



सीमाशुल्क (अपील) आयुक्तका कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD  
चौथी मंजिल 4th Floor, हडको बिल्डिंग HUDCO Building, ईश्वर भुवन रोड Ishwar Bhuvan Road,  
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009.

दूरभाष क्रमांक Tel. No. 079-26589281

DIN-20250671MN0000222D4B

क	फाइल संख्या FILE NO.	S/49-413/CUS/AHD/2023-24
ख	अपीलआदेश संख्या ORDER-IN-APPEAL No. (सीमाशुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	AHD-CUSTM-000-APP-91-25-26
ग	पारितकर्ता PASSED BY	SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक DATE	19.06.2025
इ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER - IN - ORIGINAL NO.	Order – In – Original No. 173/ADC/VA/ O&A/ 2023-24 dated 20.11.2023 passed by the Additional Commissioner of Customs, Ahmedabad.
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	19.06.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Shah Aziz Shipping Lines LLC, Post Box No. 31600, Office # 2308, 23 <sup>rd</sup> Floor, Damac Barsha Height, Tecom, Dubai, United Arab Emirates. (Email: <a href="mailto:info@sasl.ae">info@sasl.ae</a> )

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 imported on baggage.				
(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				
(ब)	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 (यथासंशोधित) में निर्धारित फीस जांचना रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्षके अधीन आता है में रु. 200/- (रूपए दो सौ मात्र) या रु. 1000/- (रूपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दोप्रतियां, यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रूपए एक लाख या रससे 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 :				
	<table border="1"> <tr> <td>सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ</td> <td>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</td> </tr> <tr> <td>दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</td> <td>2<sup>nd</sup> Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016</td> </tr> </table>	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 <sup>nd</sup> Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
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 <sup>nd</sup> 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 रुपए.
(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: पाँच हजार रुपए
(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 रुपए.
(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 है, 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

M/s. Shah Aziz Shipping Lines LLC, Post Box No. 31600, Office # 2308, 23<sup>rd</sup> Floor, Damac Barsha Height, Tecom, Dubai, United Arab Emirates (hereinafter referred to as 'the appellant') has filed the present appeal against an Order-In-Original No. 173/ADC/VA/O&A/2023-24 dated 20.11.2023 (hereinafter referred to as 'the impugned order') passed by the Additional Commissioner of Customs, Custom House, Ahmedabad (hereinafter referred to as 'the adjudicating authority').

2. Facts of the case, in brief, are that intelligence inputs received from National Customs Targeting Centre [NCTC], DGARM, CBIC, Mumbai dated 17.01.2022 indicated that based on a detailed risk analysis, NCTC have identified a Bill of Entry No. 9838766 dated 05.12.2020 filed by M/s. Kanungo Ferromet Pvt. Ltd. at ICD-Sanand, to be a risky consignment in relation to mis-declaration with following details:

- M/s. Kanungo Ferromet Pvt. Ltd. (hereinafter referred to as 'the importer') had imported goods declaring them to be Stainless Steel Melting Scrap.
- The declared country of origin and Port of shipment was UAE.
- The container tracking on PICT (Pakistan International Container Terminal) divulged that the container had originated from Pakistan. The seal which was mentioned on PICT website as being on the container was same as the seal number mentioned in IGM/ICES. Thus, the goods imported into India appeared to have originated in Pakistan. Hence, the country of origin declared by the importer appeared to be incorrect.
- The BCD for Pakistan origin goods is @200% applicable to all goods originating in or exported from the Islamic Republic of Pakistan (classifiable under CTH 98060000).
- The seal which had been mentioned on the container on PICT was the same as the seal number mentioned in IGM/ICES (Seal No. 098012). Thus, the goods imported into India originated in Pakistan.

Thus, it appeared that the importer had mis-declared the Country of Origin of the goods as UAE instead of actual Country of Origin i.e. Pakistan, to evade payment of Customs Duty.

3. During the inquiry / investigation, Statement of various persons of the

Importer, Shipping line/agents and an Indian entity related to pre-shipment inspection agency etc. have been recorded and documents have been examined. Thereafter, a Show Cause Notice bearing F.No. VIII/10-144/ICD-SND/O&A/HQ/2022-23 dated 24.01.2023 has been issued to the importer, the appellant and other entities. The said SCN has been adjudicated vide the impugned Order dated 20.11.2023.

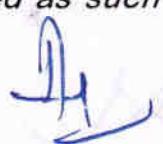
4. The adjudicating authority inter alia observed that the goods imported under Bill of Entry No. 9838766 dated 05.12.2020 had originated in Pakistan and thereby, are classifiable under a Customs Tariff Heading No. 98060000. As per Notification No. 05/2019-Customs dated 16.02.2019, the Customs Duties on the goods imported from the Islamic Republic of Pakistan are leviable as 200% BCD + 10% SWS + 18% IGST. As regards confiscation of the goods, the adjudicating authority observed that in terms of Section 46(4) of the Customs Act, 1962, the importer was required to make a declaration as to truth of the contents of the Bill of Entry, whereas in the present case, the importer has willfully suppressed the correct Country of Origin. Thus, the goods had been imported without valid PSIC, which was in violation and contrary to the Foreign Trade Policy. Therefore, for the act of mis-declaration, the imported goods are liable for confiscation under Section 111(m) of the Customs Act, 1962 and the importer is liable for penalty.



5. Vide the impugned order, the adjudicating authority has rejected the declared classification 18345 kg of Stainless Steel Melting Scrap and re-classified the same under CTH 98060000 in view of Notification No. 05/2019 dated 16.02.2019. He held that the said goods valued at Rs.14,38,890/- were liable for confiscation under Section 111(m), but as they were already cleared, a redemption fine of Rs.1,45,000/- was imposed on the importer under Section 125(1). He confirmed the demand of duty of Rs.39,94,359/- with interest under Section 28(4) read with Section 28AA, and appropriated the duty of Rs.3,05,692/- already paid. He also imposed penalties on the importer and the appellant viz. M/s. Shah Aziz Shipping Lines LLC.

6. Violation by the appellant has been described in the impugned order as under:

**"18. Violation by the Shipping Line:** It appeared from the discussion in foregoing paras and evidences available on record that Container No. Seal No. mentioned on the Bill of Lading remained as such after it loading at



Karachi Port till the container reached ICD, Sanand. Shri Kailas Mhatre of Shipping line i.e. M/s. Hub & Links Logistics (I) Pvt. Ltd. during recording of his statement had submitted that they have taken up the matter with the Port of Loading and Principals, who provided Bill of Lading No. SASLMU20896 dated 11.11.2020, issued by CIM Shipping Inc. for the said Container No. CBHU351182, which showed that the said container was loaded from Karachi (Pakistan) to Jebel Ali, on MV OBL Kedarnath Voyage 010. M/s. Hub & Links Logistics (I) Pvt. Ltd, and M/s. Shah Asia Shipping Lines LLC, P.O. Box No. 31600, Office # 801, 8th Floor, Damac Smart Heights, Tecom, Dubai, UAE were fully aware that goods were being exported from Pakistan, however, they have issued new Bill of Lading from UAE showing goods were exported from Dubai, UAE without mentioning this fact, which clearly indicates the fact that M/s. Hub & Links Logistics (I) Pvt. Ltd. and M/s. Shah Aziz Shipping Lines LLC, Dubai, UAE had knowingly involved themselves in dealing with the goods which they knew were liable for confiscation under Section 111 (m) of the Customs Act, 1962. For the above mentioned acts of commission and omission, M/s. Hub & Links Logistics (I) Pvt. Ltd. and M/s. Shah Aziz Shipping Lines LLC, Dubai, UAE have rendered themselves liable for penal action under the provisions of Section 112(a) of the Customs Act, 1962. The Shipping Lines i.e. M/s. Hub & Links Logistics (I) Pvt. Ltd. and M/s. Shah Aziz Shipping Lines LLC, Dubai, UAE also appeared to have actively and knowingly connived with Mis. Kanungo Ferromet Pvt. Ltd. and aided in evading Customs Duty. M/s. Hub & Links Logistics (I) Pvt. Ltd. and M/s. Shah Aziz Shipping Lines LLC, Dubai, UAE were instrumental in manipulation/fabrication of Bill of Lading presented before the Customs authorities with an intent to evade payment of Customs Duty leviable thereon. This fact has been corroborated by the evidences as detailed in preceding paras. M/s. Hub & Links Logistics (I) Pvt. Ltd. and M/s. Shah Aziz Shipping Lines LLC, Dubai, UAE have knowingly and intentionally made, signed or caused to be made, signed and fabricated/false documents as discussed in detail hereinabove, which were presented to the Customs authorities which they knew, were false/fabricated and incorrect in respect of the country of origin of the goods imported. Hence the said act on the part of M/s. Hub & Links Logistics (I) Pvt. Ltd. and M/s. Shah Aziz Shipping Lines LLC, Dubai, UAE have rendered themselves liable for penal action under Section 114AA and Section 117 of the Customs Act, 1962."

7. Findings of the adjudicating authority for imposing penalty in respect of the violation by the appellant, are as under:

**"27. Penalty on Violation by the Shipping Lines:**

***M/s. Hub & Links Logistics (I) Pvt. Ltd., Gandhidham and M/s. Shah Aziz Shipping Lines LLC, Dubai, P.O. Box No. 31600, Office # 801, 8th Floor, Damac Smart Heights, Tecom, Dubai, UAE:***

27.1 *The Show Cause Notice also proposes for penalty under Section 112(a), Section 114AA and Section 117 of the Customs Act, 1962 on the Shipping Lines viz. M/s. Shah Aziz Shipping Lines LLC, Dubai, and their Indian Partner/Delivery agent M/s. Hub & Links Logistics (I) Pvt. Ltd. as both are concerned with shipping of Container No. CBHU351182 to ICD, Sanand while intentionally mis-declaring the Country of Origin in their Bills of Lading Certificates and making false/incorrect declaration in their Import General Manifest (IGM).*



27.2 *To ascertain the merit in these points and to give a ruling on the penal proposals framed against both the Shipping Lines, I hereby revert to the records of this case. The goods under consideration viz. "Stainless Steel Melting Scrap Grade HP2", contained in marine Container No. CBHU351182 bearing seal no. 098012, arrived at the Customs station in India under cover of Bill of Lading No. SASLMU20896 dated 20.11.2020 issued by M/s. Shah Aziz Shipping Lines LLC, Dubai and were Shipped on Board at Jebel Ali Port, UAE. Intelligence was gathered after the Out of Charge was given for the said consignment on board Container no. CBHU351182 bearing seal no. 098012. Intelligence in respect of tracking of aforesaid containers from the website of Pakistan International Container Terminal (PICT) revealed that the subject containers had sailed from Karachi to Jebel Ali Port, UAE and then to Mundra; that the containers were unopened at Jebel Ali Port, UAE and the Inspection Agency had issued PSIC in respect of the cargo contained in the container without opening the container and without examining the cargo. M/s Shah Aziz Shipping Lines LLC, Dubai has neither presented any submission to the Show Cause Notice dated 24.01.2023 nor presented themselves during the course of personal hearings. However, M/s Hubs & Links Logistics (I) Pvt. Ltd. has presented their submission in*

respect of the Show Cause Notice dated 24.01.2023 and have also presented themselves during the course of personal hearing.

I also find that M/s Hubs and Links (I) Pvt. Ltd. in their submissions have cited in this regard, certain case laws indicating they cannot be penalized for fault of the importer and that there is absence of mens rea in this instant case. However, in case of **ARVIND LTD. Versus COMMISSIONER OF CUSTOMS, KANDLA, CESTAT Ahmedabad** stated that shipping line is aware of procedure of customs clearance and their acts or omission attributes to negligence or lack of communication/coordination.

"Shipping line agent was aware of procedure that without Customs clearance, the goods cannot be exported and surveyor was appointed for loading and ensuring proper clearance of export consignment/container - For sailing/ export of container without LEO, the shipping the agent was at fault - However, penalty imposed on shipping line agent is too harsh as no evidence for intentional violation of provisions of Customs Act has been brought on record, but their act or omission attributes to negligence or lack of co-ordination/communication"

27.3 In their submissions M/s. Hubs and Links have submitted that they were not aware that the importer M/s. Kanungo Ferromet Pvt. Ltd. intended to evade the BCD to avail benefits in customs duty in subject transaction and that there is no mens rea in the mis-declaration of the origin of goods by them. They also cited statements of representatives of M/s Ravi Energie and certain case laws to support their claim. However, in terms of the provisions of Section 112(a) of the Customs Act, 1962, any person, who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under Section 111, or abets the doing or omission of such as act, is liable to penalty. Board vide Circular No. 56/2004-Cus dated 18.10.2004, amongst other matters, decided that metal scraps in un-shredded, compressed or loose form will have to be accompanied with a pre-shipment inspection certificate as per format in Annexure-1 to Annexure-8 from any of the Inspection and Certification Agencies given in Appendix-28 of the Handbook of Procedures (vol.II). In this Circular, Board has also instructed that it will also be the responsibility of the shipping line to ensure that every consignment of metal scrap in un-shredded, compressed or loose form is accompanied by such a pre-

shipment inspection certificate before it is loaded on the ship and failure to observe this precaution would invite penal action for abatement regarding irregular import of metal scrap. Import of metal scrap is allowed only on submission of valid pre-shipment inspection certificate issued in the specified format by an authorized inspection agency. In the present case, the pre-shipment inspection certificates accompanied with the said containers are found as false as the cargo contained in the said containers were not examined by the Inspection Agency at Jebel Ali Port, as declared in the said certificates. Thus, the mandatory condition as per Para 2.54 of Hand Book of Procedure in the Foreign Trade Policy and Board's Circular No. 56/2004-Cus dated 18.10.2004, that the consignment of metallic scrap should be accompanied by a pre-shipment inspection certificate is not followed in the present case. Hence, the Shipping Lines M/s. Hub & Links Logistics (I) Pvt. Ltd and M/s. Shah Aziz Shipping Lines, LLC, Dubai, UAE failed in ensuring that the consignment of subject metallic scrap (steel scrap) loaded on the ship was accompanied by a valid Pre-shipment Inspection Certificate, resulting which the cargo had landed in India without the valid mandatory pre-shipping inspection certificate. It is also significant that Importer had used these false PSICs to mis-declared the Country of Origin of goods as UAE instead of Pakistan leading to self-assessing import Duty much lower than the required Duty as per Customs Tariff. It would be evident from above that both the Shipping Lines viz. M/s. Hub & Links Logistics (I) Pvt. Ltd and M/s. Shah Aziz Shipping Lines LLC, Dubai, UAE, by their acts of omission has committed an act which has rendered the Goods imported under the Bill of Entry No. 9838766 dated 05.12.2020 liable to confiscation, i.e. M/s. Shah Aziz Shipping Lines LLC, Dubai, UAE and M/s Hubs and Links had knowingly involved themselves in dealing with the goods which they knew were liable for confiscation under Section 111 (m) of the Customs Act, 1962. Resultantly, I find that M/s. Hub & Links Logistics (I) Pvt. Ltd and M/s. Shah Aziz Shipping Lines LLC, Dubai, UAE are liable to penalty in terms of the provisions of Section 112(a)(ii) of the Customs Act, 1962.

27.4 In terms of the provisions of Section 114AA of the Customs Act, 1962, 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. In the present case, Bills of Lading presented before Customs for clearing the subject cargo exhibit incorrect details about the cargo, containers, Country of Origin etc. and on the basis of such incorrect information shown in these Bills of Lading, aforesaid Bills of Entry were filed by the Importer for clearing the offending cargo. In the case of the container No. CBHU351182, the Shipping Line failed to make sure that the container seal identification number reflects the number listed on the Bill of Lading. Therefore, provisions of Section 114AA of the Customs Act, 1962 are also applicable in the case of M/s. Hub & Links Logistics (I) Pvt. Ltd and M/s. Shah Aziz Shipping Lines LLC, Dubai, UAE.

27.5 Section 117 of the Customs Act, 1962 deals with penalties for contravention of any provisions of the Act or abets any such contravention or fails to comply with any provisions of the Act, where no express penalty is provided for such contravention or failure. The Shipping Line viz. M/s. Hub & Links Logistics (I) Pvt. Ltd (in connivance with M/s. Shah Aziz Shipping Lines LLC, Dubai, UAE) have filed Import General Manifesto (IGM) under Section 30 of the Customs Act, 1962 which contain wrong declarations in respect of the origin of goods, port of loading, seal number etc. as this information was based on their Bills of Lading which also contain wrong information. For filing such wrong IGM by contravening the provisions of Section 30 of the Customs Act, 1962, there is no express penalty provided. Resultantly, provisions of Section 117 of Customs Act, 1962 will come into picture and accordingly both the Shipping Lines are also liable to face penal action under Section 117 of the Customs Act, 1962 also."

With the above findings, the adjudicating authority has imposed penalties of Rs.1,50,000/- u/s 112(a)(ii), Rs.50,000/- u/s 114AA and Rs.50,000/- u/s 117 of the Customs Act, 1962, on the appellant viz. M/s. Shah Aziz Shipping Lines LLC.

8. Being aggrieved, the appellant viz. M/s. Shah Aziz Shipping Lines LLC has filed the present appeal on 17.01.2024. In the Form C.A.-1, the date of communication of the Order-In-Original dated 20.11.2023 has been shown as 20.11.2023. Thus, the appeal has been filed within normal period of 60 days, as stipulated under Section 128(1) of the Customs Act, 1962. The appellant has also

submitted a copy of the bank receipted T.R.6 Challan No. 1682 dated 17.01.2024 towards payment of pre-deposit of Rs.18,750/- paid against total penalties of Rs.2,50,000/- imposed on them vide the impugned order. As the appeal has been filed within prescribed time-limit and with pre-deposit, the appeal has been taken up for disposal on merits.

9. The appellant has, inter-alia, raised various contentions in the **Grounds of Appeal**, which are mainly as under:

9.1.

- a. The appellant was nominated by their principal CIM Shipping Inc., Karachi to handle the shipment of M/s. Al Julnar International F.Z.E, Dubai. The said container was loaded on vsl/voy. : OEL Kedarnath – 010 which was routed from Karachi port to Jebel Ali port.
- b. After the arrival of the shipment at Jebel Ali port, the supplier, M/s. Al Julnar International F.Z.E, approached the appellant for the issuance of switch Bill of Lading for movement of container from Jebel Ali port to ICD Sanand.
- c. The appellant's job was only to issue the switch Bill of Lading based on the invoice and packing list received from M/s. Al Julnar International F.Z.E. The other customs formalities were taken care of by M/s. Al Julnar International F.Z.E.
- d. The appellant issued the switch bill of lading to M/s. Al Julnar International F.Z.E. after the container was loaded on vsl/voy. Nagoya Tower – 0015 for movement from Jebel Ali port till ICD Sanand.
- e. The pre-alerts were issued to the destination agent Hub & Links Logistics (I) Pvt. Ltd. wherein only the final leg Bill of Lading copy was shared for IGM filing purpose along with the expected date of arrival of the cargo.
- f. Then the vessel arrived at destination and all procedures related to filling of import general manifest (IGM), issuance of invoices for the charges related to port clearance activity, were done by Hub & Links Logistics (I) Pvt. Ltd.
- g. The appellant was informed that the delivery order was issued in the name of the importer *Kanungo* after receipt of payment and surrendered copy of the bill of lading from the CHA of *Kanungo* which was informed to M/s. Al Julnar International F.Z.E.

9.2 That the appellant has provided their services to their foreign agent and that they don't have any role in the misdeclaration of current shipment. The appellant being a Dubai based Company has to adhere to the laws of United Arab Emirates and as a matter of fact, the import of SS Scrap from Pakistan is not restricted in U.A.E, and neither the importers in Dubai have to pay any enhanced duty for such imports. The Appellant is not concerned about the custom laws of India, however it is the importer who has to be aware of such restrictions and duty payments prior importing any material which is in contravention to the Indian Customs Act. As such the appellant company cannot be liable to be penalized for the wrongful acts of the importer in India. Hence, the impugned order is to be set aside herewith.

9.3 M/s. Ravi Energie Gulf FZC has confirmed to the wrong doings by the importer M/s. Kanungo Ferromet Pvt. Ltd. (Kanungo) and M/s. Al Julnar International (F.Z.E.) in the subject case and thus the importer is liable to be penalized as per the law in the subject case.

9.4 The Appellant is an agent of the CIM Shipping Inc., in the subject case. There is no evidence against Shah Aziz Shipping Lines LLC for orchestrating this transaction for enabling duty evasion at the end of Kanungo Ferromet Pvt. Ltd.

9.5 The appellant was nominated by their principal to handle the cargo which originated from Karachi, Pakistan to final destination ICD Sanand. The Indian Customs officers summoned the appellant's agent Hub & Links Logistics (I) Pvt. Ltd., and demanded the first leg Bill of Lading copy from them which was shared with the appellant's agent precisely after the Customs Officers had initiated the inquiry. The Bill of Lading provided to the appellant's agent for IGM purpose was a switched Bill of Lading issued from Dubai. Generally, the Switch Bills of Lading altering the port of loading as Jebel Ali is requested by the supplier of the importer to enable smooth functioning of forex transactions between the supplier and importer and it is a standard practice in the Maritime Industry to issue Switch Bills of Lading.

9.6 The appellant further submits that concerning the allegations levelled against the appellant, pertaining to the Switch Bills of Lading issued in the aforementioned shipment, a Switch Bill of Lading is simply the second set of Bill

of Lading issued by the carrier or its agent to substitute the Original Bills of Lading issued at the time of the shipment, even though it technically deals with the same cargo. To emphasize in detail, Switch Bills of Lading are issued for replacement of certain details specified as below:

- (a) the original bill names a discharge port which is subsequently changed (e.g. because the receiver has an option or the goods are resold) and new bills are required naming the new discharge port;
- (b) a seller of the goods in a chain of contracts does not wish the name of the original shipper to appear on the bill of lading, and so a new set is issued, sometimes naming the seller as the shipper. A variation on this is where party does not wish the true port of loading to be named on the bill;
- (c) the first set of bills may be held up in the country of shipment, or the ship may arrive at the discharge port in advance of the first set of bills. A second set may therefore be issued in order to expedite payment, or to ensure that delivery can take place against an original bill;
- (d) shipment of goods may originally have been in small parcels, and the buyer of those goods may require one bill of lading covering all of the parcels to facilitate his on sale. The converse may also happen i.e. one bill is issued for a bulk shipment which is then to be split.
- (e) where switch bills are issued, the first set should be surrendered to the carrier in exchange for the new set. There is usually no objection to this practice. However, the switch bills may contain misrepresentations e.g., as to the true port of loading.

9.7 The above inference has been taken from the International Transport Intermediaries Club, Issuance of Switch Bill of Lading 2013,1. Furthermore, International book Carriage of Goods by Sea Sixth Edition, Pg. No. 171 specifically states that:

#### 5.7 Switch Bills

*In concluding the survey of the functions of bills of lading, brief mention must be made of the modern practice of issuing switch bills. Under this procedure, the original set of bills of lading under which the goods have been shipped is*

*surrendered to the carrier, or his agents, in exchange for a new set of bills in which some of the details, such as those relating to the name and address of the shipper, the date of issue of the bills or the port of shipment, have been altered.*

9.8 The appellant placed reliance on the Singapore High Court ruling in the case of BNP Paribas v Bandung Shipping Pte Ltd., 2003 wherein the switch 12 Bills of Lading were issued altering the port of loading for consignment loaded from Batam, Indonesia and to be discharged at Kandla port, India. The details mentioned under the Facts paragraph no.2 are as under:



*12 bills of lading were switched bills issued by Bandung in exchange for the original set, pursuant to an arrangement provided for in the voyage charterparty. The switched bills were issued for the same cargo as the original set, with some alteration in the details like date and load port.*

9.9 The above evidence the fact that the issuance of switch Bills of Lading is a general practice in the maritime industry and in the Switch Bills of Lading, the port of loading and the port of discharge can be altered as per the requirement of the suppliers.

9.10 It is pertinent to note that in the above mentioned import shipment, the first leg of Bill of Lading was issued in Karachi and second leg of Bill of Lading has been issued by the appellant in Dubai. However, the appellant's agent in India received only the second leg bill of Lading and accordingly the Import General Manifest (IGM) was filed at destination port by the appellant's agent based on the information given in the second leg Bill of Lading. The appellant's agent is provided with only the final leg Bill of Lading to file IGM which enables the appellant's agent to issue the delivery order to the respective consignee(s) at destination. There is no omission or commission on the part of the appellant which would render the appellant liable for penalty. Consequently, on this ground it is submitted that the appellant is not liable for any penalty under Section 112(a)(ii), 114AA and 117 of the Customs Act, 1962.

9.11 Board's Circular No. 56/2004-Cus dated 18.10.2004, which has been relied upon by the adjudicating authority for imposing penalty on the appellant, has been withdrawn by Circular No. 48/2016-Customs dated 26.10.2016.

9.12 In a similar case of another importer M/s. Mayank Steel & Alloys, the appellant was nominated by their load port agent of Shah Aziz Shipping Lines LLC, Dubai, to handle the consignment of 1x20' container arriving from Jebel Ali port to ICD Khodiyar vide B/L No. SASLNH21740 dated 03.12.2021 on Vsl./Voy. : Northern Practise – 003, consigned to M/s. Mayank Steel & Alloys. After the arrival of the container at ICD Khodiyar, the customs intercepted and seized the consignment said to contain Stainless Steel Melting Scrap Grade 201, on suspicion of the imported goods to be of Pakistan origin. Thereafter, appellant's representative Mr. Kailas Mhatre was summoned by the Superintendent R.I. Rajani to appear in person and submit all the relevant documents in respect of the said Container. Upon realizing that the appellant had no role to play in the duty evasion of the imported goods of Pakistan origin, the appellant was not shown caused and completely exempted from the adjudication proceedings in the Show Cause Notice bearing File No. VIII/10-24/ICD-Khod/O&A/HQ/2023-23 dated 14.06.2022. The said matter has been adjudicated by the Additional Commissioner of Customs, Ahmedabad - Shri. Vishal Malani vide Order in Original bearing No. 124/ADC/VM/O&A/2022-23 dated 06.03.2023. The present case of M/s. Kanungo Ferromet Pvt. Ltd., and the case of M/s. Mayank Steel & Alloys, both have been adjudicated by the same Additional Commissioner of Customs, Ahmedabad - Shri. Vishal Malani, who has overseen the facts that it is the modus of the supplier M/s. Al Julnar International F.Z.E. and M/s. Ravi Energie Gulf FZC, to falsely mis-declare the country of origin of the goods in the PSIC.

9.13 The appellant has relied upon following case law in their defence:

- Shobha Plastics Pvt Limited vs Commissioner of Customs, Ahmedabad 2022 TAXSCAN (CESTAT) 379
- PURUSHOTTAM KUMAR JAIN vs COMMISSIONER OF CUSTOMS (PREVENTIVE) JODHPUR 2022 TAXSCAN (CESTAT) 567
- Jeena and Company versus Commissioner of Customs, Bangalore {2021 (378) E.L.T. 528 (Tri. – Bang.)}
- Hindustan Steel Ltd 1978 (2) ELT J159 (SC)
- Akbar Badruddin Jiwani vs Collector of Customs, 1990 (047) ELT 0161

10. In view of the above grounds, the appellant prayed to quash to set aside the impugned order with consequential relief.

### Personal Hearing

11. Personal Hearing in this matter was held in virtual mode on 07.05.2025, which was attended by Mr. Santosh Upadhyay, Advocate and Ms. Deepti Upadhyay, Advocate, on behalf of the appellant. They reiterated the written submissions made at the time of filing of appeal.

12. They also stated that they are delivery agent and their role is very limited. M/s. Hub & Links Logistics (I) Pvt. Ltd. just filed IGM, collected the document and issued the delivery order. The appellants scope is very limited to check the details filed by the importer at the time of filing the Bill of Entry in the Customs. They cannot check the authenticity of certificate of origin and pre-inspection certificate as they have no authority. They are the shipping company agents and their scope is very limited and as such they can't be held liable for any penalties. M/s. Shah Aziz Shipping Lines LLC is a company registered in U.A.E. and has to adhere to the U.A.E. laws wherein the import of SS Scrap from Pakistan is not restricted. The Appellants did not gain any benefits from the duty evasion committed by the importer. It is paramount that no penalty may be imposed on the Appellants as the fees charged by the Appellants from the importers for handling imported goods in dispute is very minuscule compared to the penalty imposed on the Appellants. The Appellants have neither contravened any provisions of the Customs Act, nor abetted any such contravention. They relied on certain case laws pertaining to Switch bills of lading ruling by Singapore High Court which explicitly mentions that switch Bills of Lading are a legal document. They referred BNP Paribas VS Bandung Shipping Limited 2003 where there was 12 bill of lading and it was switched and they altered the port also and the order was in the favour of the Indian company. They stated that they are not liable for any penalties as per Circular no. 48/2016-Customs dated 26.10.2016, DGFT Public Notice No. 38/2015-2020 dated 06.10.2016 (followed by a Corrigendum by way of Public Notice No. 40/2015-2020 dated 25.10.2016). They stated that the subject matter has been adjudicated by the same Additional Commissioner Shri. Vishal Malani who also adjudicated the case of M/s. Mayank Steel & Alloys and the same Appellants had handled the consignment of Mayank Steel & Alloys wherein after due investigation, the Appellants were exempted from paying any penalties after it was found out by the department that the Appellants had no role to pay in the commission of duty evasion by the importer. They stated that they will be filling additional submission with detailed observations of the Twenty Seventh Report of the Standing Committee on Finance (2005 - 06) in relation to the Taxation Laws

(Amendment) Bill, 2005 pertaining to penalty imposed under section 114 of the Customs Act, 1962. They prayed that penalty under section 112 (a)(ii), section 114AA and 117 of the Customs Act, 1962 should not be imposed and they will submit further citation in this matter relating to New South Wales Supreme Court judgement on the legality of switch Bill of Lading. They have submitted additional written submissions dated 10.05.2025.

**Findings:**

13. I have carefully gone through the impugned order and written as well as oral submissions made by or on behalf of the appellant.

14. The appeal filed by the importer viz. M/s. Kanungo Ferromet Pvt. Ltd. against the impugned order dated 20.11.2023 has already been rejected by me vide Order-In-Appeal No. AHD-CUSTM-000-APP-89-25-26 dated 19.06.2025. As regards the Country of Origin of the impugned goods, I have already held that sufficient evidences have been adduced during the investigation to prove that the goods were of Pakistan origin.

15. At the outset, I find that the appellant M/s. Shah Aziz Shipping Lines LLC had not submitted any reply to the Show Cause Notice and no authorized person, on their behalf, appeared before the adjudicating authority, when the case was posted for hearing on 17.08.2023, 28.08.2023, 05.09.2023 and 20/29.09.2023. Now, they have filed appeal against the impugned order and raised various contentions in their support. In the appeal memorandum, the appellant has not mentioned any reason as to why they have not submitted any reply to the Show Cause Notice and why they have not appeared during the Personal Hearing. In this regard, I am of the view that the appellant was required to raise their contentions before the adjudicating authority so that he could give findings on them. As the appellant has not submitted any reply to the Show Cause Notice and not appeared during personal hearing, the adjudicating authority had no occasion to examine the contentions of appellant, which have been raised first time during this appeal. Hence, the present case needs to be remanded to the adjudicating authority for passing speaking order on the above submission made by the Appellant.

16. As regards powers of Commissioner (Appeals) to remand the matters, I rely upon the judgment of Hon'ble High Court of Gujarat in case of Medico Labs – 2004

(173) ELT 117 (Guj.), judgment of Hon'ble Bombay High Court in case of Ganesh Benzoplast Ltd. [2020 (374) E.L.T. 552 (Bom.)] and judgments of Hon'ble Tribunals in case of Prem Steels P. Ltd. [ 2012-TIOL-1317-CESTAT-DEL] and the case of Hawkins Cookers Ltd. [2012 (284) E.L.T. 677(Tri. – Del)] wherein it was held that Commissioner (Appeals) has power to remand the case under Section 35A (3) of the Central Excise Act, 1944 and Section 128A (3) of the Customs Act, 1962.

17. In view of the above, I find that remitting the case to the adjudicating authority for passing speaking order becomes *sine qua non* to meet the ends of justice. Accordingly, the case is required to be remanded back to the adjudicating authority, in terms of sub-section (3)(b) of Section 128A of the Customs Act, 1962, for passing speaking order on the submissions made by the appellant by following the principles of natural justice. The appellant is directed to make written submission before the adjudication authority, i.e. the Additional Commissioner of Customs, Ahmedabad. No views on merits has been expressed in this Order.

#### Order

18. In view of the above findings, I set aside the impugned Order-In-Original No. 173/ADC/VA/O&A/2023-24 dated 20.11.2023 to the extent it relates to M/s. Shah Aziz Shipping Lines LLC ('the appellant'); and remand the matter to the adjudicating authority to pass de-novo adjudication order regarding imposition of penalties on the appellant. The appeal is allowed by way of remand.



(Amit Gupta)  
Commissioner (Appeals),  
Customs, Ahmedabad

F.No. S/49-413/CUS/AHD/2023-24

Date: 19.06.2025

By E-mail (As per Section 153(1)(c) of the Customs Act, 1962)

To

M/s. Shah Aziz Shipping Lines LLC,  
Post Box No. 31600, Office # 2308, 23<sup>rd</sup> Floor,  
Damac Barsha Height, Tecom,  
Dubai, United Arab Emirates.

(Email: [info@sasl.ae](mailto:info@sasl.ae) )

Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.  
(email: [ccoaahm-guj@nic.in](mailto:ccoaahm-guj@nic.in) )
2. The Principal Commissioner of Customs, Custom House, Ahmedabad.  
(email: [cus-ahmd-guj@nic.in](mailto:cus-ahmd-guj@nic.in) ; [rra-customsahd@gov.in](mailto:rra-customsahd@gov.in) )
3. The Additional Commissioner of Customs, Custom House, Ahmedabad  
(email: [cus-ahmd-adj@gov.in](mailto:cus-ahmd-adj@gov.in) ), with a direction to initiate up de novo adjudication in respect of the SCN F.No. VIII/10-144/ICD-SND/O&A/HQ/2022-23 dated 24.01.2023 to the extent it issued to M/s. Shah Aziz Shipping Lines LLC, Dubai, UAE.
4. The Deputy/Assistant Commissioner of Customs, ICD-Sanand  
(email: [customs-sanand@gov.in](mailto:customs-sanand@gov.in) )
5. M/s. ALFSD Legal Associates, Mumbai  
(email: [deepti@alfsd.com](mailto:deepti@alfsd.com) , [santosh@alfsd.com](mailto:santosh@alfsd.com) )
6. M/s. Shah Aziz Shipping Lines LLC, C/o M/s. Hub & Links Logistics (I) Pvt. Ltd., Suit No. 101, Rishabh Arcade, Near to GST Bhavan, Plot No. 83, Sector-8, Gandhidham, Gujarat – 370201  
(Email: [sajish@hublinksindia.com](mailto:sajish@hublinksindia.com) [darshan@hublinksindia.com](mailto:darshan@hublinksindia.com) )
7. Guard File.

