सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

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

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

DIN - 20251171MN000000D81E

क	फ़ाइल संख्या FILE NO.	(1) S/49-332/CUS/MUN/OCT/25-26 (2) S/49-476/CUS/MUN/NOV/25-26
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	MUN-CUSTM-000-APP-399 to 400-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	14.11.2025
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	1. Non issuance of Show Cause Notice with in 6 months of Seizure Memo dated 27.02.2025, bearing File No. CUS/SIIB/INF/10/2025-SIIB-O/o Pr. Commr-Cus-Mundra . 2. Order-in-Original no. MCH/ADC/ZDC/335/2025-26 dated 06.11.2025
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	14.11.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Shree Khatu Shyam Steel and Tubes LLP, Ground Floor, Plot No. 956, Kh. No. 154, Village Pooth Khurd, North West Delhi-110039

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 है.
	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)	बैगेज़ के रूप में आयातित कोई माल.
(a)	any goods exported
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो.
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट,1870 के मद सं.**6** अनुसूची **1** के अधीन निर्धारित किए गए अनुसार इस आदेश की **4** प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए.
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्ध दस्तावेज़ों के अलावा साथ मूल आदेश की **4** प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की **4** प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, **1962** (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस,दण्ड,जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. **200/-**(रूपए दो सौ मात्र)या रु.**1000/-**(रूपए एक हज़ार मात्र), जैसा भी मामला हो, से सम्ब न्धित भुगतान के प्रमाणिक चलान टी.आर.**6** की दो प्रतियां. यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रूपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु.**200/-** और यदि एक लाख से अधिक हो तो फीस के रूप में रु.**1000/-**
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the

	amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.	
4.	मद सं. **2** के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बंन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम **1962** की धारा **129** ए **(1)** के अधीन फॉर्म सी.ए.**-3** में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं	
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :	
	सीमाशुल्क, केंद्रीय 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	2nd 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 हज़ार 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; पांच हज़ार 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 हज़ार 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 हैं, या दंड के 10% अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा ।	
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.	
6.	उक्त अधिनियम की धारा **129** (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.	
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal- (a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or (b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.	

ORDER-IN-APPEAL

Two appeals have been filed by M/s Shree Khatu Shyam Steel and Tubes LLP, Ground Floor, Plot No. 956, Kh. No. 154, Village Pooth Khurd, North West Delhi-110039, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, (1) challenging the non issuance of Show Cause Notice with in six months of Seizure Memo dated 27.02.2025, bearing File No. CUS/SIIB/INF/10/2025-SIIB-O/o Pr. Commr-Cus-Mundra, (2) challenging the Order-in-Original no. MCH/ADC/ZDC/335/2025-26 dated 06.11.2025 (hereinafter referred to as 'the impugned order') issued by the Additional Commissioner of Customs, Import Assessment , Customs House, Mundra.

2. Facts of the case, in brief, are that Ministry of Steel vide circular dated 20.10.2023 made mandatory for all the steel importers to apply and seek clarification on the TCQCO Portal for each and every steel consignment which is imported in the country without BIS license/certification. Further, Ministry of Steel issued an Office Memorandum dated 03.01.2025 w.r.t. circumvention of directive issued by Ministry of Steel for issuance of NOC's on one-time basis for shipments where Bill of Lading has been generated on or before 03rd of December 2024. Further, they interalia stated that it has been represented to this Ministry that Many importers are trying to circumvent this requirement by getting a House Bill of Lading issued with date on or before 3rd December, 2024 whereas the actual shipment is of a later date i.e. subsequent to 3rd December, 2024 and further requested to take necessary actions in order to detect and prevent any such circumvention.

2.1 In view of above, scrutiny of EDI data for import of Steel item wherein import was being made on the basis of House Bill of Lading issued with date on or before 3rd December, 2024 was done and it came to notice that the Appellant filed had 01 Bill of Entry as mentioned in Table-I for import of Cold Rolled Stainless Steel coil grade J2 vide House Bill of Lading No. FS241205001 dated 03.12.2024 at Mundra Port through their Custom Broker M/s Oriental Trade Links (hereinafter referred to as 'CB' for the sake of brevity). Ministry of Steel has issued NOC No. NOC2024004662_A dated 16.12.2024 on the basis of House Bill of Lading No. FS241205001 dated 03.12.2024. The Details of B/E are as under: -

Table-I

BE No. & Date	House Bill of Lading No. & Date	Container No.	CTH	Country of Origin	Supplier Name	Goods Description
8109186 dated 31.01.2025	FS241205001 dt. 03.12.2024	1.WHLU0284130 2.WHSU2044447 3.WHSU2800056 4.WHSU2641627 5.WHSU2518335 6.WHSU2127813 7.BMOU1224202 8.WHSU2811472 9.WHSU2118452 10.WHSU0134623 11.WHSU0039061 12.WHSU2044473 13.WHLU0693586 14.WHLU0534687 15.WHLU0347881	72193590	CHINA	M/s HISSARIA INTERNATIONAL LIMITED, CHINA	Cold Rolled Coils Stainless Steel Coil Grade J2

2.2 On tracking the vessel on Shipping Line Website, it was found that containers mentioned above were laden on vessel on 04.01.2025. However, House Bill of Lading was issued on 03.12.2024 and shipped on board date was mentioned as 03.12.2024 on House Bill of Lading No. FS241205001 dated 03.12.2024. In view of above, goods covered under impugned B/E No. 8109186 dated 31.01.2025 were put on hold to rule-out any possibility of circumvention of directive issued by Ministry of Steel for issuance of NOC on one-time basis for shipments where Bill of Lading has been generated on or before 3rd of December, 2024.

2.3 An email dated 07.02.2025 was sent to shipping line M/s Wan Hai Lines (India) Pvt. Ltd. for providing copy of Master BL issued against House BL No. FS241205001 dated 03.12.2024 and port of call list of vessel BAO HANG YUN, Voyage No. 28. M/s Wan Hai Lines (India) Pvt. Ltd. vide email dated 07.02.2025 provided copy of Master BL No. 142E516966 dated 04.01.2025 issued in case of M/s Shree Khatu Shyam Steel & Tubes LLP and further provided copy of port of call list of Vessel BAO HANG YUN wherein it is mentioned that Vessel BAO HANG YUN reached on Guangzhou Port, CHINA on 02.01.2025 and departed on 04.01.2025.

2.4 Further, Goods covered under B/E No. 8109186 dated 31.01.2025 were examined vide examination report dated 10.02.2025 in presence of Shri Chauhan Ranjeet Kailashchand, G Card holder of M/s Oriental Trade Links, CFS representative Shri Ramashankar R Prasad, Sr. Executive, Operations, M/s Mundhra Container Freight Station Pvt. Ltd. CFS. Before beginning the

examination, the weightment slip of the containers generated at CFS weighbridge are cross-checked. On weightment, Total Net weight found was 412720 Kgs. against declared net weight of 412524 Kgs. Hence, there was total 196 kgs excess weight found.

2.5 Further, during examination, Positive Metal Identification (PMI) test was conducted with the help of PMI gun. During the PMI test proceeding, the test results were taken and as per test report, it is seen that in all coils stuffed in 15 containers, Nickel content is found in the range of 0.8-1.3% and chromium content is found in the range of 12.0-14.0% and Manganese is in the range of 7.5-10%. Further, from the open source available on internet, the Stainless Steel Coil grade J2 should contain following chemical composition: -

Grade	C	Mn	P	Cr	Ni	S	Si
J2	0.15-0.36%	7.5-10	≤ 0.045	12.0-14.0	0.8-1.3	≤0.03	≤1.0

2.6 In view of above, prima facie, it appeared that all major component i.e. Nickel, Chromium, Manganese etc. of goods imported vide Bill of Entry No. 8109186 dated 31.01.2025 is in line of chemical composition of Stainless Steel Coil J2 Grade. Hence, prima facie, it appeared that goods were found as per declaration i.e. Cold Rolled Stainless Steel Coil Grade J2. Further, as per contemporary data available on NIDB, Value of the goods declared as Stainless Steel Coil grade J2 appeared to be fair.

2.7 Further, an email dated 13.02.2025 was forwarded to Dy. Secretary, Ministry of Steel for further clarification purpose in this matter. Ministry of Steel vide email dated 20.02.2025 intimated that: -

> *"the initial decision to grant a one-time NOC/exemption for steel imports applied only to cases where the steel had already arrived at Indian ports or the Master Bill of Lading had been generated on or before December 3, 2024. This one-time provision was closed on December 21, 2024.*
>
> *Paragraph 2 highlights concerns that some importers are attempting to circumvent this requirement by obtaining a House Bill of Lading dated on or before December 3, 2024, while the actual shipment (evidenced by the Master Bill of Lading) occurred after that date. This practice is not in compliance with the one-time exemption provision.*
>
> *Therefore, to reiterate, the one-time NOC/exemption applied exclusively to*

shipments where the Master Bill of Lading was issued on or before December 3, 2024. House Bills of Lading with earlier dates for shipments occurring after December 3, 2024, do not qualify for this exemption. The request in paragraph 3 aims to prevent such fraudulent circumventions."

2.8 In view of above, prima facie, it appeared that the appellant had tried to clear Cold Rolled Stainless Steel coil of J2 grade on the basis of House Bill of Lading FS241205001 dated 03.12.2024 and NOC No. NOC2024004662_A dated 16.12.2024 issued by Ministry of Steel against House Bill of Lading. However, in light of OM dated 03.01.2025 issued by Ministry of Steel and further clarification dated 20.02.2025 received from Ministry of Steel, one time NOC/exemption applied exclusively to shipments where the Master Bill of Lading was issued on or before December 3, 2024. House Bill of Lading with earlier dates for shipments occurring after December 3,2024 do not qualify for this exemption. Hence, goods covered under B/E No. 8109186 dated 31.01.2025 are found to be imported without valid one time NOC as Master BL has been issued after 03.12.2024. Hence, prime facie, it appeared that goods have been imported in violation of Circular dated 20.10.2023 which makes the goods restricted/prohibited for import of goods without valid NOC, for shipments occurring after 03.12.2024, from Ministry of Steel. Hence, due to absence of NOC from Ministry of Steel, goods covered under B/ E No. 8109186 dated 31.01.2025 having total assessable value of Rs. 3,91,64,616/- (Rs. Three Crore Ninety-One Lacs Sixty-Four Thousand Six Hundred Sixteen) appeared to be liable for confiscation under section 111(d) and (m) of the Customs Act, 1962, hence, goods imported vide impugned Bills of Entry mentioned above were Seized vide Seizure Memo dated 27.02.2025 under section 110(1) of the Customs Act, 1962, and goods were handed over to the custodian i.e. M/s Dockport Warehousing Zone vide Supurtanama dated 27.02.2025 and in compliance of Board Instruction No. 02/2024- Customs dated 15.02.2024, Incident report no. 40/2024-25 dated 28.02.2025 was issued accordingly.

2.9 Further, Summons was issued to Shipping Line M/s Wan Hai Lines (India) Pvt. Ltd. under section 108 of the Customs Act, 1962 for recording their statement on 07.03.2025 and statement of Shri Chirag Harilal Chawda, authorized representative of M/s Wan Hai Shipping Lines (India) Pvt. Ltd. was recorded on 07.03.2025 wherein he interalia stated that correct laden on board date of containers is 04.01.2025 and containers were physically loaded on BAO Hang Yun 28 vessel on 04.01.2025. There was no delay in reaching vessel as

Mundra Port. He further stated that they filed IGM on House Bill of Lading on forwarder request and submitted copy of request letter given by M/s Premji Kanji Masani Private Limited to M/s Wan Hai Shipping Lines (India) Pvt. Ltd. for filing IGM on House B/L.

2.10 Further, Statement of Shri Tarunbhai Masani, Director of M/s Premji Kanji Masani Private Limited (Forwarder) was recorded on 17.03.2025 under section 108 of the Customs Act, 1962. Further, a statement of Shri Naresh Kumar Goyal, Partner of M/s Shree Khatu Shyam Steel & Tubes LLP has been recorded on 28.03.2025 and a statement of Shri Pinkal Rathi, Partner and authorised representative of M/s Shree Khatu Shyam Steel & Tubes LLP has been recorded on 28.03.2025.

2.11 From the investigation conducted in this matter, it appeared that forwarder M/s Premji Kanji Masani provided copy of Master Bill to authorised custom broker M/s Oriental Trade Links vide email dated17.01.2025 before filing of Bill of Entry. However, CB did not provide the same to importer. From the above discussion and evidences available on record, it appeared that the importer, M/s Shree Khatu Shyam Steel & Tubes LLP (IEC ADLFS0554M) has attempted to clear goods declared as "Cold Rolled Stainless Steel Coil Grade J2" on the basis of House BL dated 03.12.2024 and NOC issued against House BL, however, actual shipment is of later date i.e. 04.01.2025. Hence, in light of OM dated 03.01.2025 and Circular dated 20.10.2023, goods became prohibited in nature in absence of NOC for shipment occurring after 03.12.2024. The said acts of omission and commission on the part of the M/s Shree Khatu Shyam Steel & Tubes LLP has rendered themselves liable for penalty under the provisions of Section 112(a) of the Customs Act, 1962. Further, Forwarder M/s Premji Kanji Masani Private Limited provided the copy of Master Bill of Lading to CB M/s Oriental Trade Links on 17.01.2025 where in Laden on Board date is clearly mentioned as 04.01.2025 on vessel BAO HANG YUN 28. Further, CB was well aware about the fact that Ministry of Steel was not issuing NOC for Bill of Lading issued after 03.12.2024. Still, CB neither forwarded the copy of BL to importer nor guided importer to procure NOC on the basis of Master Bill of Lading and filed B/E on the basis of House Bill of Lading. Further, CB was in possession of Master Bill of Lading before filing of B/E, still, CB did not uploaded copy of Master Bill of Lading in e Sanchit. The said acts of omission and commission on the part of the M/s Oriental Trade Links, authorised customs broker has rendered themselves liable for penalty under the provisions of Section 112(a) of

the Customs Act, 1962.

2.12 Further, the appellant, vide letter dated 25.04.2025, requested for waiver of Show Cause Notice and Personal Hearing in this matter and further requested to clear goods under advance license No. 0511031725 dated 02.04.2025. Further, CB M/s Oriental Trade Links vide letter dated 25.04.2025 has also requested for waiver of Show Cause Notice and Personal Hearing.

2.13 Consequently, the Adjudicating Authority passed the order as under:

(i) He ordered that the goods imported vide BE No. 8109186 dated 31.01.2025 having total declared assessable value of Rs. 3,91,64,616/- are considered as prohibited as much as these goods have been attempted to import without valid mandatory NOC from Ministry of Steel as mandated vide circular dated 20.10.2023.

(ii) He ordered for confiscation of the goods found as Cold Rolled Stainless Steel Coil Grade-J2 having total declared assessable value of Rs. 3,91,64,616/- under Section 111 (d) & (m) of the Customs Act, 1962. However, he gave the importer an option under provision of Section 125(1) of the Customs Act, 1962, to redeem the said goods for re-export purpose only on payment of redemption fine of Rs.39,00,000 /- .

(iii) He rejected the declared quantity i.e. 412524 Kgs. of goods imported vide impugned Bill of Entry no. 8109186 dated 31.01.2025 and order to re-determine the same as 412720 Kgs.

(iv) He imposed a penalty of Rs.18,00,000/- under Section 112 (a)(i) of the Customs Act, 1962 upon M/s Shree Khatu Shyam Steel & Tubes LLP (IEC ADLFS0554M) for the reasons discussed in para supra.

(v) He imposed a penalty of Rs.5,00,000/- under Section 112 (a)(i) of the Customs Act, 1962 upon M/s Oriental Trade Links, authorised Customs Broker for the reasons discussed in para supra.

SUBMISSIONS OF THE APPELLANT:

3. The appellant has filed two appeals i.e one against non issuance of the seizure order and the second appeal against the subject Order-in-Original, wherein they have submitted grounds which are as under:-

3.1 The Preventive Customs Officer had seized the impugned goods vide Seizure Memo dated 27.02.2025 in accordance with Section 110 of the Customs Act. Notably, Section 110(1) empowers a proper officer to seize goods, if he has reason to believe that the same are liable to confiscation under the Act. Further, Section 110(2) ordains that if no notice under clause (a)1 of Section 124 of the Act is issued within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized. From the bare perusal of the said section, it is clear that in case of seizure of goods, the goods are to be returned to the owner of goods if no notice is issued under Section 124 of the Customs Act. The said term of six months is extendable by another six months by the Principal Commissioner of Customs or Commissioner of Customs vide written reasons and information to the person concerned before the expiry of the six- month period.

3.2 In the present case, the seizure memo was issued on 27.02.2025. As per the prescribed timeline, the six-month period for initiating further action expired on 27.08.2025. Following the expiry of this period, the Appellant, through letters dated 09.09.2025 and 20.09.2025, requested the release of the impugned goods. Reference is placed on several judicial pronouncements that reinforce the legal position regarding the mandatory time limit for issuance of a show cause notice following seizure under Section 110 of the Customs Act. In Jatin Ahuja vs. Union of India, reported as 2013 (287) E.L.T. 3 (Del.), the Hon'ble Delhi High Court held that if no show cause notice is issued within the prescribed period, the seized goods must be returned to the person from whom they were seized. The Court emphasized that:

> *"Upon expiry of the one-year period (or six months, if no extension is granted), the goods are returnable to the person from whose possession they were seized. Section 110-A, which allows provisional release of goods, does not override the mandatory consequence under Section 110(2) of the Act. The statutory time-limit for issuance of a show cause notice is intended to*

prevent indefinite retention of goods without adjudication. Failure to comply with this requirement results in automatic dissolution of the seizure."

3.3 The Court further cited the principle laid down by the Hon'ble Supreme Court in Baru Ram v. Parsanni [AIR 1959 SC 93], which held:

"Whenever a statute requires a particular act to be done in a particular manner and also lays down that failure to comply with the said requirement leads to a specific consequence, it would be difficult to accept the argument that the failure to comply with the said requirement should lead to any other consequence."

3.4 The Delhi High Court concluded that the seizure order in the case of the petitioner's vehicle stood statutorily dissolved due to non-issuance of a show cause notice within the prescribed period, and the vehicle was deemed to have been unconditionally released. The above legal position has also been affirmed in the following judgments:

(a) Raj Kumar Gupta vs. Director, DRI, reported as 2017 (350) E.L.T. 249 (Del.)

(b) Navneet Goswami vs. Commissioner of Customs, Patna, reported as 2001 (132) E.L.T. 590 (Tri. - Kolkata)

3.5 In light of the foregoing discussion and judicial precedents, it is evident that since six months have elapsed since the seizure and no communication regarding extension has been issued by the Customs Authorities and received by the Appellant, the seizure ought to be unconditionally revoked and the impugned goods should be returned to the Appellant.

3.6 The Appellant has submitted that Order-in-Original dated 06.11.2025 is patently incorrect, contrary to the facts of this case and has been passed by the Adjudicating Authority without considering the facts of this case in their proper perspective. The Adjudicating Authority has passed the impugned order in a haste despite the pendency of appeal dated 06.10.2025 filed by the Appellant against seizure of the impugned goods and to cover up lapses on part of the department. Therefore, if Order-in-Original dated 06.11.2025 is permitted to stand, it would result in miscarriage of justice.

3.7 In this case the goods were seized on 27.02.2025, therefore, in terms of provisions of Section 110(2) of the Customs Act, 1962, if show cause notice is not issued within six months of seizure of goods under Section 110(1), the Department loses jurisdiction to retain the seized goods unless a proper extension is granted by the competent authority. In the present case, no such extension has been obtained. Consequently, the Appellant is entitled to the immediate release of the seized goods, and the continued retention thereof is without authority of law. The Appellant submits that waiver given by the Appellant vide its letter dated 25.04.2025 neither alters the statutory position nor extends the period prescribed under Section 110(2). Issuance of notice within six months is a statutory safeguard and needs to be acted upon by the department. In this regard, the Appellant places reliance upon the judgment of the Hon'ble High Court of Delhi in M/s. Shiv Shakti Trading Company v. Commissioner of Customs (Preventive) [2016 (336) E.L.T. 415 (Del.)], wherein it was categorically held that the *failure to issue a show cause notice within six months of seizure renders the continued retention of goods without jurisdiction and illegal, and that any alleged waiver cannot supersede the statutory mandate under Section 110(2) of the Customs Act, 1962..* The relevant paras of the judgement are reproduce as under :-

> *23. Considering that the time limits for issuance of an SCN in terms of Section 110(2) are sacrosanct, if at the time of seizure of the goods there is waiver by the person from whom the goods were seized, or the owner of the right to be given an SCN, in the expectation of an expedited adjudication,* ***then the reasonable time within which the adjudication should be completed should be six months from the date of such seizure.*** *If, despite the waiver of the right to be given an SCN, no adjudication order is passed within the period of six months from the date of seizure, the person waiving the right to be given an SCN can no longer be held bound by such waiver. The consequence would be the same as is envisaged by Section 110(2) of the Act i.e., the immediate unconditional release of the goods in favour of the person from whom the goods have been seized. Notwithstanding such unconditional release, it will still be open to the Department to proceed under Section 124 and complete the adjudication for which there is no specified time limit.*

24. Another possible scenario is where, despite the waiver, no adjudication order is passed within a period of six months of the seizure. In such event, it may still be open to the Department to issue an SCN before the expiry of six months, or within the extended period as envisaged in Section 110(2) of the Act. In such event, it will be open to the Petitioner to avail the procedure under Section 110A of the Act to seek provisional release of the goods.

25. In the present case, despite the waiver by the Petitioner of the right to be given an SCN in terms of Section 110(2) of the Act, no adjudication order was passed for a period of one year after the seizure. The Petitioner could, therefore, not be bound by such waiver after the expiry of the time limit under Section 110(2) of the Act. In the circumstances explained hereinabove, there was no justification for the Respondents to continue to detain the goods seized.

3.8 Further, in the case of METCO EXPORT INTERNATIONAL *Versus* COMMISSIONER OF CUSTOMS, KANDLA 2019 (370) E.L.T. 392 (Tri. - Ahmd.), the Hon'ble CESTAT had made the following observations:

5. In the aforesaid judgment of Hon'ble Delhi High Court, Hon'ble High Court has observed that even though there is waiver of SCN by the assessee, the adjudication should have been completed within reasonable period i.e. period provided under Section 110(ii), therefore, the observation taken by the Hon'ble High Court is applicable in the present case. As regard the submission of Ld. AR that in the judgment of Shiv Shakti Trading Company (supra), the goods were seized and were not released provisionally whereas, in the present case goods had been released provisionally.

6. In our considered view, that fact will not matter for the reason that Hon'ble High Court has decided the issue on the basis that the adjudication should have been completed within the reasonable period, therefore, the difference of this fact will not have any impact in applicability of this judgment in the present case. Accordingly, following the judgment of Hon'ble High Court as cited above, we set aside the impugned order and allow the appeal.

In view of facts of this case and judgments cited above, there is violation of provisions of Section 110(2) of the Customs Act, 1962 in this case and the subsequent proceedings are legally not sustainable.

3.9 The Adjudicating Authority, vide Order-in-Original dated 06.11.2025, has *inter alia* held that the Appellant had knowingly misdeclared information while filing Bill of Entry No. 8109186 dated 31.01.2025. The Appellant submits that the said finding of the Adjudicating Authority are patently incorrect and contrary to the facts of this case. The Appellant placed order on the Overseas Supplier in the month of September, 2024 and asked it to supply the goods within 4-5 days. However, despite having confirmed order from the Appellant, the Overseas Supplier did not supply the goods to the Appellant until December, 2024. When the Overseas Supplier informed the Appellant that it had sent the goods to the shipper and forwarded HBL, the Appellant applied for NOC from Ministry of Steel and made payment to the Overseas Supplier. These facts can be verified from the documents submitted by the Appellant to the officers of SIIB. Ministry of Steel issued NOC No. NOC2024004662_A dated 16.12.2024 to the Appellant on the basis of application filed by the Appellant. The Appellant forwarded HBL sent by the Overseas Supplier and NOC issued by the Ministry of Steel to its Custom Broker without knowing that the date of loading is different in the Master Bill of Lading. The Appellant wishes to bring to the kind notice of the hon'ble Commissioner (Appeals) that the department has not challenged the genuineness of HBL issued by the forwarder and NOC issued by the Ministry of Steel. It is a matter of fact and duly recorded by the Adjudicating Authority in para 21 od Order-in-Original dated 06.11.2025 that the forwarder provided a copy of Master Bill of Lading to the Custom Broker on 17.01.2025 where in Laden on Board date is clearly mentioned as 04.01.2025 on vessel BAO HANG YUN 28. Further, the Custom Broker was well aware about the fact that Ministry of Steel was not issuing NOC for Bill of Lading issued after 03.12.2024. Still, Custom Broker neither forwarded the copy of Master Bill of Lading to the Appellant nor guided the Appellant to procure NOC on the basis of Master Bill of Lading and filed Bill of Entry on the basis of House Bill of Lading. These findings of the Adjudicating Authority clearly show that there was no lapse on part of the Appellant and no case of mis-declaration can be made against the Appellant.

3.10 It is also brought to the notice of the hon'ble Commissioner (Appeals) that Ministry of Steel issued NOC No. NOC2024004662_A dated 16.12.2024 to the Appellant much before its OM dated 03.01.2025. This fact also shows that the Appellant had no intention to resort to any mis-declaration to clear the goods

covered under Bill of Entry No. 8109186 dated 31.01.2025. Further attention of the hon'ble Commissioner (Appeals) is invited to the fact that on 100% examination of the subject goods and PMI test, the officers of SIIB found the goods to be as per declaration except for a negligible difference in weight i.e. 196 kg which is 0.05% of the total declared net weight of 4,12,524 Kgs. In view of the facts mentioned above, there is no case of any mis-declaration on part of the Appellant.

3.11 The Appellant submits that the said findings of the Adjudicating Authority are based on assumptions and presumptions only and contrary to the settled law that suspicion, even if grave, cannot take place of an evidence. The Appellant seeks to place reliance on the following judgments:-

- Gian Mahtani Vs State of Maharashtra 1999 (110) E.L.T. 400 (S.C.)
- Cargo World Versus Commissioner of Customs, New Delhi 2009 (245) E.L.T. 780 (Tri. - Del.)
- Jai Jagdamba Malleables Pvt. Ltd. Versus Commissioner of C. Ex., Kanpur 2009 (245) E.L.T. 648 (Tri. - Del.)
- Sachin Kumar Versus Commissioner of Customs, Mangalore 2020 (374) E.L.T. 775 (Tri. - Bang.)
- P & J Auromatics Versus Commissioner of Customs of Central Excise, Delhi-II 2016 (334) E.L.T. 675 (Tri. - Del.)

3.12 The Appellant submits that while deciding the case, the Adjudicating Authority has conveniently ignored many vital facts of this case such as :-

(i) Appeal dated 06.10.2025 filed by the Appellant was pending before the hon'ble Commissioner (Appeals);

(ii) The forwarder M/s Premji Kanji Masani Private Limited in his statement recorded before the officers of SIIB under Section 108 of the Customs Act, 1962 clarified that there can be multiple reason for difference between Master and House Bill of Lading dates i.e. agreement between supplier and consignee, one of the close date of bank LC etc and as per general trade, shipping line files IGM based on MBL and forwarder files IGM on HBL, however, in this case, shipping line did not allow them to file console IGM when they had asked for;

(iii) From the investigation it is revealed that Forwarder M/s Premji Kanji Masani Private Limited provided the copy of Master Bill of Lading to Custom Broker on 17.01.2025 where in Laden on Board date is clearly mentioned as 04.01.2025 on vessel BAO HANG YUN 28, however, the Custom Broker neither forwarded the copy of Master Bill of Lading to the Appellant nor guided the Appellant to procure NOC on the basis of Master Bill of Lading and filed Bill of Entry No. 8109186 dated 31.01.2025 on the basis of HBL. The investigation further revealed that the Custom Broker was in possession of Master Bill of Lading before filing of Bill of Entry No. 8109186 dated 31.01.2025, still, the Custom Broker did not uploaded copy of Master Bill of Lading in e Sanchit;

(iv) No doubt has been raised in respect of genuineness of HBL and NOC issued by the Ministry of Steel;

(v) There is no evidence against the Appellant either in the form of any inculpatory statement or any incriminating document.

The Appellant submits that the Order-in-Original dated 06.11.2025 is patently incorrect, contrary to the facts of this case, perverse and biased against the Appellant and therefore, needs to be set aside.

3.13 The Adjudicating Authority, vide Order-in-Original dated 06.11.2025 has ordered for confiscation of goods covered under Bill of Entry No. 8109186 dated 31.01.2025 in terms of provisions of Section 111(d) of the Customs Act, 1962 holding them to be prohibited having been imported without NOC from the Ministry of Steel. The Appellant submits that the findings of the Adjudicating Authority are patently incorrect and contrary to the facts of this case. The Appellant submits that the ground taken by the Adjudicating Authority to invoke the provisions of Section 111(d) of the Customs Act, 1962 in this case is that the Appellant instructed the forwarder to file the IGM and upload the House Bill of Lading instead of the Master Bill, thereby seeking NOC based on the HBL despite the Ministry of Steel's OM dated 03.01.2025 cautioning against such circumvention. There is no valid NOC for the goods covered under Bill of Entry No. 8109186 dated 31.01.2025. The Appellant submits that the said findings are contrary to the facts of this case and the Adjudicating Authority failed to consider the fact that the Overseas Supplier informed the Appellant that it had sent the goods to the forwarder and shared a copy of HBL showing date of lading as 03.12.2024. The Appellant was not aware of the reasons for difference in date of HBL and actual loading and proceeded to get NOC from the Ministry

of Steel on the basis of said HBL. The Adjudicating Authority did not consider the contents of statement of the Forwarder regarding possible reasons for difference in dates of HBL and Master Bill of Lading and failed to appreciate that the Forwarder provided the copy of Master Bill of Lading to Custom Broker on 17.01.2025, however, the Custom Broker neither forwarded the copy of Master Bill of Lading to the Appellant nor guided the Appellant to procure NOC on the basis of Master Bill of Lading and filed Bill of Entry No. 8109186 dated 31.01.2025 on the basis of HBL. The Adjudicating Authority also failed to appreciate that Ministry of Steel issued NOC No. NOC2024004662_A dated 16.12.2024 to the Appellant much before its OM dated 03.01.2025, therefore, there is no question of violation of the said OM by the Appellant. Further, the Adjudicating Authority has not questioned the genuineness of HBL and NOC issued by the Ministry of Steel, therefore, the NOC issued by the Ministry of Steel to the Appellant is valid. In view of these facts, order for confiscation of the impugned goods under Section 111(d) of the Customs Act, 1962 is patently incorrect, illogical and legally not sustainable.

3.14 Regarding confiscation of subject goods under Section 111(m) of the Customs Act, 1962 it is submitted that an excess weight of 196 kg was found which is 0.05% of the total declared net weight of 4,12,524 Kgs. It seems to be a case of an error while weighing the goods at the end of the Overseas Supplier. The hon'ble Commissioner (Appeals) may kindly appreciate that no prudent person would knowing bring such a small quantity of excess goods. The Appellant submits that the Adjudicating Authority has ordered for confiscation of goods under Section 111(m) of the Customs Act, 1962 without specify whether 196 Kg are confiscated or the whole shipment of 4,12,524 Kgs is confiscated. Therefore, the order for confiscation under Section 111(m) of the Customs Act, 1962 is encrypted and legally not sustainable. Although the excess weight of 196 Kg is negligible but the Appellant is ready to pay applicable custom duty on the excess quantity and prays for release of the goods.

3.15 Vide impugned order dated 06.11.2025, the Adjudicating Authority ordered for confiscation of the impugned goods under Section 111(d) and 111(m) of the Customs Act, 1962. However, the Adjudicating Authority gave an option to the Appellant under Section 125 of the Customs Act, 1962 for re-export of the impugned goods on payment of Rs. 39,00,000/- only. The Appellant submits that it is settled law that no Redemption Fine is imposable in case of re-export of improperly imported goods. The Appellant wishes to place reliance on the

following judgments:-

Royal Imports & Exports *Versus* Commissioner of Customs, Tuticorin reported as 2021 (377) E.L.T. 865 (Tri. - Chennai) wherein the Hon'ble CESTAT while deciding the similar issue held as under:-

> ***6.*** *From the judgment of the Hon'ble Jurisdictional High Court in Sankar Pandi, it is seen that when the goods are re-exported no Redemption Fine can be imposed. The said decision was affirmed by the Hon'ble Supreme Court as reported in 2018 (360) E.L.T. A214 (S.C.). The Tribunal in the decisions relied by the Ld. Counsel for appellant has followed the said decisions to hold that Redemption Fine cannot be imposed when the goods are released only for the purpose of re-export. Following the above decision, I am of the view that the imposition of Redemption Fine to the tune of Rs. 3 lakhs cannot sustain and requires to be set aside, which I hereby do.*

Similarly, in the case of Central Marketing Agency Vs Commissioner of Customs (Airport), Calcutta reported as 2004 (178) E.L.T. 601 (Tri. - Kolkata), the hon'ble CESTAT held as under:-

> ***5.*** *After hearing both the sides we find that the appellants have made a request for re-export of the goods without Redemption Fine. The facility to re-export has already been allowed by the Commissioner. The Tribunal's decisions relied upon by the ld. consultant are to the effect that where re-export is allowed, no Redemption Fine is imposable. As such we allow the appellants' request to re-export the goods and set aside the Redemption Fine imposed by the Commissioner.*

In view of the facts of this case and the above stated judgments, imposition of Redemption Fine for allowing re-export of the impugned goods is legally not sustainable.

3.16 The Appellant also submits that during the pendency of this case, charges of demurrage and detention have accrued nearly to Rs. 40 Lakhs, which is a substantial amount. While calculating Redemption Fine, the Adjudicating Authority failed to consider this fact.

3.17 The Adjudicating Authority has imposed a penalty of Rs. 18,00,000/- on the Appellant under Section 112(a)(ii) of the Customs Act, 1962. The Appellant submits that since there is no case of confiscation of goods under Section 111(d) of the Customs Act, 1962 and the excess quantity is only 196 Kg, the quantum of penalty is very high and excessive and does not commensurate with the gravity of offence, if any. The Appellant also submits that it has been held in a catena of judgments that the penalty has to be in proportion to the alleged offence as the purpose of penalty is deterrence and not retribution. The Appellant agrees to the presence of excess goods found during weighment of the goods, however, there was no knowledge or intention on part of the Appellant in making any wrong declaration while filing Bill of Entry No. 8109186 dated 31.01.2025.

3.18 The Commissioner(Appeals) may kindly appreciate that in this case the Appellant has already suffered huge demurrage and detention charges in addition to freight charges which are to be paid on re-export of the impugned goods and also not profited from import as goods are ordered to be re-exported. The Appellant submits that the subject goods are lying in the custody of customs for more than 10 months and are losing their market value every date. The Appellant submits that while imposing penalty on the Appellant, the Adjudicating Authority did not consider these facts and imposed a huge penalty of Rs. 18,00,000/- on the Appellant. Since, the Appellant is already suffering a huge loss in respect of the impugned goods, the hon'ble Commissioner is requested to take a lenient view in this case. The Appellant seeks to place reliance on the following judgments:-

- Hindustan Steel Ltd. Vs Govt. of Orissa 1978(002)ELT(0159) SC
- Prashray Overseas Pvt. Ltd. Vs Commissioner of Customs, Chennai 2009 (237) ELT 720 (Tri. Chennai)
- Suryakiran International Ltd. Vs Commissioner of Customs, Hyderabad 2010 (259) ELT 745 (Tri. Bangalore)
- Commissioner of Customs Vs Vaz Forwarding Ltd. 2011 (266) ELT (39) Guj

3.19 The Appellant also submits that there is no case of any deliberate defiance of law against it, therefore, no penalty can be imposed on it. The

Appellant further submits that it has been held in a catena of judgments that penalty should not be imposed for the sake of imposing unless there is deliberate defiance of law. In the case of *Hindustan Steel V/s State of Orissa 1978 (2) ELT J159 (SC)*, it was held that "*an order imposing penalty for failure to carry out the statutory obligation is the result of quasi- criminal proceedings and penalty will not ordinarily be imposed unless the party obliged either acted deliberately in defiance of law or was guilty of conduct contumacious or dishonest or acted in conscious disregard of its* obligation."

3.20 In Summeet Industries Ltd V/s Commissioner of C. Ex., Surat *reported as 2004 (164) EX. T. 335 (Tri-Mumbai),* the Hon'ble CESTAT held that "*Power to levy the penalty should not be ordinarily imposed unless there is a deliberate defiance of law or contumacious or dishonest conduct or as conscious disregard* to an obligation is established in the facts of a case". In the case of Godrej Soaps Ltd. V/S Commissioner of Central Excise, Mumbai *reported as 2004 (170) ELT 102 (Tri-Mumbai),* the Hon'ble CESTAT has observed that *"Penalty cannot be imposed just because it is provided for in the rules, there has to be a consideration of the conduct and the circumstances in which the violation took place cannot be ignored."* In *Asianpaints (India) Ltd. V/S Commissioner of C. Ex., Hyderabad*-I reported as 2004 (167) E.L.T. 224 (Tri-Mumbai), it has been observed by the Hon'ble Tribunal that- *"Penalty imposition powers are not a crop given in the hands of the officers to crack at every opportunity. Penalty is therefore not upheld in the facts of the case."* In view of facts of this case and case laws cited above, there is no case of imposition of penalty on the Appellant.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 4.11.2025 in the appeal filed against non issue of SCN after six months of seizure wherein Shri Yadvendra Kumar, Consultant, appeared on behalf of the Appellant. He reiterated the submissions made in the appeal memorandum.

4.1 A copy of the said appeal memorandum was sent to Deputy Commissioner (SIIB), Customs House Mundra vide letter dtd. 13.10.2025. The Deputy Commissioner (SIIB), Customs House Mundra vide letter dtd. 06.11.2025 forwarded the parawise comments on the appeal wherein it was informed that the appellant vide their letter dtd. 25.04.2025 requested for waiver of Show Cause Notice and Personal Hearing in the matter and further requested

to clear goods under advance license. It is further informed that in view of the appellant's request, their office had issued Investigation Report No. 20/2024-25 dtd. 24.05.2025 after completion of investigation. The said Investigation Report was forwarded to the Import Assessment, Group-4, Custom House Mundra vide email dtd. 27.05.2025 for further necessary action at their end. It is further informed that the case has been adjudicated vide OIO No. MCH/ADC/ZDC/335/2025-26 dtd. 06.11.2025. A copy of the said comments along with enclosures received from Deputy Commissioner (SIIB), Customs House Mundra were forwarded to the appellant for further submissions, if any. The appellant vide Email dtd. 11.11.2025 filed rejoinder for the said appeal and also requested for early hearing on the ground that the consignment was incurring heavy demurrage. The appellant also informed that they had also filed a separate appeal against the OIO No. MCH/ADC/ZDC/335/2025-26 dtd. 06.11.2025 and requested that the same be tagged and heard together in the interest of justice. The additional submissions made in the rejoinder are as under :-

- It is pertinent to note that in the Department's comments, no factual contention of the Appellant has been denied. Instead, the Department sought to justify its inaction by referring to certain internal correspondence. The Department stated that during the course of investigation, the Appellant, vide letter dated 25.04.2025, requested for waiver of the issuance of Show Cause Notice and personal hearing in the matter. It is respectfully submitted that any such waiver is ordinarily tendered for the purpose of early disposal of the matter However, in the present case, no action whatsoever was initiated by the Department till 27.08.2025, i.e., six months after the date of seizure. Such inaction vitiates any purported reliance upon the alleged waiver.

- As per the clear mandate of Section 110(2) of the Customs Act, 1962, where no show cause notice is issued within six months of the seizure of goods under Section 110(1), the Department loses jurisdiction to retain the seized goods unless an extension of the period is properly obtained from the competent authority In the instant case, no such extension has been sought or granted, and therefore, the continued retention of the goods is without authority of law. Accordingly, the Appellant is entitled to immediate release of the seized goods.

- The Appellant's letter dated 25.04.2025, waiving the requirement of issuance of show cause notice and personal hearing, does not and cannot alter the statutory position under Section 110(2). The statutory right to issuance of notice within six months is a mandatory safeguard, which cannot be overridden or waived to the prejudice of the Appellant once the statutory period has expired.

- The Appellant places reliance upon the judgment of the Hon'ble High Court of Delhi in the case of M/s. Shiv Shakti Trading Company v. Commissioner of Customs (Preventive), reported in 2016 (336) E.L.T. 415 (Del.), wherein the Hon'ble Court observed and held that failure to issue a show cause notice within six months from the date of seizure renders the continued retention of goods without jurisdiction and illegal, and that any waiver or internal justification cannot cure such statutory lapse. Further, in the case of METCO EXPORT INTERNATIONAL Versus COMMISSIONER OF CUSTOMS, KANDLA 2019 (370) E.L.T. 392 (Tri. Ahmd.), the Hon'ble CESTAT took the similar view and set aside Seizure Order.

- In view of the aforesaid judicial pronouncements, it is a settled position of law that a show cause notice must be issued within six months from the date of seizure of goods, as mandated under Section 110(2) of the Customs Act, 1962. In cases where the notice is waived by the importer, the adjudication proceedings must be concluded within the same statutory period of six months. Failure to do so renders the continued seizure and retention of goods illegal and without jurisdiction, necessitating the immediate return of the seized goods to the importer. In the present case, it is evident that the Department, in defiance of the established legal position, has persisted in retaining the goods without authority of law

- In light of the settled legal position and the facts of the present case, it is most respectfully prayed that the seized goods be released forthwith to the Appellant.

- Further, the Order-in-Original passed by the Additional Commissioner is bad in law, having been issued without jurisdiction and in violation of the principles of natural justice and judicial propriety. The said order deserves to be set aside in toto

4.2 In view of the above, personal hearing in both the appeals was held on 12.11.2025, following the principles of natural justice wherein Shri Yadvendra Kumar, Consultant , appeared on behalf of the Appellant. He reiterated the submissions made in the appeal memorandum.

DISCUSSION AND FINDINGS:

5. I have carefully and meticulously examined the Order-in-Original, the memorandum of both the appeals , the rejoinder filed by the Appellant, the submissions made during the personal hearing, and all other materials placed on record.

5.1 The Appellant has presented two distinct appeals: the first challenging the continued seizure of goods beyond the statutory period, and the second challenging the Order-in-Original which was passed subsequently. Since both appeals pertain to the same consignment and the core issue is interconnected, they are being taken up together for a consolidated decision.

5.2.1 It is observed that first appeal No. S/49-332/CUS/MUN/OCT/25-26 challenging the non issue of show cause notice in respect to the seizure dtd. 27.02.2025 has been filed on 06.10.2025. In this regard, looking to the grounds of appeal of the appellant, I find that the cause for this appeal begins from 28.08.2025 i.e after the completion of six months from the seizure date. Hence considering the appeal period from 28.08.2025, I find that the appeal has been filed with in stipulated period of 60 days as per Section 128(1) of the Customs Act, 1962.

5.2.2 The second appeal No. F. No. S/49-476/CUS/MUN/NOV/25-26 challenging the OIO No. MCH/ADC/ZDC/335/2025-26 dated 06.11.2025 has been filed on 11.11.2025 wherein the date of communication of OIO has been mention as 06.11.2025. Hence this appeal is also filed with in stipulated period of 60 days as per Section 128(1) of the Customs Act, 1962.

5.2.3 Since both the appeals are on the same issue, both the appeals are being merged and treated as one only.

5.3 The Appellant has forcefully argued a preliminary legal issue, contending that the entire adjudication proceeding is void ab initio for being time-barred, as the impugned order was passed after the expiry of the mandatory six-month period prescribed under Section 110(2) of the Customs Act, 1962. The Appellant has requested that the appeal be decided on this fundamental ground of jurisdiction alone. When a significant preliminary issue of jurisdiction is raised, which has the potential to render the entire proceedings null and void, it is a settled principle of law that this issue should be addressed first. If the proceedings are found to be without jurisdiction, any discussion on the merits of the case becomes academic. I, therefore, find it prudent to first examine this preliminary legal challenge.

5.4 The factual timeline, which is undisputed by either side, is the cornerstone of this issue. It is as follows:

- Date of Seizure: The goods were seized vide Seizure Memo dated 27.02.2025.
- Waiver of SCN: The Appellant, vide letter dated 25.04.2025, requested a waiver of the Show Cause Notice and Personal Hearing, explicitly stating it was to "ensure an early decision in the matter" and "to save the expense of Demurrage and detention."
- Expiry of Statutory Period: The mandatory six-month period from the date of seizure, as stipulated under Section 110(2), expired on 27.08.2025.
- Appellant's Request for Release: After the expiry of the six-month period, the Appellant filed requests (e.g., letters dated 09.09.2025 and 20.09.2025) for the release of the goods, citing the lapse of the statutory period.
- Filing of First Appeal: Being aggrieved by the department's inaction and non-return of the goods, the Appellant filed the first appeal (S/49-332/CUS/MUN/OCT/25-26) on 06.10.2025.
- Date of Impugned Order: The Adjudicating Authority passed the impugned Order-in-Original No. MCH/ADC/ZDC/335/2025-26 on 06.11.2025.

5.5 The relevant statutory provision at the heart of this dispute is Section 110(2) of the Customs Act, 1962, which reads:

SECTION 110. Seizure of goods, documents and things. — (1) ... (2) Where any goods are seized under sub-section (1) and no notice in respect thereof is given under clause (a) of section 124 within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:

Provided that the Principal Commissioner of Customs or Commissioner of Customs may, for reasons to be recorded in writing, extend such period to a further period not exceeding six months and inform the person from whom such goods were seized before the expiry of the period so specified.

5.6 A plain and literal interpretation of this provision reveals several critical aspects:

a) The use of the word "shall" ("shall be returned") signifies that the provision is mandatory, not directory or discretionary. It casts a statutory obligation upon the department.

b) The provision provides a specific and dire consequence for inaction: the automatic release of the goods.

c) The legislature's intent is clear: to balance the State's power of investigation with the citizen's right to property. It serves as a crucial safeguard against the executive holding onto seized property indefinitely without initiating adjudication.

d) The statute provides only one, and only one, mechanism to overcome this six-month deadline: a formal extension by the Principal Commissioner or Commissioner, for reasons to be recorded in writing, and communicated to the party before the expiry of the initial six months.

5.7 In the present case, it is an admitted fact that no such extension was sought or granted by the competent authority. The department, therefore, failed to exercise the sole statutory remedy available to it to keep the seizure alive beyond 27.08.2025. This leads to the central question: Does the Appellant's waiver letter dated 25.04.2025 override this mandatory statutory provision and grant the department unlimited time to adjudicate?

5.8 The Adjudicating Authority has implicitly proceeded on the assumption that it does. I find this assumption to be legally erroneous. The Appellant waived their procedural right to receive a formal Show Cause Notice and be heard in person, as provided under Section 124. This waiver was explicitly

conditional, as stated in their letter, and was tendered "to ensure an early decision." It cannot be logically or legally construed as an intentional relinquishment of their substantive right under Section 110(2) to have their property returned if adjudication is not initiated within the statutory timeframe. A waiver to expedite a proceeding cannot be interpreted as a license to indefinitely delay it.

5.9 This precise legal question has been authoritatively settled by the Hon'ble High Court of Delhi in the case of M/s. Shiv Shakti Trading Company v. Commissioner of Customs (Preventive) [2016 (336) E.L.T. 415 (Del.)]. The Appellant has rightly relied on this judgment, which is binding in its precedential value. The Hon'ble Court held:

> *"23. Considering that the time limits for issuance of an SCN in terms of Section 110(2) are sacrosanct, if at the time of seizure of the goods there is waiver by the person from whom the goods were seized... in the expectation of an expedited adjudication, then the reasonable time within which the adjudication should be completed should be six months from the date of such seizure. If, despite the waiver of the right to be given an SCN, no adjudication order is passed within the period of six months from the date of seizure, the person waiving the right to be given an SCN can no longer be held bound by such waiver. The consequence would be the same as is envisaged by Section 110(2) of the Act i.e., the immediate unconditional release of the goods..."*

5.10 The ratio decidendi of this judgment is that the waiver of an SCN does not absolve the department of its duty to adjudicate within the "reasonable period", which is six months. The waiver and the time limit are linked; the department is expected to honor the quid pro quo of the waiver by completing the adjudication within that six-month period. If it fails, the waiver becomes ineffective, and the statutory consequence of Section 110(2) takes full effect.

5.11 This principle has been consistently upheld and has been adopted by the jurisdictional Hon'ble CESTAT, Ahmedabad, in METCO EXPORT INTERNATIONAL Versus COMMISSIONER OF CUSTOMS, KANDLA [2019 (370) E.L.T. 392 (Tri. - Ahmd.)]. In this case, the Tribunal, while following the Shiv Shakti (supra) judgment, held:

"6. In our considered view, that fact will not matter for the reason that Hon'ble High Court has decided the issue on the basis that the adjudication should have been completed within the reasonable period, therefore, the difference of this fact will not have any impact in applicability of this judgment in the present case. Accordingly, following the judgment of Hon'ble High Court as cited above, we set aside the impugned order and allow the appeal."

5.12 Applying this settled law to the undisputed facts of the present case it is observed that:

a) The department had a six-month window from 27.02.2025 to 27.08.2025 to complete the adjudication, especially since the Appellant had waived the SCN.

b) The department failed to pass any order by 27.08.2025.

c) By operation of law, on 28.08.2025, the seizure of the goods became illegal and void. The department lost all legal authority to continue to hold the goods, and they were statutorily liable to be returned.

d) The Adjudicating Authority had, by 28.08.2025, become functus officio with respect to the adjudication of the seized goods, as the seizure itself, which is the foundation of the adjudication, had lapsed.

5.13 The impugned Order-in-Original, passed on 06.11.2025, was therefore an act of adjudication upon goods over which the department had lost its legal hold. Any proceeding that rests on an illegal seizure is non-est in law. The order was passed without jurisdiction and is a nullity.

5.14 In light of this finding, the appeals must be allowed on this preliminary ground alone. It is, therefore, not necessary for me to delve into the merits of the case, including the complex questions regarding the interpretation of the Ministry of Steel's circulars, the validity of the NOC, the alleged circumvention, or the legal distinction between a House Bill of Lading and a Master Bill of Lading for the purpose of such circulars. The entire case fails on the ground of limitation.

6. In view of the above discussion and findings and in light of the judicial principles established by the Hon'ble Supreme Court in *M/s Kamlakshi Finance Corporation Ltd.* (1991 (55) ELT 433 (SC)), I am bound to follow the judgment of the jurisdictional Hon'ble CESTAT, Ahmedabad, in METCO EXPORT INTERNATIONAL Versus COMMISSIONER OF CUSTOMS, KANDLA [2019 (370) E.L.T. 392 (Tri. - Ahmd.)]. Accordingly, I allow the appeals on the preliminary legal ground of limitation under Section 110(2) of the Customs Act, 1962, without going into the merits of the case. The impugned Order-in-Original No. MCH/ADC/ZDC/335/2025-26 dated 06.11.2025, having been passed after the expiry of the statutory period of six months from the date of seizure, is held to be without jurisdiction and is hereby set aside. As a consequence of the seizure becoming illegal after 27.08.2025, the goods are liable to be returned to the Appellant forthwith. The confiscation of the goods, imposition of Redemption Fine, and penalty are set aside. The goods shall be released within 7 days of the receipt of this order.

7. Both the appeals filed by M/s Shree Khatu Shyam Steel and Tubes LLP are allowed.

(AMIT GUPTA)
Commissioner (Appeals),
Customs, Ahmedabad

Date: 14.11.2025

(1) F. No. S/49-332/CUS/MUN/OCT/25-26
(2) F. No. S/49-476/CUS/MUN/NOV/25-26
By Speed post /E-Mail

To,
M/s Shree Khatu Shyam Steel and Tubes LLP,
Ground Floor, Plot No. 956, Kh. No. 154,
Village Pooth Khurd, North West Delhi-110039

Copy to:

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