; that for issuing

of the said clarifications to the steel importers, the Ministry of Steel has launched a dedicated portal, known as TCQCO Portal (<https://tc-qco.steel.gov.in/tc-qco>) w.e.f. August 2020.

3.1 In view of the foregoing, following query has been issued on 15.05.2024 to the importer –

“Ensure compliance of Ministry of Steel Circular dated 20.10.2023 issued vide F.No. S-20011/14/2021-Tech wherein it is mandatory to apply and seek clarification on TCQCO Portal for each and every steel consignment which is imported without BIS License/ Certification or BIS – Please e-sanchit relevant documents”

3.2. In response to the aforesaid query, the importer, vide letter dated 13.05.2024 (submitted on 15.05.2024 vide IRN-2024051500107059) stated as follows –

“BIS Certificate : We would like to inform you that none of the items calls for BIS “Bureau of Indian Standards” Certification and it’s not applicable. In the past as well, we had been importing similar wire reels from the same supplier for more than 10 years.

The item we have imported from Danum Well Services Ltd. (UK) are carbon steel wire reels which is spooled on our slickline winch units and used to lower / pull the tools in Oil & Gas wells.”

3.3 It was again communicated to the importer vide query dated 16.05.2024 as follows –

“Query reply i.e. declaration letter has been scrutinized wherein it is declared that the goods are Carbon Steel Wire. In this connection, it is to inform that the merit classification of Carbon Steel Wire is under CTH 7217 which is different from the declaration, and further, it is requested to kindly refer to S.O. No. 574 € dated 05.02.2024 available on BIS Website / Ministry of Steel Website regarding steel and Steel Products (Quality

Order), 2024 vide which the ITCHS Codes have been mapped with the Indian Standards and kindly also refer to Ministry of Steel Circular dt. 20.10.2023 issued vide F.No. S-20011/14/2021-Tech wherein it is mandatory from dt. 20.10.2023 for all steel importers to apply and seek clarification on TCQCO Portal for each and every steel consignment which is imported without BIS License / Certification and further, Ministry of Steel Circular dt. 20.10.2023 clarification letter dated 09.11.2023 wherein it is informed that mandatory clarification is required only for steel products of those ITCHS Codes which have been mapped with the Indian Standards notified under the Quality Control Order issued by Ministry of Steel.

2. Therefore, with all these references, it is kindly requested to e-sanchit either BIS Certificate or mandatory clarification from TCQCO Portal, which is mandatory documents for the clearance of consignment. Other importers also providing the same for the clearances of their goods."

3.4 In response to the aforesaid communication / query, the importer, vide letter dated 17.05.2024 (submitted on 18.05.2024 vide IRN-2024051800014977) stated as follows -

"With subject matter, we hereby inform you that prior importing subject material, we have checked Custom website ICEGATE with declared H.S. Code where its clearing showing SIMS registration is mandatory that is done prior by us and hence submitted. Now we have received query for TCQ NOC which is not mentioned any where in the subject portal. (attached screenshot herewith)

So, there is no applicability of BIS and TCQ NOC because this is special category slickline wire. The end use of this product is in Oil & Gas wells to lower / pull the tools. We have cleared same kind of consignment earlier with SIMS registration only, the supply has to be emergency requirement at some Government on going jobs urgent requirement.

We hereby request you to clear out consignment on emergency basis, whether by final or by provisional."

3.5 The matter was again clarified to the importer through query dated 20.05.2024 as follows -

"Please e-sanchit MTC to ascertain whether goods are Alloy Steel, Non-Alloy Steel or Stainless Steel and attached references and please refer to query No. 1 & 2. In this connection, it is to inform that TCQCO is mandatory document for Carbon Steel Wire mentioned in your first query reply letter, which is mapped with the ITCHS Codes 7217. The goods also misclassified under CTH 7223 instead of 7217 as the goods are Carbon Steel Wire. According to CBIC Circular No. 38/2016 dated 22.08.2016 para 3.2 wherein it is clarified that provisional assessment under Section 18 is to be carried out with respect to cases where the duty is in dispute. Cases relating to execution of a Bond or Undertaking specified as a condition to a Notification or those requiring compliance of condition under Allied Acts are not be provisionally assessed under Section 18 of the Customs Act. Therefore, you are requested to apply and seek clarification on TCQCO Portal for each and every steel consignment (Alloy Steel, Non-Alloy Steel or Stainless Steel Wire) which is imported without BIS License / Certification and submitted to this office i.e. e-sanchit at the earliest for clearance of shipment.

4.1 It appeared that the importer subsequently made an application on TCQCO Portal. It further appeared that the Ministry of Steel, Technical Division, vide e-mail dated 07.06.2024 addressed to the importer, communicated the decision of the Technical Committee meeting on 03.06.2024 wherein it has been informed as follows :-

*"Name of applicant : Naithani Oil & Gas Services Private Limited
Description of product : 0.108-inch EIPS Carbon Steel Slickline to API 9A, 0.125inch EIPS Carbon Steel Slickline to API 9A
Applicant Grade : EIPS Carbon Steel*

Tech. Committee Comments : Covered under IS 4454 part 1 as material is single strand.

Decision of the Technical Committee : Covered"

4.2 As per the "Understanding the Terminologies" mentioned at TC-QCO portal, the term "covered" means that the applicant's steel grade/product has been evaluated by the Technical Committee and it falls under the purview of the latest Steel and Steel Products (Quality Control) Order; that any imported consignment of such steel grade/product shall comply with relevant clauses of latest Quality Control Order; and that no clarification shall be issued for clearance of consignments containing such steel grades / products.

4.3 It, therefore appeared that the said goods imported by the said importer are covered under the Steel and Steel Products (Quality Control) Order, 2024 issued under Section 16 read with Section 17 and sub-section (3) of Section 25 of the Bureau of Indian Standards Act, 2016.

5.1 As per clause 3(1) of the Steel and Steel Products (Quality Control) Order, 2024, every steel and steel product specified in column (3) of Schedule I shall conform to the corresponding Indian Standards specified in column (2) of the said Schedule with effect from the dates specified in column (5) thereof. Further, as per clause 3(2) of the said Order, every steel and steel products specified in column (3) of Schedule I shall be accompanied with a Test Certificate bearing the Standard Mark, issued by the Bureau of Indian Standards certified manufacturer, with each consignment.

5.2. Section 17(1) of the Bureau of India Standards Act, 2016 *inter-alia* provides that no person shall import any such goods under sub-section (1) of Section 16 - (a) without a Standard Mark, except under a valid licence; or (b) notwithstanding that he has been granted a license, apply Standard Mark, unless such goods conforms to the relevant standard or prescribed essential requirements.

5.3 It appeared that the said goods imported by M/s. Naithani do not conform to the relevant Indian Standards and are not accompanied with Test Certificate bearing the Standard Mark, issued by the Bureau of Indian Standards certified manufacturer.

6. As per clause (d) of Section 111 of the Customs Act, 1962, any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under the Customs Act or any other law for the time being force, shall be liable to confiscation. As the said goods appeared to have been imported contrary to prohibition imposed vide Steel and Steel Products (Quality Control) Order, 2024 read with the provisions of Bureau of India Standards Act, 2016, the said goods appeared liable for confiscation under the provisions of Section 111(d) of the Customs Act, 1962.

7. It also appeared that the said goods have been imported vide Bill of Entry No. 3437707 dated 11.05.2024 in contravention of the provisions of Section 46(4)(c) of the Customs Act, 1962 inasmuch as the importer failed to ensure compliance with the restriction imposed vide Steel and Steel Products (Quality Control) Order, 2024 read with the provisions of Bureau of India Standards Act, 2016, in respect of goods imported under the said Bill of Entry. All the aforesaid acts of omission and commission on the part of the said importer appeared to have rendered them liable for penalty as provided under Section 112(a) of the Customs Act, 1962.

8. In view thereof, a Show Cause Notice F. No. CUS/APR/BE/SAO/31/2024-ICD-AHMD-CUS-COMMRTE-AHMEDABAD dated 14.06.2024 was issued to M/s. Naithani to show cause as to why:

(a) The imported goods viz. "0.108-CS-25, 0.108' EIPS Carbon Steel Slickline to API9A 25; 0.108 - EIPS Carbon Steel Slickline to API9A 25; 0.125-CS-30, 0.125' EIPS Carbon Steel Slickline to API9A 30", having Assessable Value of **Rs.12,70,292/- (Rupees Twelve Lakh Seventy Thousand Two Hundred Ninety Two Only)**, imported vide

Bill of Entry No. 3437707 dated 11.05.2024 should not be confiscated under Section 111(d) of the Customs Act 1962;

(b) Penalty should not be imposed upon them under the provisions of Section 112(a) of the Customs Act, 1962;

SUBMISSIONS :

9.1 M/s. Naithani, vide e-mail dated 17.06.2024, *inter-alia* submitted that the matter was under active reconsideration of Technical Division of Ministry of Steel, Government of India and shall come up in the meeting scheduled on 19th June, 2024.

9.2 Thereafter, vide e-mail dated 24.06.2024, M/s. Naithani informed that their case had been referred to higher authority of the Ministry of Steel and the decision was expected by first week of July.

9.3 M/s. Naithani, vide e-mail dated 01.07.2024, *inter-alia* submitted that they had taken up the matter with the Steel Ministry and after examining their case, the Empowered Committee granted them an exemption letter. They requested to release the consignment so that they can start their field operation.

9.4 M/s. Naithani, vide e-mail dated 02.07.2024 forwarded e-mail dated 01.07.2024 received by them from Technical Division, Ministry of Steel (E-mail mos-ec@gov.in) attaching letter F.No. 1(9)/2019-TD-Part (2) dated 01.07.2024 of the Additional Industrial Advisor, Ministry of Steel (Technical Division).

DISCUSSION AND FINDINGS :

10. I have carefully gone through the facts of the case and documents and evidences available on record.

11. It is observed that as per clause 3(1) of the Steel and Steel Products (Quality Control) Order, 2024, every steel and steel product specified in column (3) of Schedule I shall conform to the

corresponding Indian Standards specified in column (2) of the said Schedule with effect from the dates specified in column (5) thereof. Further, as per clause 3(2) of the said Order, every steel and steel products specified in column (3) of Schedule I shall be accompanied with a Test Certificate bearing the Standard Mark, issued by the Bureau of Indian Standards certified manufacturer, with each consignment. Section 17(1) of the Bureau of Indian Standards Act, 2016 *inter-alia* provides that no person shall import any such goods under sub-section (1) of Section 16 - (a) without a Standard Mark, except under a valid licence; or (b) notwithstanding that he has been granted a license, apply Standard Mark, unless such goods conforms to the relevant standard or prescribed essential requirements.

12. In the present case, as per the decision of the Technical Committee meeting on 03.06.2024, the imported goods are covered under IGS 4454 Part 1 as single strand, accordingly, the said consignment should have complied with relevant clauses of Steel and Steel products (Quality Control) Order, 2024. However, the said imported goods do not conform to the relevant Indian Standards and are not accompanied with Test Certificate bearing the Standard Mark, issued by the Bureau of Indian Standards certified manufacturer. Therefore, the show cause notice has been issued to the importer proposing confiscation of the imported goods under section 111(d) of the Customs Act, 1962 and also to impose penalty under section 112(a) of the Customs Act, 1962.

13.1 I have perused the copy of letter F.No. 1(9)/2019--TD-Part(2) dated 01.07.2024 of the Additional Industrial Advisor, Ministry of Steel (Technical Division) addressed to M/s. Naithani, wherein it has *inter-alia* been informed that their request for exemption of consignment containing "EIPS Carbon Steel (API9A) grade" from purview of Steel & Steel Products Quality Control Order, 2024 has been examined by the Empowered Committee (EC) constituted by the Ministry of Steel and the **Empowered Committee has granted approval to exemption request from the purview of Steel & Steel Products Quality Control Order, 2024.** It has also been informed that the above exemption is valid only for the grade mentioned above for import of

consignment only, as specifically submitted by them and details of which are mentioned in the said letter.

13.2 I find that the details of the consignment mentioned in the said letter dated 01.07.2024 viz. Quantity, Bill of Lading No., Invoice No. and Mill Test Certificate No. in respect of which exemption has been granted, pertain to consignment imported vide Bill of Entry No. 3437707 dated 11.05.2024, in respect of which Show Cause Notice dated 14.06.2024 has been issued.

13.3 As the Empowered Committee of Ministry of Steel has granted exemption to consignment imported vide Bill of Entry No. 3437707 dated 11.05.2024 from the purview of Steel & Steel Products (Quality Control) Order, 2024, the provision of said Steel & Steel Products (Quality Control) Order, 2024 and Bureau of Indian Standards Act, 2016 are no more applicable to the said consignment. Therefore, even though the said imported goods do not conform to the relevant Indian Standards and are not accompanied with Test Certificate bearing the Standard Mark, issued by the Bureau of Indian Standards certified manufacturer, it cannot now be said to have been imported contrary to prohibition imposed vide Steel and Steel Products (Quality Control) Order, 2024 read with the provisions of Bureau of Indian Standards Act, 2016.

14. In view of the foregoing, I hold that the goods imported vide Bill of Entry No. 3437707 dated 11.05.2024 are not liable for confiscation under clause (d) of Section 111 of the Customs Act, 1962. Further, as I have already held that the said goods are not liable for confiscation, the question of imposition of penalty under Section 112(a) on the importer does not arise. I, therefore do not impose any penalty on the importer.

15. It is made clear that the limited issue of applicability of provisions of Steel and Steel Products (Quality Control) Order, 2024 read with Bureau of Indian Standards Act, 2016 to the goods imported vide Bill of Entry No. 3437707 dated 11.05.2024 has been examined in the

present proceedings. The Bill of Entry No. 3437707 dated 11.05.2024 may be further processed as per law.

16. I, therefore pass the following order –

ORDER

I drop the proceedings initiated against M/s. Naithani Oil & Gas Services Private Limited vide Show Cause Notice F. No. CUS/APR/BE/SAO/31/ 2024-ICD-AHMD-CUS- COMMRT- AHMEDABAD dated 14.06.2024 in respect of goods imported vide Bill of Entry No. 3437707 dated 11.05.2024.



(Vishal Malani)
Additional Commissioner
Customs : Ahmedabad

DIN : 20240771MN0000273591
F. No. VIII/10-140/ICD-Khodiyar/O&A/HQ/2024-25 Date : 04.07.2024

BY SPEED POST/ E-MAIL/ HAND DELIVERY/ THROUGH NOTICE BOARD

To,
M/s. Naithani Oil & Gas Services Private Limited,
205, Sanket Avenue,
Opp : Ambe Vidhy, Sama Savli Road,
Baroda – 390024.
(E-Mail : MARKETING@naithani.co.in; sales@naithani.co.in)

Copy to :

- (i) The Principal Commissioner of Customs, Ahmedabad Commissionerate, Ahmedabad. (Attn : RRA Section)
- (ii) The Deputy Commissioner of Customs, ICD – Khodiyar, Ahmedabad.
- (iii) The Superintendent, Customs, H.Q. (Systems), Ahmedabad, for uploading on website of Customs Commissionerate, Ahmedabad.
- (iv) Guard File.