

		OFFICE OF THE COMMISSIONER CUSTOM HOUSE, KANDLA NEAR BALAJI TEMPLE, NEW KANDLA Phone : 02836-271468/469 Fax: 02836-271467	
		A	File No.
B	Order-in-Original No.	KDL/ADC/VS/08/2026-27	
C	Passed by	Vishwajeet Singh, Commissioner (in-situ), Custom House, Kandla	
D	Date of Order	24.04.2026	
E	Date of Issue	24.04.2026	
F	SCN NO. & Date	GEN/ADJ/ADC/1625/2025-Adjn-O/o Commr-Cus-Kandla dated 11.08.2025	
G	Noticee / Party / Importer / Exporter	M/s. Maruti Exports, Plot No- 75-B, 76 to 81, 82-B, 291 Sector II, Kandla SEZ, Gandhidham	

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

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

2. यदि कोई व्यक्ति इस मूल आदेश से असंतुष्ट है तो वह सीमाशुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमाशुल्क अधिनियम 1962 की धारा 128A के अंतर्गत प्रपत्र सीए- 1-में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-
Any person aggrieved by this Order - in - Original may file an appeal under Section 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

“ सीमाशुल्क आयुक्त (अपील),

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

“THE COMMISSIONER OF CUSTOMS (APPEALS),

Having his office at 7th Floor, Mridul Tower, Behind Times of India,

Ashram Road, Ahmedabad-380009.”

3. उक्त अपील यह आदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए।

Appeal shall be filed within sixty days from the date of communication of this order.

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-

Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must accompanied by –

(i) उक्त अपील की एक प्रति और

A copy of the appeal, and

(ii) इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।

This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.

5. अपील ज्ञापन के साथ ड्यूटी/ ब्याज/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।

Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo.

6. अपील प्रस्तुत करते समय, सीमा शुल्क (अपील) नियम, 1982 और सीमा शुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.

7. इस आदेश के विरुद्ध अपील हेतु जहां शुल्कया शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (A) के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।

An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE:

M/s. Maruti Exports [IEC: 3797000626], Plot No- 75-B, 76 to 81, 82-B, 291 Sector II, Kandla SEZ, Gandhidham (hereinafter also referred to as the *importer*) are engaged in importing of “*unsorted worn used clothing's*” falling under CTH 63090000. The said importer had filed a Bill of Entry No. 1012746 dated 21.08.2023 at KASEZ.

2. Whereas, acting on an information received from the Customs Officers of Kandla SEZ, Gandhidham that One *Revolver* has been found in the import consignment of M/s. Maruti Exports, Plot No - 75-B, 76 to 81, 82-B, 291 Sector II, Kandla SEZ, Gandhidham having Letter of Approval dated 26.08.2011, the Officers of SIIB Section had visited the said premises of the importer on 31.08.2023 for 100% examination of the goods available in respect of BE No. 1012746 dated 21.08.2023. Thereafter, in presence of the Officers of KASEZ, Gandhidham, 100% examination of the available cargo imported vide Bill of Entry No. 1012746 dated 21.08.2023 was carried out by the Officers of SIIB Section under videography and the proceeding were recorded under Panchnama dated 31.08.2023/01.09.2023.

2.1 Further, during the examination of the goods, on being asked, Shri Jitender M Jain, one of the Partners of M/s. Maruti Exports had informed that during the course of unpacking the bales of worn clothes imported vide Bill of Entry No. 1012746 dated 21.08.2023 in container no. HLBU2190671 at their premise i.e. Plot No- 75-B, 76 to 81, 82-B, Sector II, Kandla SEZ, one of their labourers had found a *Revolver* at around 12:20 pm on 31.08.2023. However, the labourers considered the same as Toy Revolver and one of the labourers accidentally fired the revolver, bullet from which had hurt one labourer in his abdomen area. Thereafter, the injured labourer was rushed to Sterling Hospital, Gandhidham and accordingly, local police visited their factory at around 1:30 pm and took custody of the said revolver and further investigation is pending at their end. Subsequently, he had informed the Customs Officers of KASEZ about the incident and recovery of the said revolver by their staff.

2.2 Whereas, the available subject goods i.e. “*Unsorted worn used clothing's completely fumigated*” imported vide aforesaid Bill of Entry No. 1012746 dated 21.08.2023 were placed under seizure vide Seizure Memo dated 01.09.2023, under reasonable belief that the said goods were mis-declared to the extent that restricted item/goods (i.e. *revolver*) was found in the cargo (which was recovered by the staff of the importer as informed to the Customs Officers of KASEZ by Shri Jitender M Jani, Partner of M/s. Maruti Exports, KASEZ and thus, the same appeared to be liable for confiscation under the provisions of the Customs Act, 1962. Further, the seized goods which were used for concealing the imported restricted goods i.e. Revolver, were handed over to Shri Jitendra M Jain, Partner of M/s. Maruti Exports for safe custody of the goods, under Supratnama dated 01.09.2023.

2.3 Further, during the course of investigation, Summons dated 01.09.2023 was issued to M/s. Maruti Exports, KASEZ and subsequently Statement dated 01.09.2023 of Shri Jitendra M Jain, Partner of M/s. Maruti Exports was recorded wherein he inter-alia stated as under: -

- *he is one of the partners of M/s. Maruti Exports, M/s. Maruti Exports, Plot No- 75-B, 76 to 81, 82-B, 291 Sector II, Kandla SEZ, Gandhidham. There are three Partners in*

the M/s. Maruti Exports and other partners apart from him are two of his brothers Shri Prakash M Jain, Age 66 years & Shri Rakesh M Jain, Aged 49 years. The work related to customs & taxation is being looked after by him,

- the IEC of the Firm M/s. Maruti Exports is 3797000626 and is dealing in the import of 'unsorted worn used clothing's' and after sorting and grading, we re-pack the same and export approx. 50-55% quantity to African countries and rest to local market in mutilated form,*
- M/s. Global Textiles Trading Inc., 4, Mountland Road, Brampton, ON L6P 1Z9, Canada supplied the goods under Bill of Entry No. 1012746 dated 21.08.2023 who was their regular supplier since last 6-7 years.*
- they didn't have any written agreement with M/s. Global Textiles Trading Inc, Canada and they generally do these kinds of transaction with oral agreement only. Accordingly, their supplier raised invoice and they made the payment to their supplier.*
- they had made the payment in advance through SBI Bank and the SWIFT copy of the same was submitted.*
- he was not present at his factory during the recovery of revolver/incident of firing. However, as informed by one of their labourer, the said revolver was found in the heap of clothes unpacked from the bales (exact mark/no. detail of which he didn't know) of the imported consignment under Bill of Entry No. 1012746 dated 21.08.2023 at around 12:20 pm on 31.08.2023, located in the back side of the premises of M/s. Maruti Exports i.e. Plot No- 75-B, 76 to 81, 82-B, 291 Sector II, Kandla SEZ, Gandhidham. However, the labourers considered the same as toy revolver and one of the labourers accidentally fired the revolver, bullet of which hurt one labourer in his abdomen area. Thereafter, the injured labourer was rushed to Sterling Hospital, Gandhidham. He informed the customs officers of KASEZ about the incident at around 1:00 pm about recovery of the said revolver by his staff, although Gujarat police visited his factory at around 1:30 pm, before arrival of KASEZ officers and took the custody of the said revolver and further investigation is pending at their end and he would submit FIR copy on receiving the same from Police station.*
- they were engaged in the business of importing of old worn used clothes since 2001 and since then no single instance like this had ever happened. They had no idea/knowledge of the said revolver being imported in the said import consignment of Bill of Entry No. 1012746 dated 21.08.2023. As soon as he received the information about the incident, he voluntarily reported the incident to the customs officers of KASEZ as well as Gujarat Police and none of their labourer resided in the factory premises.*

3. Further, vide this Office's letter dated 06.09.2023, the Development Commissioner, KASEZ was advised to suspend working of the Unit of the importer in terms of fresh imports and limit clearances of existing material in the unit only after 100% examination and to conduct 100% examination of import consignments, if any, of worn and used clothes imported by M/s. Maruti Exports, KASEZ from Canada.

3.1 Further, this Office vide letters dated 14.09.2023, 18.10.2023 & 02.01.2024 had requested the Inspector of Police, Gandhidham B-Division Police Station, Gandhidham to provide the Copy of the FIR registered in the matter, status of investigation and to handover the restricted imported item i.e. *revolver* to this Office for further investigation by this Office. In response, the Inspector of Police, Gandhidham B-Division Police Station, Gandhidham vide their letter dated 19.02.2024 had submitted as under:-

"Subject: - Report regarding offence booked by the Gandhidham B- Division Police Station, Part-A, under FIR No. 11993007231053/2023 under IPC section 308 and Arms Act, Section 25(1) (A) & 27 and G.P. Act section 135-regarding.

In view of above subject, it is to state that a FIR No. 11993007231053/2023 has been filed under IPC section 308 and Arms Act, Section 25(1) (A) & 27 and G.P. Act section 135 by the Gandhidham B Division Police Station Part-A, on information of offence committed in M/s Maruti Exports Company located in Kandla SEZ on 31.08.2023 at around 13:00 to 13:15 hrs and booked on 31.08.2023 at 22:50 hrs. The preliminary investigation of this crime case was assigned to Mr. B. S. Jhala, PSI and currently the investigation of this case is underway.

The facts of this matter are that the injured party/complainant Shivjibhai alias Sonu Visabhai Maheshwari (Matang), Age- 43 yrs, profession private job, residing at Plot no. JH-12, Janata Colony Adipur, Distt. Gandhidham-Kutch has filed complaint that on 31/08/2023 between 1:00 pm and 01:15 pm, he was working in a company named Maruti Export in Gandhidham, KASEZ and during lunch break complainant and complainant's family brother Bharatbhai Meghjibhai Matang who works as a labor in this company and Bhavesh Parmar who works as a supervisor in this company, were sitting at a table in their company when Bhavesh took out a revolver from his pocket and said that I found it in the parcel. Out of curiosity complainant took the said revolver from Bhavesh and after looking returned to Bhavesh. Thereafter, complainant's family member Bharatbhai also took the revolver from Bhavesh out of curiosity and while looking at the revolver mistakenly pressed the trigger and a bullet from the revolver hit the right side of the complainant's stomach causing the complainant to bleed. The complainant's family brother Bharat and the manager Okharam and the contractor Bharatbhai and the younger brother of the complainant Naresh Vishabhai Matang rushed the complainant to the Jain Seva Samiti Hospital, Adipur and for further better treatment to the Sterling Hospital, Gandhidham and the operation was performed on the complainant. The treatment of the complainant is going on and now complainant is fully conscious and complainant's family brother Bharat Meghjibhai Matang, resident of Ganeshnagar, Gandhidham fired the revolver by mistake and due to negligence and complainant got shot in the stomach. So it is requested to take lenient view. The complainant has come to know that the consignment of this cloths came from Canada and the complainant has requested for investigation into the matter.

Panchnama of the local area where the incident was conducted and statements of the necessary witnesses have been obtained and both the accused in this case have been arrested for the crime and the revolver found in the case has been seized under the acknowledgement receipt for the purpose of investigation and the seized revolver and

cartridges have been sent to FSL Gandhinagar for analysis. Further investigation is under progress.”

3.2 For furtherance of the investigation, a statement dated 22.02.2024 of Shri Parmar Bhavesh Bhai Ramesh Bhai, Belt Supervisor of M/s. Maruti Exports was recorded wherein he inter-alia stated as under: -

(i) मैं मैसर्स मारुती एक्सपोर्ट्स, कासेज में लगभग 8-9 साल से नौकरी करता हूँ मैं बतौर बेल्ट सुपरवाइजर कार्य संभालता हूँ व कपड़ों को बेल्ट से बेल्ट तक जाने के काम की देख रेख करता हूँ।

(ii) मैंने दिनांक 31-08-2023 को मैसर्स मारुती एक्सपोर्ट्स, कासेज में काम कर रहा था। फोर्कलिफ्ट ने कपड़ों की एक बेल की जब उठाया तो खुले कपड़ों में से कुछ निकल के निचे गिरा मैंने उस उठाया तो वह एक छोटी पिस्तौल थी। मैं अपने सेक्शन सुपरवाइजर शिवजी भाई उर्फ सोनू विशाल भाई महेशवरी को दूढ़ने लगा पर वो फैक्ट्री में अंदर गए हुए थे। कुछ देर बाद दोपहर लगभग 01:00 बजे जब लंच हुआ, सेक्शन सुपरवाइजर शिवजी भाई उर्फ सोनू विशाल भाई महेशवरी और उसका भाई भरत मेघजी भाई (बेल्ट लेबर) मेरे पास आये तो मैंने उनको पिस्तौल दिखाई और उसके बारे में बताया। तभी उत्सुकतावश पहले शिवजी भाई उर्फ सोनू विशाल भाई महेशवरी ने पिस्तौल हाथ में ले के देखी, उसी दौरान उत्सुकतावश भरत मेघजी भाई (बेल्ट लेबर) ने से पिस्तौल देखनी चाही और देखने के दौरान गलती से पिस्तौल से गोली चल गयी और जा के सेक्शन सुपरवाइजर शिवजी भाई उर्फ सोनू विशाल भाई महेशवरी के पेट के दायें भाग में जा लगी। तब हम सब ने भाग कर सबको बताया और सब लोग मिल कर सुपरवाइजर शिवजी भाई उर्फ सोनू विशाल भाई महेशवरी पहले जैन समाज हॉस्पिटल, आदिपुर ले के गए व बाद में सटरलिंग हॉस्पिटल, गांधीधाम ले कर गए वहां से पुलिस मुझे व भरत मेघजी भाई (बेल्ट लेबर) को पकड़ कर ले गयी इसके 14 दिन बाद हमें कोर्ट से जमानत मिली। यह मामला अभी पुलिस द्वारा जाँच के अधीन है।

(iii) मेरी जानकारी के अनुसार जबसे मैं मैसर्स मारुती एक्सपोर्ट्स, कासेज में काम कर रहा हूँ, पिस्तौल या ऐसा कोई भी हथियार वहां इस से पहले में बरामद नहीं हुआ है।

(iv) मुझे जब भी विभागीय कार्यवाही के लिए बुलाया जाएगा, मैं आपके समक्ष उपस्थित हो जाऊंगा एवं पूर्ण रूप से अपना सहयोग करूंगा।

3.3 Further, a statement dated 22.02.2024 of Shri Bharat Meghji Bhai Maheshwari, Labour of M/s. Maruti Exports was recorded wherein he inter-alia stated as under: -

(i) मैं मैसर्स मारुती एक्सपोर्ट्स, कासेज में लगभग 8-9 साल से नौकरी करता हूँ मैं बतौर लेबर (सोर्टिंग/ ग्रेडिंग) का कार्य संभालता हूँ व कपड़ों को बेल्ट पर कपड़ों की सोर्टिंग/ग्रेडिंग का काम करता हूँ।

(ii) दिनांक 31-08-2023 को मैसर्स मारुती एक्सपोर्ट्स, कासेज में काम कर रहा था। दोपहर लगभग 01:00 बजे जब लंच हुआ, तब मैं और मेरा भाई सेक्शन सुपरवाइजर शिवजी भाई उर्फ सोनू विशाल भाई महेशवरी, भावेश परमार (बेल्ट सुपरवाइजर) के पास गए तो भावेश परमार (बेल्ट सुपरवाइजर) ने हमें एक पिस्तौल दिखाई जो उसे कपड़ों की बेल में से मिली थी। तभी उत्सुकतावश पहले शिवजी भाई उर्फ सोनू विशाल भाई महेशवरी ने पिस्तौल हाथ में ले के देखी, उसी दौरान उत्सुकतावश मैंने पिस्तौल देखनी चाही और देखने के दौरान गलती से पिस्तौल से गोली चल गयी

और जा के मेरे भाई सेक्शन सुपरवाइजर शिवजी भाई उर्फ सोनू विशाल भाई महेशवरी के पेट के दायें भाग में जा लगी। तब हम सब ने भाग कर सबको बताया और सब लोग मिल कर सुपरवाइजर शिवजी भाई उर्फ सोनू विशाल भाई महेशवरी को पहले जैन सेवा समिति हॉस्पिटल, आदिपुर ले के गए व बाद में सटरलिंग हॉस्पिटल, गांधीधाम ले कर गए वहां से पुलिस मुझे व परमार भावेश भाई रमेश भाई (बेल्ट सुपरवाइजर) को पकड़ कर ले गयी इसके 14 दिन बाद हमें कोर्ट से जमानत मिली। यह मामला अभी पुलिस द्वारा जाँच के अधीन है।

(iii) मेरी जानकारी के अनुसार कोई जबसे मैं मैसर्स मारुती एक्सपोर्ट्स, कासेज में काम कर रहा हूँ, पिस्तौल या ऐसा कोई भी हथियार वहां इस से पहले में बरामद नहीं हुआ है।

(iv) मुझे जब भी विभागीय कार्यवाही के लिए बुलाया जाएगा, मैं आपके समक्ष उपस्थित हो जाऊंगा एवं पूर्ण रूप से अपना सहयोग करूंगा।

4. Further, another letter dated 23.07.2024 was issued to the Inspector of Police for seeking status of their investigation, who vide their reply letter dated 25.07.2024 received on 30.07.2024 has informed that they have sought approval for filing charge sheet against the accused from the Collector, Bhuj-Kutch vide letter bearing outward no- 2568 dated 02.04.2024. Further, Police B-Division vide letter dated 27.09.2024 informed that they have filed charge sheet dated 15.08.2024 and the case is pending before the Court. B-Division Police vide above letter also attached the FIR copy dated 31.08.2023. Further, it is reported that the said revolver was accidentally discharged, causing injury to a person, following which the local Police registered a case under FIR No. 11993007231053/2023 under various sections of the Indian Penal Code (IPC), the Arms Act, 1959, and the Gujarat Police Act, and the said revolver is presently in the custody of the Police authorities as case property.

4.1 Further, M/s. Maruti Exports vide their letter dated 13.10.2023 (received on 16.10.2023) had requested for provisional release of the goods imported under Bill of Entry No. 1012746 dated 21.08.2023 under Section 110A of the Customs Act, 1962. Accordingly, provisional release was granted to the importer by the competent authority on 08.08.2024 subject to fulfilment of the conditions of Bank Guarantee of 15% of the Cargo Value and Bond equal to the value of the cargo. The importer vide letter dated 28.08.2024 had informed for submission of the BG and Bond wherein they have submitted Bond bearing No. IN-GJ70672650734289W dated 26.09.2024 and BG No. 6023924BG0Y00081/SBI Bank dated 08.10.2024 for Rs.1,81,302/-.

In view of the above, it appears that the old and used cloths were used for concealing of the restricted goods i.e. Revolver and the said facts were also admitted by the Sh. Parmar Bhavesh Bhai Ramesh Bhai, Belt Supervisor and Sh. Bharat Meghji Bhai Maheshwari, Labour of M/s. Maruti Exports, KASEZ that the said Revolver was found in the heaps of the clothes unpacked from the bales imported vide Bill of Entry No. 1012746 dated 21.08.2023. Further, the said fact is also emerging from the statement of the Shri Jitendra M Jain, Partner of M/s. Maruti Exports that the said revolver was found in the heap of clothes unpacked from the bales imported vide Bill of Entry No. 1012746 dated 21.08.2023.

Further, this Office had also issued letter dated 27.02.2025 and subsequent reminder dated 15.05.2025, issued to Police B-Division to provide the details of weapon (Revolver) viz. Type, Make and approximate Market Value. It was also requested to transfer the Custody of the said Firearms i.e. Revolver to this office being illegal or improper import. However, no response has been received till date.

VALUATION OF THE REVOLVER:

5.1 Whereas, it is pertinent to mention here that the firearm i.e. Revolver is not in Customs custody and the details as called for vide this office letters dated 27.02.2025 and 15.05.2025, were not provided by the Police-B Division and thus there exists no official or authenticated source presently available to establish its valuation conclusively. Notwithstanding this limitation, information on similar makes and models of revolvers is available in the public domains, which has been considered for indicative valuation. The relevant details are summarized below:

Sr	Public Domain name	Description of the item	Value	Type	Value in INR (1US \$=83.90*)
1	www.gunbroker.com	Rohm RG14 22lr	\$400	Bid	33560
2	www.gunbroker.com	Rohm RG .22lr	\$299	Bid	25087
3	www.bradfordauction.com	ROHM RG10 .22 SHORT REVOLVER	\$130	Sold	10907

* The rate of the US dollar is considered as Rs. 83.90 as per the Exchange Notification No. 62/2023-Cus (NT) dated 25.08.2023 as the date of seizure of firearm by the police was 31.08.2023.

5.2 Whereas, upon examination of the available photographs of the seized firearm i.e. Revolver reportedly in police custody, it appears that the layout and make of the weapon closely resembles the model listed at **Sr. No. 2**, i.e., the **Rohm RG .22 LR, valued at \$299. In the absence of a formal valuation and pending transfer of custody, and based on the best available information in the public domain, value of the firearm has been considered as USD 299 (In INR 25087/-) as the valuation of the said revolver approved by the competent authority.**

CONFISCATION AND PENALTY:-

6.1 Whereas, the imported goods, namely the 'Revolver', fall under Chapter 93 of the Customs Tariff Act, 1975 which pertains to "*Arms and Ammunition; Parts and Accessories thereof*", bearing HS Code 93020000. As per Schedule-I of the Import Policy, such items are classified as *Restricted* and are permitted for import only against a valid Import Authorization issued by the Director General of Foreign Trade (DGFT). The importer namely M/s. Maruti Exports, does not possess a valid Import Authorization issued by DGFT for the said goods. Accordingly, the import of the revolver, valued at ₹ 25,087/- calculated in the above manner, appears to have been effected in violation of the prescribed import policy provisions and therefore such import appears to be **illegal, improper and unauthorized**. Further, as the **said import pertains to a restricted item as enlisted under Schedule-I of the Import Policy, the goods in question, i.e., the Revolver, appears to be liable for absolute confiscation under the provisions of Sections 111(d), 111(f), 111(l), and 111(m) of the Customs Act, 1962, read with the relevant provisions of the Foreign Trade (Development and Regulation) Act, 1992 and the Rules and Policy framed thereunder.** As stated in the foregoing paragraphs, the improperly and illegally imported goods viz. revolver is not currently in the custody of the Customs Authorities and therefore the same is not physically available for seizure, as it has been seized by the Police (B-Division), and its custody has not

been transferred to this office despite requests made to such effect as detailed above. Therefore, the revolver could not be placed under physical seizure under Section 110 of the Customs Act, 1962.

In light of the above, M/s. Maruti Exports, KASEZ, appears to be liable for penalty under Section 112(a) and 112(b) of the Customs Act, 1962, for having rendered the goods liable to confiscation under Sections 111(d), 111(f), 111(l), and 111(m) of the Act *ibid*.

6.2 Further, from the facts available on record, it appears that the **worn clothes were used as cover goods to conceal the improper and illegal import of the restricted goods viz. revolver, they are deemed to have been intentionally mixed with goods liable to confiscation, thereby making them also liable to confiscation under Section 119 of the Customs Act, 1962.** The concealment of the restricted item in the regular import consignment indicates deliberate misdeclaration and misuse of import channels to evade detection of restricted goods. Therefore, in view of the above facts and in accordance with the provisions of Sections 119 of the Customs Act, 1962, the *worn clothes* 41105 Kgs imported vide Bill of Entry No. 1012746 dated 21.08.2023 valued at Rs.12,08,675/- also appear to be liable for confiscation along with the concealed restricted/smuggled goods viz. *revolver* illegally and improperly imported in contravention of the provisions of the provisions of the Customs Act, 1962 and Schedule-I of the Import Policy . However, the goods are physically not available as the same have already been provisionally released by the competent authority on 09.08.2024 by furnishing a Bond of full value amounting to Rs. 12,08,675/- and Bank Guarantee amounting to Rs. 1,81,302/- by the importer. Accordingly, M/s. Maruti Exports appears to be liable to penal action under Section 117 of the Customs Act, 1962 for the attempted smuggling and improper importation of restricted goods concealed with *worn cloths*.

6.3 It further appears that the said importer had originally filed Bill of Entry No. 1012746 dated 21.08.2023 wherein the goods were declared as “*unsorted worn used clothing’s*” falling under CTH 63090000. However, as narrated in the foregoing paragraphs, restricted/smuggled goods viz. “Revolver” was improper and illegally imported by the said importer along with the above goods which was never disclosed/declared by them in any of the import documents filed by them. Thus, by resorting to the above, it appears that the said importer is also liable for penalty as stipulated under Section 114AA of the Customs Act, 1962.

7. LEGAL PROVISIONS:

Relevant Legal provisions of Law applicable in the subject case are:

A. Section 110 of the Customs Act, 1962:

Seizure of goods, documents and things

(1) If the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods:

B. Section 110A of the Customs Act, 1962:

Provisional release of goods, documents and things seized or bank account provisionally attached pending adjudication

Any goods, documents or things seized or bank account provisionally attached

under section 110, may, pending the order of the adjudicating authority, be released to the owner or the bank account holder on taking a bond from him in the proper form with such security and conditions as the adjudicating authority may require.

C. Section 111 of the Customs Act, 1962:

Confiscation of improperly imported goods, etc.:

Section 111 (d) of the Customs Act, 1962 states that 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 this Act or any other law for the time being in force;

Section 111(f) of the Customs Act, 1962 state that any dutiable or prohibited goods required to be mentioned under the regulations in an arrival manifest or import manifest or import report which are not so mentioned;

Section 111(l): Goods which do not correspond with the declaration made under this Act.

Section 111(m): Goods where any goods imported by sea or air have been declared incorrectly in terms of their value, description, quantity or weight.

D. Section 112 of the Customs Act, 1962:

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 anyway 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)

E. Section 114AA of the Customs Act, 1962:

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

F. Section 117 of the Customs Act, 1962:

Penalties for contravention, etc., not expressly mentioned. –

Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding four lakh rupees.

G. Section 32 of the Customs Act, 1962:

Imported goods not to be unloaded unless mentioned in arrival manifest, import manifest or import report. –

No imported goods required to be mentioned under the regulations in an arrival manifest, import manifest or import report shall, except with the permission of the proper officer, be unloaded at any customs station unless they are specified in such manifest or report for being unloaded at that customs station.

H. The Foreign Trade Policy, 2023

Para 2.01 Policy regarding import /Exports of goods

*(a) Exports and Imports shall be 'Free' except when regulated by way of 'Prohibition', '**Restriction**' or 'Exclusive trading through State Trading Enterprises (STEs)' as laid down in Indian Trade Classification (Harmonized System) [ITC (HS)] of Exports and Imports. The list of 'Prohibited', '**Restricted**', and STE items can be viewed under 'Regulatory Updates' at <https://dgft.gov.in>*

Para 2.08 Export/Import of Restricted Goods/ Services

*Any goods /service, the export or import of which is '**Restricted**' may be exported or imported only in accordance with an **Authorisation** / **Permission** or in accordance with the Procedures prescribed in a Notification / Public Notice issued in this regard.*

I. Schedule 1: Import Policy

Section XIX, ARMS AND AMMUNITION, PARTS AND ACCESSORIES THEREOF

Chapter 93 Arms and Ammunition; Parts and Accessories Thereof

<i>HS Code</i>	<i>Description</i>	<i>Import Policy</i>
93020000	<i>Revolvers and Pistols, other than those of heading 9303 or 9304</i>	Restricted

J. Section 308 of IPC: Attempt to commit culpable homicide:

“308. Attempt to commit culpable homicide. —Whoever does any act with such intention or knowledge and under such circumstances that, if he by that act caused death, he would be guilty of culpable homicide not amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both”

K. Section 07 of the Arms Act, 1959:

“Prohibition of acquisition or possession, or of manufacture or sale of prohibited arms or prohibited ammunition. —

No person shall—

(a) acquire, have in his possession or carry; or

(b) use, manufacture sell, transfer, convert, repair, test or prove; or

(c) expose or offer for sale or transfer or have in his possession for sale, transfer, conversion, repair, test or proof, any prohibited arms or prohibited ammunition unless he has been specially authorised by the Central Government in this behalf.”

L. Punishment for certain offences including using of arms etc. in Arms Act.

“25. Punishment for certain offences

(1) Whoever— (a) manufactures, obtains, procures, sells, transfers, converts, repairs, tests or proves, or exposes or offers for sale or transfer, or has in his possession for sale, transfer, conversion, repair, test or proof, any arms or ammunition in contravention of section 5; or

...

(1A) Whoever acquires, has in his possession or carries any prohibited arms or prohibited ammunition in contravention of section 7 shall be punishable with imprisonment for a term which shall not be less than seven years but which may extend to fourteen years and shall also be liable to fine.

....

27. Punishment for using arms, etc.—

(1) Whoever uses any arms or ammunition in contravention of section 5 shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.

(2) Whoever uses any prohibited arms or prohibited ammunition in contravention of section 7 shall be punishable with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life and shall also be liable to fine.

(3) Whoever uses any prohibited arms or prohibited ammunition or does any act in contravention of section 7 and such use or act results in the death of any other

person, shall be punishable with imprisonment for life, or death and shall also be liable to fine.”

M. Penalty under Gujarat Police Act.

“135. Whoever disobeys an order lawfully made under section 37, 39 or 40 or abets the disobedience thereof shall, on conviction, be punished –

- (i) if the order disobeyed or of which the disobedience was abetted was made under sub-sections (1) of Section 37 or the under Section 39, or Section 40, with imprisonment for a term which may extend to one year but shall not except for reasons to be recorded in writing be less than four months and shall also be liable to fine, and;*
- (ii) if the said order was made under sub-Section (2) of Section 37, with imprisonment for a term which may extend to one month or with fine which may extend to one hundred rupees, and*
- (iii) If the said order was made under sub-section (3) of section 37, with fine which may extend to one hundred rupees.”*

Roles and Penalties: -

8. ROLE AND CULPABILITY OF IMPORTER I.E. M/S. MARUTI EXPORTS, KASEZ: -

8.1 As per the facts and evidences discussed supra, it is evident that M/s. Maruti Exports had improperly imported a Revolver valued at Rs. 25087/- vide Bill of Entry No.1012746 dated 21.08.2023 which is a **restricted** item in terms of the Para 2.01 and 2.08 of the Foreign Trade Policy, 2023 read with Schedule-I of the Import Policy ITC (HS) Chapter 93 regarding import of arms & ammunition with their parts & accessories thereof. Import of the restricted items is allowed only against a valid import authorization issued by DGFT. The importer has imported the restricted goods i.e. Revolver without having a valid import authorization issued by DGFT. Thus, the importer has violated the provisions of Foreign Trade Policy (FTP) by illegal import of a restricted item without having a valid import authorization.

8.2 Furthermore, the import and possession of such a firearm i.e. above Revolver without proper authorization constitutes a contravention of the Arms Act, 1959, and the revolver imported is considered as a prohibited arm, for which the importer did not possess any such authorization. Hence, this constitutes a clear violation of Section 7 of the Arms Act, 1959. The importer/any person, who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable for confiscation under section 111 of the Customs Act, 1962 or abets the doing or omission of such an act, is liable to penalty under Section 112 (a) of the Customs Act, 1962 as the said revolver has been imported in contravention of the prohibitions imposed under the Arms Act, 1959 and the Foreign Trade Policy. Further, from the facts of the case, it appears that the importer has concerned themselves with concealing the goods which were liable to confiscation under the provisions of Section 111 of the Act ibid rendering themselves liable for penalty u/s 112(b) of the Customs Act, 1962. It is also a fact on record that the particulars as mentioned in the Bill of

Entry No. 1012746 dated 21.08.2023 were incorrect in as much as the restricted goods were not mentioned therein attracting penalty u/s 114AA of the Act, *ibid*.

8.3 Moreover, it is also appearing from the facts of the case that the imported goods viz. 41105 Kgs of *worn clothes* imported vide Bill of Entry No. 1012746 dated 21.08.2023 were used as cover goods to conceal the improperly/illegally imported *revolver* and as such they are deemed to have been intentionally mixed with the restricted/smuggled goods liable to confiscation, thereby making such 41105 Kgs of *worn clothes* imported vide Bill of Entry No. 1012746 dated 21.08.2023 also liable to confiscation under Section 119 of the Customs Act, 1962. The concealment of the restricted item in the regular import consignment indicates deliberate misdeclaration and misuse of import channels to evade detection of restricted goods. Therefore, in view of the above facts and in accordance with the provisions of Sections 119 of the Customs Act, 1962, the 41105 Kgs *worn clothes* imported vide BE No. 1012746 dated 21.08.2023 valued at **Rs. 12,08,675/-** are also liable for confiscation along with the concealed *revolver*. Therefore, M/s. Maruti Exports appears to be liable to penal action under Section 117 of the Customs Act, 1962 for the attempted smuggling and improper importation of restricted goods.

9. In view of the above discussion, the following outcome is forthcoming:

- The above-mentioned *Revolver* valued at Rs. 25,087/- is liable for absolute confiscation under Section 111(d), 111(f), 111(l) and 111(m) of the Customs Acts, 1962 as the revolver has been imported and possessed in contravention of the prohibitions imposed under the Arms Act, 1959 and the Foreign Trade Policy read with Schedule-I of the Import Policy. Though, the above said revolver is not in the custody of Customs Authority and not available physically for Seizure as the said Revolver was seized by the Police B-division and the custody of the said revolver has not been handed over to this office. Hence, the importer i.e. M/s. Maruti Exports is liable to penalty under Section 112(a) and 112(b) of the Customs Act, 1962. Further, they also appear to be liable for penalty u/s 114AA of the Act *ibid* in as much as the particulars/details filed in the import documents were found to be incorrect in as much as the restricted/smuggled goods were mentioned therein.
- The 41105 Kgs *worn clothes* imported vide BE No. 1012746 dated 21.08.2023 valued at Rs. 12,08,675/- are also liable for confiscation under Section 119 of the Customs Act-1962. However, the goods are physically not available as the same has already been provisionally released by the competent authority. Hence, the importer i.e. M/s. Maruti Exports is liable for penalty under Section 117 of the Customs Act, 1962.

10. Therefore, M/s. Maruti Exports, Plot No- 75-B, 76 to 81, 82-B, 291 Sector II, Kandla SEZ, Gandhidham were hereby called upon to show cause to the Additional/Joint Commissioner of Customs, Customs Kandla Commissionerate within 30 days, as to why:-

- The above mentioned Revolver valued at Rs. 25,087/- should not be held liable for absolute confiscation under Section 111(d), 111(f), 111(l) and 111(m) of the Customs Acts, 1962 for importing the same in contravention

of the prohibitions imposed under the Arms Act, 1959 and the Foreign Trade Policy read with Schedule-I of the Import Policy. The said revolver was seized by the Police-B Division, Gandhidham and at presently the same is lying in their Custody. The Custody of the Revolver has not been transferred to this office by them despite repeated requests and hence, it is not available physically for seizure/confiscation by this office.

- Penalty under Section 112(a) and 112(b) of the Customs Act, 1962 should not be imposed upon them;
- Penalty under Section 114AA of the Customs Act, 1962 should not be imposed upon them;
- The 41105 Kgs *worn clothes* imported vide BE No. 1012746 dated 21.08.2023 valued at Rs. 12,08,675/- should not be held liable for confiscation under Section 119 of the Customs Act,1962. However, the goods are not available physically as the same has already been provisionally released by the Competent Authority and redemption fine should not be imposed on them u/s 125 of the Act *ibid*;
- Penalty under Section 117 of the Customs Act, 1962 should not be imposed upon them;
- Bond should not be executed against their above mentioned liabilities and
- Bank Guarantee should not be encashed against their above mentioned liabilities.

DEFENCE REPLY

11. Vide the Show Cause Notice dated 11.08.2025, the Noticee were directed to submit their reply within 30 days from the receipt of the Show Cause Notice failing which the matter would be decided the case would be decided Ex-parte and on the basis of documents available with this office.

12. Further, the Noticee submitted their replies vide letter dated 22.08.2025 to the impugned SCN dated 11.08.2025 and submitted as under;

The noticee submitted that the discovery of the revolver in their import consignment was a pure accident, completely unknown to them, beyond their

control, and without any mala fide intent whatsoever. They stated that they have been engaged in the lawful import of worn and used clothing since 2001, maintaining a clean and unblemished record for over 22 years, during which no such incident had ever occurred. The consignment in question was supplied by their trusted Canadian supplier, M/s. Global Textiles Trading Inc., with whom they had a regular business relationship of over six years without any prior incident.

Regarding the statements recorded during investigation, the noticee submitted that RUD-4 (Partner's statement) itself establishes the partner's absence at the time of discovery and records the fact that the revolver was voluntarily and immediately reported to Customs authorities and Police, without any delay or hesitation. RUD-5 and RUD-6 (statements of the Belt Supervisor and Labourer) confirm that the revolver was found accidentally during the routine unpacking of bales, and thus, there is no evidence whatsoever of concealment or prior knowledge on the part of the noticee. They further submitted that since the revolver was seized by the Gujarat Police (B-Division, Gandhidham) on 31.08.2023 itself and has remained in police custody ever since, it was never in their possession at any point. The noticee clarified that the ongoing police proceedings are only between the worker who mishandled the revolver and the injured worker, and that they are not a party to the said police case.

Regarding the supply chain, the noticee stated that immediately upon learning of the incident, they took up the matter with their Canadian supplier, M/s. Global Textiles Trading Inc. The supplier, in turn, submitted an AES Report, Trucking Invoice, Paperwork from the original supplier, and a New York Port Report, establishing that the consignment had been originally purchased from M/s. Evans Delivery Co., Baltimore. The supplier also confirmed in writing that they too had no knowledge or intention of placing a revolver in the consignment, thereby establishing the bonafide nature of the entire transaction at every stage of the supply chain.

On the question of applicability of the penal provisions, the noticee

submitted that Section 112(a) and 112(b) are not attracted as there was no knowledge or reason to believe that any restricted goods were present in the consignment. Section 114AA is not applicable since their import declaration was truthful to the best of their knowledge. Section 117 is not applicable as they immediately reported the incident to both Customs and Police. Section 119 is also not applicable since the revolver was an accidental inclusion and there was no intentional mixing of goods liable to confiscation with the worn clothing.

In support of their contention that penalty cannot be imposed in the absence of proved mens rea, the noticee relied upon the following judicial precedents: (i) Rajeev Khatri v. CC (Delhi HC, 2023), wherein penalty was quashed in the absence of evidence of knowledge; (ii) MS Exim Services v. CC (CESTAT, 2021), wherein penalties were set aside when the importer was found to have acted in good faith; and (iii) S. Rajiv & Co. v. CC (2016), wherein it was held that penalties are attracted only for deliberate acts and not for accidental breaches. The noticee submitted that it is settled legal position, upheld by various Courts including the Hon'ble Supreme Court, that no penalty can be imposed unless mens rea is proved doubtlessly.

By way of prayer, the noticee requested that the incident be treated as an accident without mala fide intent; that complete waiver of penalties under Sections 112(a), 112(b), 114AA, and 117 be granted; that Section 119 be held inapplicable; that the Bank Guarantee of Rs. 1,81,302/- be released and the Bond of Rs. 12,08,675/- be cancelled; and that an opportunity of personal hearing be granted. The noticee also assured that they have implemented stricter checking and monitoring procedures to ensure that such an incident does not happen in future.

PERSONAL HEARING

13. Whereas, opportunities for personal hearing in the matter was granted to the Noticee on 18.02.2026 to remain present and produce all such documents which they intend to rely in support of their defence, in the case of Show Cause Notice dated 11.08.2025 issued to them.

14. On 18.02.2026, Shri Rakesh Jain, Partner of the Noticee firm appeared and reiterated their submission dated 22.08.2025 and requested to drop the proceedings initiated against them.

DISCUSSION AND FINDINGS

15. I have carefully gone through the facts of the case, Show Cause Notice dated 11.08.2025 and the noticee's submissions dated 22.08.2025, in written and in person advanced during the course of personal hearing. The principles of natural justice, particularly audi alteram partem, have been duly complied with by granting adequate opportunity to the noticee to present their defence. On a careful perusal of the subject show Cause Notice and case records, I find that following main issues are involved in this case, which are required to be decided: -

- Whether the above mentioned Revolver valued at Rs. 25,087/- is liable for absolute confiscation under Section 111(d), 111(f), 111(l) and 111(m) of the Customs Acts, 1962 for importing the same in contravention of the prohibitions imposed under the Arms Act, 1959 and the Foreign Trade Policy read with Schedule-I of the Import Policy. The said revolver was seized by the Police-B Division, Gandhidham and at presently the same is lying in their Custody. The Custody of the Revolver has not been transferred to this office by them despite repeated requests and hence, it is not available physically for seizure/confiscation by this office.
- Whether the Noticee is liable for Penalty under Section 112(a) and 112(b) of the Customs Act, 1962.
- Whether the Noticee is liable for Penalty under Section 114AA of the Customs Act, 1962.
- Whether 41105 Kgs *worn clothes* imported vide BE No. 1012746 dated 21.08.2023 valued at Rs. 12,08,675/- are liable for confiscation under Section 119 of the Customs Act, 1962. However, the goods are not available physically as the same has already been provisionally released by the Competent Authority. Whether the Noticee is liable to pay redemption fine u/s 125 of the Act *ibid*.
- Whether Penalty under Section 117 of the Customs Act, 1962 is liable to be paid by them.

16. I find that the Noticee i.e. M/s. Maruti Exports had filed a Bill of Entry No. 1012746 dated 21.08.2023 at KASEZ declaring the goods as “Unsorted worn used clothing’s completely fumigated” falling under CTH 63090000. On specific information, 100% examination of the cargo imported vide Bill of Entry No. 1012746 dated 21.08.2023 was carried out by the Officers of SIIB Section and the proceeding were recorded under Panchnama dated 31.08.2023/01.09.2023.

17. During the examination of the goods, on being asked, Shri Jitender M Jain, one of the Partners of M/s. Maruti Exports had informed that during the course of unpacking the bales of worn clothes, one of their labourers had found a Revolver. However, the labourers considered the same as Toy Revolver and one of the labourers accidentally fired the revolver, bullet from which had hurt one labourer in his abdomen area. Thereafter, the injured labourer was rushed to Sterling Hospital, Gandhidham and accordingly, local police visited their factory and took custody of the said revolver and further investigation is pending at their end. Subsequently, he had informed the Customs Officers of KASEZ about the incident and recovery of the said revolver by their staff. Therefore, the subject goods i.e. “Unsorted worn used clothing’s completely fumigated” were placed under seizure vide Seizure Memo dated 01.09.2023, under reasonable belief that the said goods were mis-declared to the extent that restricted item/goods (i.e. revolver) was found in the cargo.

18. In this connection, I find that the imported goods ‘Revolver’, fall under Chapter 93 of the Customs Tariff Act, 1975 pertaining to “Arms and Ammunition; Parts and Accessories thereof”, bearing HS Code 93020000. As per Schedule-I of the Import Policy, such items are classified as Restricted and are permitted for import only against a valid Import Authorization issued by the Director General of Foreign Trade (DGFT). However, as per the records available, I find the Noticee did not possess a valid Import Authorization issued by DGFT allowing them for import of Restricted goods “Revolver”. Therefore, the import of revolver had been effected in violation of the prescribed import policy provisions and therefore such import clearly to be considered as illegal, improper and unauthorized.

19. Since, the said import pertains to a restricted item as enlisted under Schedule-I of the Import Policy, the goods in question, i.e., the Revolver, therefore, I find that the same

is liable for absolute confiscation under the provisions of Sections 111(d), 111(f), 111(l), and 111(m) of the Customs Act, 1962, read with the relevant provisions of the Foreign Trade (Development and Regulation) Act, 1992 and the Rules and Policy framed thereunder.

20. I find that the Noticee under Bill of Entry No. 1012746 dated 21.08.2023 imported the goods declaring as “Unsorted worn used clothing’s completely fumigated” falling under CTH 63090000, however, the restricted goods i.e. revolver was found while unpacking the bales of worn clothes, and thus the revolver which is a restricted item in terms of the Para 2.01 and 2.08 of the Foreign Trade Policy, 2023 read with Schedule-I of the Import Policy ITC (HS) Chapter 93 regarding import of arms & ammunition with their parts & accessories thereof. Since, the import of the restricted items is allowed only against a valid import authorization issued by DGFT. The Noticee has imported the restricted goods i.e. Revolver without having a valid import authorization issued by DGFT and therefore violated the provisions of Foreign Trade Policy (FTP).

21. Furthermore, I also find that the import and possession of such a firearm i.e. Revolver without proper authorization constitutes a contravention of the Arms Act, 1959, and the revolver imported is considered as a prohibited arm, for which the importer did not possess any such authorization. Such an act of import of Revolver by the Noticee constitutes a clear violation of Section 7 of the Arms Act, 1959, for the reasons given below;

“Prohibition of acquisition or possession, or of manufacture or sale of prohibited arms or prohibited ammunition. —

No person shall—

(a) acquire, have in his possession or carry; or

(b) use, manufacture sell, transfer, convert, repair, test or prove; or

(c) expose or offer for sale or transfer or have in his possession for sale, transfer, conversion, repair, test or proof, any prohibited arms or prohibited ammunition unless he has been specially authorised by the Central Government in this behalf.”

22. In view of the above, I find that the Noticee in relation to the import of restricted goods Revolver in contravention of Para 2.01 and 2.08 of the Foreign Trade Policy, 2023 and violation of Section 7 of the Arms Act, 1959 rendered them penalty under Section 112(a) of the Customs Act, 1962. Furthermore, I also find that the Noticee is also liable

for penalty under Section 112(b) of the Customs Act, 1962, since they concealed the restricted goods viz. Revolver in the declared goods viz. “Unsorted worn used clothing’s completely fumigated”, so as to circumvent the import of restricted item and import policy without having any valid import authorization issued by DGFT. I also find that it is also a fact on record that the particulars as mentioned in the Bill of Entry No. 1012746 dated 21.08.2023 were incorrect in as much as the restricted goods i.e. Revolver were not mentioned therein and thus intentionally made false or incorrect declaration to circumvent Import Policy restriction. Therefore, it is evident that they attract penal action under Section 114AA of the Customs Act, 1962, which reads as under:

“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.”.

23. As regard to, whether 41105 Kgs worn clothes imported vide BE No. 1012746 dated 21.08.2023 valued at Rs. 12,08,675/- are liable for confiscation under Section 119 of the Customs Act, 1962; since, the goods are not available physically as the same has already been provisionally released by the Competent Authority, therefore the Noticee is liable to pay redemption fine u/s 125 of the Act *ibid* or otherwise;

24. From the facts available on records, I find that the imported goods viz. 41105 Kgs of “Unsorted worn used clothing’s completely fumigated” imported vide Bill of Entry No. 1012746 dated 21.08.2023 were used as cover goods, since the same were declared in Bill of Entry however during the unpacking of bales of used clothes, the restricted item Revolver was found thus intentionally made false or incorrect declaration to circumvent Import Policy restriction and used the means of “Unsorted worn used clothing’s completely fumigated” to conceal the improperly/illegally imported revolver and as such they had been intentionally mixed with the restricted/smuggled goods. Therefore, it is evident that the goods viz. “Unsorted worn used clothing’s completely fumigated” used for concealing smuggled goods viz. Revolver be liable for confiscation under Section 119 of the Customs Act, 1962. Section 119 of the Customs Act, 1962, which reads as under:

Any goods used to conceal smuggled goods are liable to confiscation.

25. The concealment of the restricted item in the regular import consignment indicates deliberate misdeclaration and misuse of import channels to evade detection of restricted goods. Therefore, in view of the above facts and in accordance with the provisions of Sections 119 of the Customs Act, 1962, I find that the 41105 Kgs worn clothes imported vide BE No. 1012746 dated 21.08.2023 valued at Rs. 12,08,675/- are also liable for confiscation along with the concealed revolver. Therefore, I also find that the Noticee is liable to penal action under Section 117 of the Customs Act, 1962 for the attempted smuggling and improper importation of restricted goods concealed with worn cloths.

26. I also find relevant to mention here that the improperly and illegally imported goods viz. revolver is not currently in the custody of the Customs Authorities and therefore the same is not physically available for seizure, as it has been seized by the Police (B-Division), and its custody has not been transferred to this office despite requests made to such effect as detailed above. Therefore, the revolver could not be placed under physical seizure under Section 110 of the Customs Act, 1962.

27. I noticed that the Noticee in their defence submissions claimed there the element of mens rea absent in the present case citing some judgements. In this connection, I find that the investigation revealed that the Noticee under Bill of Entry No. 1012746 dated 21.08.2023 imported the goods declaring as "Unsorted worn used clothing's completely fumigated" falling under CTH 63090000, however, the restricted goods i.e. revolver was found while unpacking the bales of worn clothes, and thus the revolver which is a restricted item in terms of the Para 2.01 and 2.08 of the Foreign Trade Policy, 2023 read with Schedule-I of the Import Policy ITC (HS) Chapter 93 were imported. Since, the import of the restricted items is allowed only against a valid import authorization issued by DGFT. The Noticee has imported the restricted goods i.e. Revolver without having a valid import authorization issued by DGFT and therefore violated the provisions of Foreign Trade Policy (FTP). The goods viz. "Unsorted worn used clothing's completely fumigated" were used as means to conceal the improperly/illegally imported revolver and as such they had been intentionally mixed with the restricted/smuggled goods to circumvent the import policy restrictions. These acts clearly establish knowledge, intent, and active involvement in the scheme of mis-declaration by the Noticee. However, the

facts of the present case are distinguishable. The statutory provisions governing import of arms are stringent and require strict compliance. Therefore, the reliance placed by the noticee on the said judgments is misplaced and not applicable to the present facts.

28. As regards the contention that the noticee is not a party to the criminal proceedings initiated by the Police, I find that the same is irrelevant for the purpose of adjudication under the Customs Act. The proceedings under the Customs Act are independent and distinct from criminal proceedings under other laws. The liability under the Customs Act is determined on the basis of violations of import regulations and is not contingent upon the outcome of any criminal case.

29. Further, I find that the Noticee has imported the goods declared as “Unsorted worn used clothing’s completely fumigated” under the Bill of Entry No. 1012746 dated 21.08.2023, however, as against the said goods a restricted item i.e. a revolver was found during the course of unpacking the bales of worn clothes. In fact, a revolver was found as against the predominant goods declared by the Noticee at the time of filing of B/E viz. “Unsorted worn used clothing’s completely fumigated”. Accordingly, a reasonable amount in the form of penalty/fine is to be imposed upon the Noticee considering the same.

30. In light of the above findings, I hold that the submissions made by the noticee are not acceptable on merits and are hereby rejected. Consequently, all the prayers made by the noticee for dropping of proceedings, waiver of penalties, non-applicability of Section 119, release of bank guarantee, and cancellation of bond are devoid of merit and are accordingly rejected.

31. In view of the above, I pass the following order;

ORDER

- (i) I hereby find “Revolver” valued at Rs. 25,087/- liable for absolute confiscation under Section 111(d), 111(f), 111(l) and 111(m) of the Customs Acts, 1962 for importing the same in contravention of the prohibitions imposed under the Arms Act, 1959 and the Foreign Trade Policy read with Schedule-I of the Import Policy.

The said revolver was seized by the Police-B Division, Gandhidham and at presently the same is lying in their Custody. The Custody of the Revolver has not been transferred to this office by them despite repeated requests and hence, it is not available physically for seizure/confiscation by this office.

- (ii) I hereby impose penalty of Rs.10,000 /- under Section 112(a) of the Customs Act, 1962.
- (iii) I hereby impose penalty of Rs.10,000/- under Section 112(b) of the Customs Act, 1962.
- (iv) I hereby impose penalty of Rs.25,000/- under Section 114AA of the Customs Act, 1962.
- (v) I hereby order for confiscation of 41105 Kgs *worn clothes* imported vide BE No. 1012746 dated 21.08.2023 valued at Rs. 12,08,675/- under Section 119 of the Customs Act,1962.
I give an option to pay redemption fine of Rs.50,000/- under Section 125 of the Customs Act, 1962. However, the goods are not available physically as the same has already been provisionally released by the Competent Authority.
- (vi) I hereby impose penalty of Rs.25,000/- under Section 117 of the Customs Act, 1962.
- (vii) I hereby order to enforce Bond against their above-mentioned liabilities.
- (viii) I hereby order to encash Bank Guarantee against there above mentioned liabilities.

(Vishwajeet Singh)
Commissioner (in-situ),
Custom House Kandla

F.No. GEN/ADJ/ADC/1625/2025-Adjn-O/o Commr-Cus-Kandla

To,

M/s. Maruti Exports,

Plot No- 75-B, 76 to 81, 82-B, 291 Sector II,

Kandla SEZ, Gandhidham

Copy to :-

- (i) The Deputy/Assistant Commissioner (RRA/TRC) for necessary action.
- (ii) The Superintendent (EDI) for uploading on the website.
- (iii) Guard File.