



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

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

चौथी मंज़िल **4th Floor**, हडको भवन **HUDCO Bhawan**, ईश्वर भुवन रोड़ **Ishwar Bhuvan Road**
नवरंगपुरा **Navrangpura**, अहमदाबाद **Ahmedabad - 380 009**
दूरभाष क्रमांक **Tel. No. 079-26589281**

DIN - 20250971MN0000490384

क	फ़ाइल संख्या FILE NO.	S/49-159/CUS/MUN/2024-25
ख	अपील आदेश संख्या ORDER-IN- APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	MUN-CUSTM-000-APP-182-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	19.09.2025
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN- ORIGINAL NO.	Order-in-Original no. MCH/99/AK/ADC/GRP V/23-24 dated 20.07.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	19.09.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Silicon Infotech Pvt. Ltd. 7/1, Lord Sinha Road, Lords Building, Officer No. 123, Kolkata, West Bengal-700071



1	यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है।
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते हैं।
	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.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क)	बैगेज के रूप में आयातित कोई माल.
(a)	any goods exported
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो.
(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)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	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)	कोर्ट फी एक्ट, 1870 के मद सं.6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए.
(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)	सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/- (रुपए दो सौ मात्र) या रु. 1000/- (रुपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां. यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रूपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु. 200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु. 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.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं	
	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 :	
	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-	
	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)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हजार रूपए.	
(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)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हजार रूपए	
(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)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हजार रूपए.	
(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)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10% अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के 10% अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा ।	
(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.	उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.	
	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. Silicon Infotech Pvt. Ltd., (IEC: 0207004081) , 7/1, Lord Sinha Road, Lords Building, Office No. 123, Kolkata, West Bengal-700071 (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original no. MCH/99/AK/ADC/GRP V/23-24 dated 20.07.2024 (hereinafter referred to as 'the impugned order') passed by the Additional Commissioner, Customs House, Mundra (hereinafter referred to as the 'adjudicating authority').

2. Facts of the case, in brief, are that the Appellant had filed a Bill of Entry No. 7947017 dated 22.09.2023 for import of goods declared as "Educational Building Track Set, Educational Building Block Set, Educational Small Puzzle Block, Simulated Kitchen" (hereinafter referred as impugned goods for the sake of brevity). The detail of declared goods under Bill of Entry No. 7947017 dated 22-09-2023 is as below:

Table-I

Sr No	Item Declared	Declared CTH	Declared Qty. (piece)	Declared Rate (USD/Piece)	Declared Amount (USD)
1	Educational Building Track Set	90230090	1280	15	19200
2	Educational Building Block Set	90230090	1180	4	4720
3	Educational Small Puzzle Block	90230090	1280	13	16640
4	Simulated Kitchen	90230090	155	42.68	6615.40
	Total				USD 47,175/-

Declared FOB Value Rs. 39, 65, 059/-

Declared Assessable Value Rs. 41, 28, 990/-

2.1 Whereas the importer has self-assessed the goods and classified the same under HSN Code 9023 0090 supplied by M/s Skylark Network Co. Ltd., China through Bill of lading No. NGB2308004546 dtd. 03.09.2023 having declared gross weight of 9832.6 Kgs. The goods were imported in India in container no. BWLU5100929 through invoice number A23SO07004 dtd. 01.09.2023. The

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goods were having declared assessable value of Rs. 41, 28,990/-.

2.3 On the basis of Intelligence gathered by the officers of Central Intelligence Unit (CIU), Mundra, the cargo covered under the said Bill of Entry No. 7947017 dated 22.09.2023 filed by the importer through their CHA M/s. Unnati Cargo wherein they have declared the goods as Educational Building Track Set, Educational Building Block Set, Educational Small Puzzle Block, Simulated Kitchen was put on hold. During the course of examination done by CIU officers, it was found that the goods were stuffed in corrugated boxes in the said container. During examination all the corrugated boxes were opened and examined and segregated item wise and total quantity of the goods found as below:

Table-II

Sr. No.	Item No.	Item Description	Qty declared	Qty. Found		
				No. of Carton	No. of Pcs in carton	Qty found
1	61951	Educational Building Track Set	1280	213	6	1278
2	61951	Educational Building Track Set		1	2	2
3	61952	Educational Building Block Set	1180	59	20	1180
4	61952	Baseboard Jigsaw	Not declared	9	7*144=1008 1*60=60 1*123=123	1191
5	61953	Educational Small Puzzle Block	1280	106	36	3816
6	61953	Educational Small Puzzle Block		1	24	24
7	61954	Simulated Kitchen	155	155	1	155

2.4 As per the examination done by CIU the impugned goods appeared to be different types of plastic toys which are classifiable under HSN Code 9503 having BCD @70%. Moreover, as per the Customs Tariff read with DGFT Notification No. 26/2015-20 dated 01.09.2017 (as amended) the import of Plastic Toys is restricted and mandatorily requires BIS certification. The impugned goods appeared to be imported in violation of relevant provisions of Customs Act, 1962



and thus same were seized by CIU officer on 03.10.2023 under the provisions of Section 110(1) of the Customs Act, 1962.

2.5 During the course of investigation the Appellant submitted a letter dtd. 21.09.2023 issued from State Project Director, Samagra Siksha, Mizoram stating that the impugned goods are to be distributed to government primary school. The Appellant also submitted a letter dtd. 03.08.2023 issued by Shri Lalhmachhuana, State Project Director, Samagra Shiksha, Mizoram addressed to CEO, M/s Silicon Infotech Pvt., Ltd. placing a request to import TLM(Teaching Learning Materials) from China on behalf of him. The afore-said letter also specifies the models and quantities required to be imported. The genuineness of the letter was confirmed by State Project Director, Samagra Shiksha, Mizoram through its letter dtd. 04.10.2023 wherein he informed that the impugned goods were imported on behalf of them through importer M/s Silicone Infotech Private Limited and they hold 100% ownership on the said goods. They informed that goods have been imported for educational demonstration and distribution among 1277 government primary schools in the state of Mizoram at free of cost under the foundation literacy and numeracy programme of Samagra Shikhsa Scheme. They further informed that since the goods were imported for educational demonstration purpose they have mentioned CTH 9023 0090 at the time of import.

2.6 Summons dtd. 25.10.2023 were issued by CIU to the importer and to the concerned CHA under section 108 of the Customs Act, 1962 for recording of the statement in the matter.

2.6.1 The statement of Shri Ayush Didwania, Director of M/s Silicone Infotech Pvt. Ltd. was recorded on 01.11.2023 wherein he inter-alia stated.

- that they purchase IT equipment and computer parts from the local market of Kolkata as well as Mumbai and supply to the state government and corporate sector.
- that they were first time dealing with Teaching Learning Material which was imported vide Bill of Entry No. 7947017 dtd. 22.09.2023 and also submitted a request letter/contract dtd. 03.08.2023 from the State Project Director, Samagra Shiksha, Mizoram for importation of Teaching Learning



Material from China.

- that the contract for purchase of impugned goods were not issued through GeM but through letter head of the director of the state project director, Samagra Shiksha.
- that the goods imported vide BE No. 7947017 dtd. 22.09.2023 is same in nature and quantity as mentioned in contract dtd. 03.08.2023.
- that their company have imported teaching learning material on behalf of the office of the State Project Director, Samagra Shiksha, Mizoram that will be distributed by the Government to the Government school at free of cost as mentioned in their contract.
- that to his best of knowledge and information given by their client, the items like simulated kitchen is re-creational models, educational building block track set & educational block are models and education puzzle block are puzzle block used for teaching mathematical calculations etc.
- that the quantity difference found as per panchanama dtd. 27.09.2023 in respect of educational small puzzle block is due to three packets covered under one set and the price of the same is also declared as per one set. There is total 3840 packet which covered in 1280 set.
- that most of the items imported by their company are not fit for use as normal toys but the same are educational modals and the same for use as teaching materials.
- that they do not have knowledge about compulsory certificate requirement under policy condition no. 02 of Chapter 95 under Custom Tariff Act for import of any type of plastic toys and their intention for import of the impugned goods is clear that the goods are to be used as Teaching Learning Materials not as a normal toy
- that all the payment regarding supply of the goods covered under BE No. 7947017 dtd. 22.09.2023 to the supplier has been made by their company through swift and as per the contract dtd. 03.08.2023, they will get all the



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amount including all charges from the State Project Director, Mizoram after handing over the goods at their godown.

2.6 Two sets of samples from five items namely Educational Building Track Set, Educational building block Set, Baseboard Jigsaw, Educational Small Puzzle block, Simulated kitchen were drawn vide panchnama dtd. 01.12.2023(RUD-9) from the seized goods and forwarded to CIPET, Aurangabad for testing purpose. CIPET, Ahmedabad. CIPET, Ahmedabad after testing of the sealed samples of the impugned goods has given its report dtd. 02.01.2024. The result of the CIPET report is tabulated as following:

Sr. No.	Test Report No.	Sample Name	Test Result
i)	29943	Educational Small Puzzle block	Sample is found to be not confirming to the requirements of Cl. No. 4.4 & 4.10 as per IS 9873 Pt-1 : 2019(Wooden Block Set)
ii)	29944	Baseboard Jigsaw	Sample is found to be not confirming to the requirements of Cl. No. 4.4 & 4.10 as per IS 9873 Pt-1 : 2019(Jigsaw Plastic Board Puzzle Set)
iii)	29945	Educational building block Set	Sample is found to be not confirming to the requirements of Cl. No. 4.4 & 4.10 as per IS 9873 Pt-1 : 2019(Building Blocks Set)
iii)	29946	Simulated Kitchen	Sample is found to be not confirming to the requirements of Cl. No. 4.4 & 4.10 as per IS 9873 Pt-1 : 2019(Toys Kitchen Set)
iv)	29947	Educational building block Set	Sample is found to be not confirming to the requirements of Cl. No. 4.4 & 4.10 as per IS 9873 Pt-1 : 2019(Wooden Track Set)

The case was subsequently transferred to SIIB for further investigation into the matter, however considering the fact that investigation may take time, the Competent Authority granted extension as per the provisions of section 110(2) of the Customs Act, 1962.

2.7 The result of the CIPET report was shared with the importer and upon perusal of the report the importer vide its letter dtd. 20.03.2024 requested to forward the sample to another NABL accredited Laboratory. Thereafter, as the



samples were not available, 02 set of samples from each item were drawn for testing under panchnama dated 02.04.2024(RUD-12) and sent to M/s. Alpha Test House for testing purpose vide Test Memo No. 917-to-921/2023-24 all dated 02.04.2024 to verify the standards prescribed in IS: 9873 Part-1, Part-2, Part-3, Part-4, Part-7, Part-9 and IS 15644:2006.

2.8 The Alpha Test report in its report issued on 09.05.2024 has given result which is summarised as below:

Sl. No.	Item	Test Standard	Result
1.	Educational Small Puzzle Block	IS:9873(P-1), (P-2), (P-3), (P-4), (P-6), (P-7) and (P-9) and IS:15644:2006	The sample conforms to the applicable test standards
2.	Baseboard Jigsaw	IS:9873(P-1), (P-2), (P-3), (P-4), (P-6), (P-7) and (P-9) and IS:15644:2006	The sample conforms to the applicable test standards
3.	Simulated Kitchen	IS:9873(P-1), (P-2), (P-3), (P-4), (P-6), (P-7) and (P-9) and IS:15644:2006	The sample conforms to the applicable test standards
4.	Educational Building Track Set	IS:9873(P-1), (P-2), (P-3), (P-4), (P-6), (P-7) and (P-9) and IS:15644:2006	The sample conforms to the applicable test standards
5.	Educational Building Block Set	IS:9873(P-1), (P-2), (P-3), (P-4), (P-6), (P-7) and (P-9) and IS:15644:2006	The sample conforms to the applicable test standards

Hence, as per the test report the impugned goods conforms to the standard of toys.

2.9 It is observed that the bill of entry has been filed for four items as mentioned below

- (i) Educational Building Track Set 1280 pcs
- (ii) Educational Building block Set 1180 pcs
- (iii) Educational Small Puzzie block 1280 pcs
- (iv) Simulated kitchen 155 pcs



2.10 Also the goods mentioned as per the packing list are as follows:

- | | |
|-----------------------------------|---------|
| a) Educational Building Track Set | 1280 PC |
| b) Educational Building Track Set | 2 PC |
| c) Educational Building Block Set | 1180 PC |
| d) Baseboard Jigsaw | 1180 PC |
| e) Educational Small Puzzle Block | 1280 PC |
| f) Educational Small Puzzle Block | 8 PC |
| g) Simulated Kitchen | 155 PC |

2.11 Whereas, as per the page 3 of panchnama dtd. 27.09.2023 drawn by CIU officials wherein detailed inventory of the goods found was made as per which the cargo was found as follows:

S. No.	Item No.	Item description	Quantity as per invoice/declared by the importer(PCs)	Actual Quantity found during examination importer		
				Carton Nos.	No. of pieces in One Crtn	Quantity in PC
1.	61951	Educational Building Track Set	1280	213	6	1278
2.	61951	Educational Building Track Set	--	1	2	2
3.	61952	Educational Building Block Set	1180	59	20	1180
4.	61952	Baseboard Jigsaw	--	9	7*144=1008 1*60 = 60 1*123 = 123	1191
5.	61953	Educational	1280	106	36	3816



		Small Puzzle block				
6.	61953	Educational Small Puzzle block	---	1	24	24
7.	61954	Simulated Kitchen	155	155	1	155

2.12 Upon comparison of the packing list and panchnama derived by CIU officials, it is observed that Educational Small Puzzle Block having item code 61953 were showing variation i.e. 1280 pcs as per packing list and 3840 pcs as per panchnama. It was seen that as per Para/reply 13 of statement given by importer recorded under Customs Act 1962 wherein the importer informed that in case of item educational small puzzle block, there are three packets covered in one set and price of the same also declared according to one set. There is total 3840 packet which covered in 1280 set.

2.13 Also, a letter dtd. 05.06.2024 received from the importer further clarifying that 3 packets of puzzle equals 01 set and thus the total number of packets in their consignment will be approx. 3840 packets (1280 set x 3 packets).

2.14 In addition to the above, the panchnama drawn by CIU official has also mentioned an item namely 'Baseboard Jigsaw' having quantity 1191 pcs as undeclared item. It was observed that the item 'baseboard jigsaw' has been mentioned in the packing list of the goods having 1180 pcs. The clarification in this regard was called from the importer and the importer vide its letter dtd 05.06.2024 has submitted that educational building block set (item no 61952) includes wooden blocks and a jigsaw baseboard which makes it a complete set.

2.15 It is to further mention here that as per weighment slip(RUD-16) provided by the CFS the gross weight of the goods is 9980 kgs and weight as per packing list is 9832 kgs. Hence, there is no weight difference found in the goods. Also value of the goods also appears to be fair.

2.16 Hence, the dispute regarding quantity of the goods may be construed as settled and the quantity mentioned in the bill of entry has been taken into consideration.



2.17 Findings of the investigation revealed that the Appellant had declared the said goods under CTH 9023 0090. However, as per discussion made above the goods described as toys namely Educational Building Track Set, Educational Building Block Set, Educational Small Puzzle Block, Simulated Kitchen are appropriately classifiable under the CTH 9503 0020. Therefore, it appeared that the Appellant had mis-declared the goods and also imported the same by violating the policy conditions as prescribed by DGFT. Hence, the classification of the goods as claimed by the Appellant under CTH 90230090 appeared liable to be rejected and the goods appeared liable to re-classified under CTH 95030020.

2.17.1 The afore-said goods imported by mis-declaration and in contravention of rules laid down under Foreign Trade Policy are liable for confiscation under section 111 (d), 111(1) and 111(m) of the Customs Act, 1962.

2.17.2 The differential duty of Rs. 24,53,446/- as described in Table IV of the impugned order is liable to be recovered from the importer upon re-classification.

2.17.3 The Appellant appeared liable for penal. action under Section 112 (a) of the Customs Act, 1962.

2.18 The Appellant vide their letter dtd. 03.06.2024 has stated to waive off personal hearing and show cause notice and requested to process for release of the goods.

2.19 The adjudicating authority vide impugned order adjudicated the case as under :-

- (i) He rejected the classification of goods in the Bill of entry No. 7947017 dated 22.09.2023 under CTI 90230090 and ordered the same to be reclassified under CTI 95030020 and order to re-assess accordingly.
- (ii) He held the goods covered under the Bill of Entry No. 7947017 dated 22.09.2023 having declared Assessable value of Rs. 41, 28, 990/- liable for confiscation under section 111(d) and 111(m) of the Customs Act, 1962.



(iii) He imposed a penalty of Rs. 50,000/- (Rs. fifty Thousand Only) on the Appellant under Section 112(a)(i) of the Customs Act, 1962

(iv) He imposed a fine of Rs. 3,50,000/- (Rs. Three lakh Fifty thousand Only) on the Appellant under Section 125 of the Customs Act, 1962 in lieu of confiscation and permitted the goods to be cleared for home consumption subject to payment of duty arising out of re-assessment as ordered above and penalty.

SUBMISSIONS OF THE APPELLANT:

3. Being aggrieved with the impugned order, the Appellant has filed the present appeal on the following grounds:-

- The Adjudicating Authority has grossly erred in rejecting the classification of the impugned goods under CTH 90230090 and reclassifying them under CTH 95030020. This decision is based on a superficial understanding of the goods and fails to consider their intended use and specific design for educational purposes.
- The impugned goods were not ordinary toys but specially designed educational materials imported for a specific educational project of the Mizoram government. This is conclusively established by:
 - a. The letter dated 03.08.2023 from the State Project Director, Samagra Shiksha, Mizoram, specifically requesting the import of these materials.
 - b. The confirming letter dated 04.10.2023 from the same authority, explicitly stating the educational purpose and intended distribution to 1277 government primary schools.
- The classification under CTH 90230090 is correct and in accordance with Rule 1 of the General Rules for Interpretation of Import Tariff, which states that "classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes." The heading 9023 specifically covers "Instruments, apparatus and models, designed for demonstrational purposes (for example, in education or exhibitions), unsuitable for other uses."



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- It is most humbly submitted that for the purposes of classification, what is material is the nature and character of the product and not the use to which it may be put. The test of predominant use is only one of the tests to be applied and it is not an invariable one.
- It is pertinent to mentioned that the same has been held in the case of ***Precious Industries v. Collector of Customs, MANU/CE/0317/1989*** by the Customs, Excise and Gold (Control) Appellate Tribunal. It is further most humbly submitted that applying the above- principle to the present case, the nature and character of the impugned goods are that of educational demonstrational materials, specifically designed and imported for use in primary schools. Their design and predominant function are for educational demonstration, not as toys for general play.
- It is further most humbly submitted that in ***CCE v. Uni Products India Ltd. 2020 (33) G.S.T.L. 321 (S.C.)***, the Hon'ble Supreme Court emphasised the importance of specific descriptions in classification and has held that when there is a specific entry covering the goods in question, resort cannot be had to a general entry or a residuary entry .
- It is most humbly submitted that this principle squarely applies to the present case. CTH 90230090, which specifically covers instruments, apparatus, and models designed for demonstrational purposes in education, provides a more specific description for the impugned goods than CTH 95030020, which covers toys in general.
- It is further submitted that the Adjudicating Authority's approach of classifying these educational materials as toys based solely on their physical appearance, without considering their specific design and intended use, is contrary to established principles of classification and deserves to be set aside.
- It is most humbly submitted that the Adjudicating Authority has gravely erred in holding the goods liable for confiscation under Section 111(d) of the Customs Act, 1962. This section applies to goods imported contrary to any prohibition under the Customs Act or any other law in force. In the present case, there was no such prohibition or intention to violate any law.



- It is submitted that the Appellant had no intention to violate any import policy or evade duty. The goods were imported based on a specific request from a state government department for educational purposes. The Appellant acted in good faith and with due diligence in classifying the goods based on their intended use.
- It is most humbly submitted that mens rea is not a necessary ingredient for confiscation under Section 111(d) and it is most pertinent to note that the expression 'prohibition' in Section 111(d) of the Act has to be read along with the word 'contravention' occurring in Section 111. The word 'contravention' naturally suggests that the prohibition has been disregarded with a conscious mind. It has been held by the Supreme Court that *mens rea* is not a necessary ingredient for confiscation under Section 111(d) of the Customs Act, 1962, in the case of **Union of India v. Mustafa and Najibai Trading Co. and Ors., MANU/SC/0423/1998**.
- It is most pertinent to note that even in the present case, there was no conscious disregard for any prohibition. The Appellant acted transparently, based on a genuine request from a state government, and had no intention to violate any law.
- Moreover, the subsequent test report from Alpha Test House dated 09.05.2024 confirmed that the goods conformed to all applicable standards, including IS:9873(P-1), (P-2), (P-3), (P-4), (P-6), (P-7) and (P-9) and IS:15644:2006. This demonstrated conclusively that there was no violation of any import prohibition, and thus, Section 111(d) is not applicable.
- The Adjudicating Authority's failure to consider these crucial factors renders the decision to confiscate the goods under Section 111(d) wholly unsustainable and liable to be set aside
- It is most humbly submitted that the Adjudicating Authority has erred in holding the goods liable for confiscation under Section 111(m) of the Customs Act, 1962. This section applies to goods that do not correspond



in respect of value or any other particular with the entry made. In the present case, there is no such discrepancy.

- The Appellant had correctly declared the description, quantity, and value of the goods in the Bill of Entry. The only dispute is regarding classification, which is a matter of interpretation and does not amount to misdeclaration under Section 111(m).
- It is also submitted that mere wrong classification of goods by itself would not amount to misdeclaration of goods for the purpose of Section 111(m) of the Act unless it is proved that the importer had knowledge of the fact that the classification was wrong and yet he declared the goods under that classification with the intention to evade duty. The Supreme Court has observed the same in the case of **Northern Plastic Limited v. Collector of Customs & Central Excise, MANU/SC/0418/1998**.
- It is most pertinent to note that in the present case, there is no evidence whatsoever to suggest that the Appellant had any knowledge that the classification was wrong or any intention to evade duty. On the contrary, the classification was based on the genuine belief that the goods were educational demonstrational materials, supported by official letters from the Mizoram government.
- It is also submitted that the Adjudicating Authority's decision to invoke Section 111(m) based solely on a difference of opinion on classification, without any evidence of intentional mis-declaration, is contrary to the law of land and deserves to be set aside.
- It is most humbly submitted that the imposition of a penalty of Rs. 50,000/- under Section 112(a)(i) and a fine of Rs. 3,50,000/- under Section 125 of the Customs Act, 1962 is excessive, unreasonable, and not commensurate with the alleged violation.
- It is submitted that the Appellant had no intention to evade duty or violate any law. The import was made for a bona fide purpose on behalf of a state



government for educational use. This is not a case of willful evasion or contumacious conduct that warrants such severe penalties.

- The Hon'ble Supreme Court in ***Hindustan Steel Ltd. v. State of Orissa AIR 1970 SC 253*** has laid down clear principles regarding the imposition of penalties. Court has held that an order imposing a penalty for failure to carry out a statutory obligation is the result of a quasi-criminal proceeding, and penalty will not ordinarily be imposed unless the party obliged either acted deliberately in defiance of law or was guilty of conduct contumacious or dishonest, or acted in conscious disregard of its obligation.
- It is submitted in the present case, there is no evidence of any deliberate defiance of law, contumacious or dishonest conduct, or conscious disregard of obligations. The Appellant acted transparently and in good faith, based on a genuine request from a state government.
- Furthermore, the Adjudicating Authority has acknowledged in paragraph 15 of the Impugned Order that the goods are to be used for enhancing the learning experience of school students of government schools and has taken a lenient view. In light of this acknowledgment, the imposition of such a high penalty and fine is contradictory, unreasonable, and deserves to be set aside.
- It is submitted that the impugned Order violates the principles of natural justice as the Adjudicating Authority has not properly considered and addressed all the submissions made by the Appellant.
- It is submitted that the Adjudicating Authority has not given due weightage to the letter dated 04.10.2023 from the State Project Director, Samagra Shiksha, Mizoram, confirming the educational purpose of the imported goods. This crucial piece of evidence, which establishes the bona fide nature of the import, has been largely ignored in the Impugned Order.
- It is most humbly submitted that the Hon'ble Supreme Court in ***Sahara India (Firm) v. Commissioner of Income Tax, Central-I & Anr. (2008)***



14 SCC 151 has emphasized the importance of reasoned orders and held that the duty to give reasons is a part and parcel of the principle of natural justice. Giving reasons is an essential element of the administration of justice. A right to reason is an indispensable part of a sound judicial system. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made.

- The Impugned Order lacks adequate reasoning for rejecting the Appellant's classification and imposing penalties. The Adjudicating Authority has not explained why the specific evidence provided by the Appellant regarding the educational nature of the goods has been disregarded. It is submitted that this failure to provide adequate reasons and to consider crucial evidence violates the principles of natural justice and renders the Impugned Order liable to be set aside.
- It is submitted that the Adjudicating Authority has failed to consider several relevant factors that are crucial to the case. These include:
 - a. The bona fide intention of the Appellant in importing the goods for educational purposes, as evidenced by the letters from the Mizoram government.
 - b. The fact that the goods were imported on behalf of a state government department for a specific educational program.
 - c. The subsequent test report from Alpha Test House dated 09.05.2024 confirms compliance with all applicable standards.
- It is submitted that the Hon'ble Supreme Court in ***Eicher Goodearth Ltd. v. Union of India 2012 (286) E.L.T. 321 (S.C.)*** has held that non-consideration of relevant factors makes an order perverse and liable to be set aside.
- It is submitted that it is well-settled law that if a statutory authority has been vested with jurisdiction, it has to be exercised in a manner provided by the statute. The power has to be exercised reasonably and rationally



and not arbitrarily or capriciously. The authority has to consider all relevant factors and not take into account irrelevant factors.

- It is most humbly submitted that in the present case, the Adjudicating Authority's failure to consider these crucial factors, particularly the official communications from the Mizoram government and the favorable test report from Alpha Test House, renders the Impugned Order arbitrary and irrational.
- This non-consideration of relevant factors is a serious flaw that goes to the root of the matter and makes the Impugned Order unsustainable in law.
- It is most humbly submitted that the Adjudicating Authority has erred in considering the BIS certification requirement as applicable to the impugned goods. The goods, being intended for educational demonstration.
- It is submitted that the order appears to misinterpret Policy Condition 2 by assuming all toys require BIS certification at the time of import. However, the policy allows for alternatives like manufacturer's test reports or international laboratory reports for certain categories of toys. The order does not consider whether the educational toys in question may qualify for these alternative compliance methods.
- It is submitted that there has been a failure to consider end-use exemption as the order does not address whether these educational toys, intended for distribution to government schools, may qualify for any exemptions from BIS certification requirements based on their non-commercial, educational end-use. Such exemptions sometimes exist for items imported for educational institutions.
- It is submitted that there has been an incorrect interpretation of the "toys" definition: The adjudicating authority may have erroneously classified all the items as "toys" subject to BIS requirements, without properly considering whether educational materials like puzzle blocks or building



sets intended for classroom use fall outside the scope of the toys regulation.

- It is submitted that there had been disregard for subsequent conformity testing. The order acknowledges that "subsequent testing of samples done at authorised labs have established that the items under import conform to the prescribed standards." This suggests the goods meet the underlying safety standards, even if there was a procedural issue with certification at the time of import. The order fails to adequately consider this substantial compliance in its interpretation of the BIS requirement.

PERSONAL HEARING:

4. Personal hearing was held on 03.07.2025 wherein Shri Aaditya D Bhatt, Advocate, appeared for the hearing in virtual mode. He re-iterated the submissions made at the time of filing the appeal.

DISCUSSION AND FINDINGS:

5. I have carefully gone through the case records, impugned order passed by the Additional Commissioner, Customs House, Mundra and the defense put forth by the Appellant in their appeal.

5.1 On going through the material on record, I find that following issues required to be decided in the present appeals which are as follows:

- (i) Whether rejection of classification of goods in the Bill of Entry No. 7947017 dated 22.09.2023 under CTI 90230090 and reclassification of the same under CTI 95030020 in the facts and circumstances of the case , is legal and proper or otherwise.
- (ii) Whether confiscation of goods under the Bill of Entry No. 7947017 dated 22.09.2023 under section 111(d) and 111(m) of the Customs Act, 1962 in the facts and circumstances of the case , is legal and proper or otherwise.
- (iii) Whether imposition of penalty of Rs. 50,000/- (Rs. fifty Thousand Only) on the Appellant under Section 112(a)(i) of the Customs Act, 1962 in the facts and circumstances of the case , is legal and proper or otherwise.



- (iv) Whether imposition of fine of Rs. 3,50,000/- (Rs. Three lakh Fifty thousand Only) on the Appellant under Section 125 of the Customs Act, 1962 in lieu of confiscation in the facts and circumstances of the case , is legal and proper or otherwise.

5.2 It is observed that the Appellant had filed a Bill of Entry No. 7947017 dated 22.09.2023 for import of goods declared as "Educational Building Track Set, Educational Building Block Set, Educational Small Puzzle Block, Simulated Kitchen". The Appellant had self-assessed the goods and classified the same under HSN Code 9023 0090. The Tariff heading 9023 is reproduced as under :-

9023 INSTRUMENTS, APPARATUS AND MODELS, DESIGNED FOR DEMONSTRATIONAL PURPOSES (FOR EXAMPLE, IN EDUCATION OR EXHIBITIONS), UNSUITABLE FOR OTHER USES

902300 *Instruments, apparatus and models, designed for demonstrational purposes (for example, in education or exhibitions), unsuitable for other uses:*

9023 00 10 -- Teaching aids u 10%

9023 00 90 -- Other u 10%

It is observed that tariff heading 9023 covers the goods namely instruments, apparatus and models that are designed for demonstrational purpose.

As per the request of the Appellant, the test report from M/s. Alpha Test House, the sample of goods was tested and as per the test report the same were conforming to the test standards i.e IS:9873 (P-1), (P-2), (P-3), (P-4), (P-6), (P-7) and (P-9) and IS:15644:2006. It is observed from the test report that the impugned goods conforms to the standard of toys. Hence the goods i.e toys need



to be classified under appropriate Chapter 95 of Section -XX of Custom Tariff Act, 1975. It is observed that Toys, games and other such articles are covered under chapter 95 of Section - XX of Custom Tariff Act, 1975. The heading 9503 of the Import Tariff specifically include 'Tricycles, Scooters, Pedal Cars and similar wheeled Toys, dolls' carriages; dolls; other toys, reduced-size ('scale') models and similar recreational models, working or not; puzzles of all kinds'

In view of the above, the impugned goods falls under the category of other toys and are appropriately classifiable under HS Code 9503 0020. The relevant extract is produced below for ready reference:

9503	TRICYCLES, SCOOTERS, PEDAL CARS AND SIMILAR WHEELED TOYS; DOLLS' CARRIAGES; DOLLS; OTHER TOYS; REDUCED-SIZE ("SCALE") MODELS AND SIMILAR RECREATIONAL MODELS, WORKING OR NOT; PUZZLES OF ALL KINDS			
9503 00	<i>Tricycles, scooters, pedal cars and similar wheeled toys; dolls' carriages; dolls; other toys; reduced-size ("scale") models and similar recreational models, working or not; puzzles of all kinds:</i>			
9503 00 10	Electronic	u	70%	-
9503 00 20	Non electronic	u	70%	-

Therefore, the goods found in the import consignment are properly classifiable under CTH 95030020 by the adjudicating authority and the same is upheld.



5.3 Now coming to the issue of confiscation of goods under Section 111(d) of the Customs Act, 1962, it is observed that Policy Condition 2 of Chapter 95 of DGFT's import policy mandates specific requirements for the importation of toys, including safety standards and certifications necessary to ensure the imported toys meet the prescribed safety and quality standards. However, it is observed that the Appellant imported the consignment of toys without complying with Policy Condition 2 of Chapter 95 of DGFT's import policy. The said policy condition requires that all toys must be accompanied by a certificate of conformity to the standards specified by the Bureau of Indian Standards (BIS) at the time of import. The Appellant has therefore has violated Policy Condition 2 of Chapter 95 by failing to provide the required BIS certification and thus found to be involved in violation of the import policy framed under the Foreign Trade (Development and Regulation) Act, 1992. The import of toys without the necessary BIS certification, as mandated by the DGFT's import policy, is prohibited. In this regard, reliance is placed on the order of Hon'ble Supreme Court in case of Om Prakash Bhatia Vs. Commissioner of Customs, Delhi reported at 2003(155)ELT 423(SC) wherein the Hon'ble Apex court held as under:-

"8. Further, Section 2(33) of the Act defines "prohibited goods" as under :-

"prohibited goods" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with."

9. From the aforesaid definition, it can be stated that (a) if there is any prohibition of import or export of goods under the Act or any other law for the time being in force, it would be considered to be prohibited goods; and (b) this would not include any such goods in respect of which the conditions, subject to which the goods are imported or exported, have been complied with. This would mean that if the conditions prescribed for import or export of goods are not complied with, it would be considered to be prohibited goods. This would also be clear from Section 11 which empowers the Central Government to prohibit either 'absolutely' or 'subject to such conditions' to be fulfilled before or after clearance, as may be specified in the notification, the import or export of the goods of any specified description. The notification can be issued for the purposes specified in sub-section (2). Hence, prohibition of importation or exportation could be subject to certain prescribed conditions to be fulfilled before or after clearance of goods. If conditions are not fulfilled, it may amount to prohibited goods.-----"



In view of the above, I find that impugned goods are rightly held liable for confiscation under Section 111(d) of the Customs Act, 1962 by the adjudicating authority.

5.3.1 As regards the confiscation of goods under Section 111(m) of the Customs Act, 1962, It is observed that only after investigation, it was revealed that CTH of the goods was mis-declared. As per Section 111(m) of the Customs Act, 1962, if the declared goods they do not correspond in respect of value or any other particular with the entry made under this Act or, in the absence of an entry, with the particulars specified in the Bill of Entry or shipping bill or bill of export. Hence I find that Section 111(m) of the Customs Act, 1962 has been correctly invoked by the adjudicating authority.

5.3.2 With regard to the redemption fine of Rs. 3,50,000/- imposed on the Appellant, It is observed that Section 125 of the Customs Act, 1962 provides for option to pay fine in lieu of confiscation and stipulates that the fine shall not exceed the market value of the goods confiscated less duty chargeable thereon. The quantum of redemption fine is with in discretion of the adjudicating authority. Further imposition of redemption fine has been justified by the adjudicating authority in the impugned order after examining the facts and circumstances of the case. Hence I find that the redemption fine of Rs. 3,50,000/- imposed by the adjudicating authority as above is legal and proper and is therefore upheld.

5.4 Now I come to the issue of imposition of penalty on Appellant under Section 112(a) (i) of Customs Act, 1962. The appellant has submitted that they had no intention to evade duty or violate any law. However, I find that mens rea is not necessary for imposition of penalty under this Section as any violation involving differential duty payment on the part of the Appellant is sufficient for invoking Section 112(a)(i) of the Customs Act, 1962. It is relevant to refer to the observation of the Hon'ble CESTAT, Mumbai Bench in case of Shipping Corporation of India [2014 (312) E.L.T. 305 (Tri.-Mumbai)] where it is held that :

"6.17... However penalty under Section 112(a) is sustainable as the said section does not require any mens rea on the part of the appellants and mere violation of the statutory provisions would suffice. The decisions of the Hon'ble Apex Court in the case of Gujarat Travancore Agency v. CIT [(1989) 177 ITR 455 (S.C.) = 1989



(42) E.L.T. 350 (S.C.)) and Chairman, SEBI v. Sriram Mutual Fund & Anr. [2006-TIOL-72-SC-SEBI] refer and ratio of the same would apply..."

Similarly, in case of Imperial Trading LLC [2005 (181) E.L.T. 29 (Tri.-Mumbai)], it is held that:

"11. The Commissioner imposed a penalty of Rs. 2.00 lakhs on the importing firm under Section 112(a) of the Customs Act. The appellant, M/s. Impex Enterprises, caused the import of goods which are liable to confiscation under Section 111. **Mens rea is not a necessary ingredient for imposing a penalty under Section 112(a) of the said Act.** However, having regard to the circumstances of the case, we reduce the penalty to Rs. 1.00 lakhs."

In the instant case, penalty has been rightly imposed and looking to the facts of the case the quantum of the same has also been justified by the adjudicating authority. Therefore, the same is upheld.

5.5 In light of the above discussions and findings, the impugned order is upheld and the appeal filed by the Appellant is rejected.



F. No. S/49-159/CUS/MUN/2024-25

By Speed post A.D/E-Mail

To,
M/s Silicon Infotech Pvt. Ltd.
7/1, Lord Sinha Road, Lords Building,
Officer No. 123,
Kolkata, West Bengal-700071.

Copy to:

1. The Chief Commissioner of Customs, Ahmedabad zone, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Custom House, Mundra.
3. The Additional Commissioner of Customs, Custom House, Mundra.
4. Guard File.

(AMIT GUPTA)

Commissioner (Appeals),
Customs, Ahmedabad

Date: 19.09.2025