

	<p>कार्यालय: प्रधान आयुक्त सीमाशुल्क, मुन्द्रा, सीमाशुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421 OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS: CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT- 370421. PHONE : 02838-271426/271163 FAX :02838-271425 E-mail id- adj-mundra@gov.in</p>	
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A FILE NO. फाइल संख्या	GEN/ADJ/ADC/2048/2024-Adjn-O/o Pr Commr-Cus-Mundra
B OIO NO. आदेश संख्या	MCH/AKM/ADC/396/2025-26
C PASSED BY जारीकर्ता	Amit Kumar Mishra, Additional Commissioner of Customs/अपर आयुक्त सीमा शुल्क, Custom House, Mundra/कस्टम हाउस, मुंद्रा।
D DATE OF ORDER आदेश की तारीख	25.11.2025
E DATE OF ISSUE जारी करने की तिथि	01.12.2025
F SCN No. & Date कारण बताओ नोटिस क्रमांक	GEN/ADJ/ADC/2048/2024-Adjn-O/o Pr Commr-Cus-Mundra dated 09.10.2024
G NOTICEE/ PARTY/ EXPORTER नोटिसकर्ता/पार्टी/ निर्यातक	i. M/s. Mars Trading Company(IEC: IKXPK4765B) ii. M/s. M/s. Shree Radhakrishna Shipping Pvt. Ltd.,
H DIN/दस्तावेज पहचान संख्या	20251271MO000000C772

1. यह आदेश संबंधित को निःशुल्क प्रदान किया जाता है।

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

2. यदि कोई व्यक्ति इस आदेश से असंतुष्ट है तो वह सीमाशुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमाशुल्क अधिनियम 1962 की धारा 128 A के अंतर्गत प्रपत्र सीए- 1 में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

Any person aggrieved by this Order - in - Original may file an appeal under Section 128A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

“सीमाशुल्क आयुक्त) अपील(,
चौथी मंजिल, हुडको बिल्डिंग, ईश्वरभुवन रोड,
नवरंगपुरा, अहमदाबाद 380 009”

**“THE COMMISSIONER OF CUSTOMS (APPEALS), MUNDRA
HAVING HIS OFFICE AT 4TH FLOOR, HUDCO BUILDING, ISHWAR BHUVAN
ROAD,
NAVRANGPURA, AHMEDABAD-380 009.”**

3. उक्त अपील यह आदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए।
Appeal shall be filed within sixty days from the date of communication of this order.

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपये का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-
Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must be accompanied by –

- i. उक्त अपील की एक प्रति और A copy of the appeal, and
- ii. इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची 1-के अनुसार न्यायालय शुल्क अधिनियम 1870-के मद सं० 6-में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।
This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.

5. अपील ज्ञापन के साथ ड्यूटी / ब्याज / दण्ड / जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।
Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo.

6. अपील प्रस्तुत करते समय, सीमाशुल्क) अपील (नियम, 1982 और सीमाशुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए।
While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.

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

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

BRIEF FACTS OF THE CASE

M/s. Mars Trading Company, having IEC No. IKXPK4765B [GSTN No. 27IKXPK4765B1ZJ, Legal Name- Siddharth Sanjay Khaire] (*hereinafter referred to as 'the Exporter' for sake of brevity*), Shop No. 412A, Plot No. 80/81, 2nd Floor, Vashi Plaza, Vashi Kopar Khairane Road, Navi Mumbai, Thane, Maharashtra - 400703 had filed Shipping Bills as mentioned in Table-A for export of "Ready-Made Garments" declaring their goods under CTH-62114300 and 62042300. The Country of destination is declared as Pakistan.

1.1 An alert has been received to the effect that the Shipping Bills Nos. 4887176, 4887182, 4887191 & 4887192 all dated 24.08.2023 filed by M/s

Mars Trading Company are of high value export incentives for a risky commodity and destined to risky country i.e. Pakistan. Further, it has been informed from NCTC that the supply chain of the said exporter also seems fake/manipulated as inward supply chain is not proper and exporter is claiming high value export incentives. Further, NCTC also intimated that there is high probability of mis-declaration, mis-classification and over-valuation with a view to availing high undue export incentives, as well as undue ITC refund.

Table-A(Details of Shipping Bills)

Sr. No.	Shipping Bill No.	SB Date	FOB Value (in Rs.)	Drawback Amount (in Rs.)	ROSCTL Amount (in Rs.)
1	4887176	18.10.2022	8954480	304452	425338
2	4887182	18.10.2022	8812706	299632	418604
3	4887191	18.10.2022	10788145	362713	512845
4	4887192	18.10.2022	11245883	382360	534173
Total			3,98,01,214	13,49,157	18,90,966

2. Investigation:

2.1 Based upon the alert, during the course of investigation, it seems that LEO has already been granted in respect of Shipping Bills bearing nos. 4887176, 4887182, 4887191 and 4887192 all dated 18.10.2022. As the goods had already been exported before receiving NCTC alert, the examination could not be carried out to rule out the mis-declaration, mis-classification and over-valuation etc. as alleged in NCTC alert. However, acting on the above information, letter dated 07.11.2022 was issued to the Deputy Commissioner, Drawback Section, Customs House, Mundra to hold export incentives of the exporter in respect of Shipping Bills bearing nos. 4887176, 4887182, 4887191 and 4887192 all dated 18.10.2022.

2.2 Whereas, jurisdictional executive Commissionerate, i.e. CGST Belapur was requested to verify inward supply of the Exporter as well as existence of the Exporter by this office. Deputy Commissioner (Anti Evasion), CGST Belapur Commissionerate, vide their letter dated 10.06.2024 forwarded visit note dated 21.10.2022, wherein, it has been stated that the exporter was found to be non-existent at the declared principal place of business, i.e. Shop No. 412A, Plot No. 80/81, 2nd Floor, Vashi Plaza, Vashi Kopar Khairane Road, Navi Mumbai, Thane, Maharashtra – 400703. It is further mentioned that said premises belonged to Shri Vinod Bakhru, who stated that the said premises was closed since last four years and they had not rented it out to any person.

2.3. In the instant case, M/s. Shree Radhakrishna Shipping Pvt. Ltd. (hereinafter referred to as “the CB” for sake of brevity) was the Customs Broker. As per the provisions of Regulation 10(n) of the Customs Brokers Licensing Regulations, 2018, customs broker is required to verify correctness of IEC, GSTIN, identity of his client and functioning of his client at the declared address

by using reliable, independent, authentic documents, data or information. However, it appears that the CB failed to comply with the above regulation. It appears that the CB has rendered himself liable to penalty under Section 117 of the Customs Act, 1962.

2.4. During the course of investigation, summonses dated 02.02.2024, 28.08.2024 and 11.09.2024 were issued to the exporter and summonses dated 23.01.2024, 28.08.2024 and 11.09.2024 to the CB to produce the export related documents, other relevant documents and tendering statement. However, neither the exporter nor the CB provided any documents and had not appeared for tendering their statement.

2.5. The exporter was found to be non-existent at the address declared by him; it appears that the exporter has created firm for availing export incentives and IGST Refund. In view of the same, any goods entered for exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the provisions of this Act or any other law for the time being in force are liable for confiscation as per the provisions of Section 113(ja) of the Customs Act, 1962. However, the goods were exported and the same cannot be seized.

3. **RELEVANT LEGAL PROVISIONS:**

Section 113: Confiscation of goods attempted to be improperly exported, etc. -

The following export goods shall be liable to confiscation: -

....

...

(ja) any goods entered for exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the provisions of this Act or any other law for the time being in force;

Section 114: Penalty for attempt to export goods improperly, etc. -

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 113, or abets the doing or omission of such an act, shall be liable, -

...

(iii) in the case of any other goods, to a penalty not exceeding the value of the goods, as declared by the exporter or the value as determined under this Act, whichever is the greater.

Section 114AA. Penalty for use of false and incorrect material. - *If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is*

false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.]

Section 117. Penalties for contravention, etc., not expressly mentioned.— *Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding four lakh rupees.*

Custom Broker Licencing Regulations, 2018

10 (n) verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information;

4. SUMMARY OF INVESTIGATION:

4.1 In view of the foregoing paras, it appears that the Exporter has exported the goods with intent to avail higher export incentives and IGST refund. Since, the exporter himself was found to be non-existent and the goods were exported before NCTC alert. However, the goods are liable for confiscation under Section 113(ja) of the Customs Act, 1962.

4.2 From the foregoing investigation, it appears that:

- i. The exporter had exported the goods intentionally to claim amount of Drawback of Rs.13,49,157/- (Rupees Thirteen Lakh Forty Nine Thousand One Hundred Fifty Seven Only) and the same are liable for rejection under the Customs Act,1962.
- ii. The exporter had exported the goods intentionally to claim amount of ROSCTL of Rs.18,90,966/- (Rupees Eighteen Lakh Ninety Thousand Nine Hundred Sixty Six Only) and the same are liable for rejection under the Customs Act,1962.

5. In view of the above, it appears that the exporter has attempted to export the impugned goods to avail export incentives. Therefore, the goods covered under impugned Shipping Bills are liable for confiscation under Section 113(ja) of the Customs Act, 1962. The exporter for their acts of omission and commission is also liable to pay penalty under Section 114 of the Customs Act, 1962. The goods covered under the said Shipping Bills cannot be placed under seizure as the same had exported.

6. Moreover, Since the exporter has been found to be non-existent,

therefore, the invoices, packing list and other documents submitted by the exporter are false. Thus, the exporter for their acts is liable to pay penalty under section 114AA.

7.1 Accordingly, Show cause Notice F.no. GEN/ADJ/ADC/2048/2024-Adjn-O/o Pr Commr-Cus-Mundra dated 09.10.2024 was issued to M/s. Mars Trading Company, having IEC No. IKXPK4765B [GSTN No. 27IKXPK4765B1ZJ, Legal Name- Siddharth Sanjay Khaire], wherein they were called upon to show cause to the Additional/Joint Commissioner of Customs, Customs House Mundra as to why:

(i) The goods covered under impugned Shipping Bill bearing nos. 4887176, 4887182, 4887191 and 4887192 all dated 18.10.2022, should not be confiscated under Section 113(ja) of the Customs Act, 1962.

(ii) The drawback claim of Rs.13,49,157/- (Rupees Thirteen Lakh Forty Nine Thousand One Hundred Fifty Seven Only) in respect of impugned Shipping Bills as mentioned at (i) above should not be rejected.

(iii) The ROSCTL claim of Rs.18,90,966/- (Rupees Eighteen Lakh Ninety Thousand Nine Hundred Sixty Six Only) in respect of impugned Shipping Bills as mentioned at (i) above should not be rejected

(iv) Penalty should not be imposed upon the exporter under the provisions of Sections 114 (iii) of the Customs Act, 1962.

(v) Penalty should not be imposed upon the exporter under the provisions of Sections 114 AA of the Customs Act, 1962.

7.2 Further vide SCN dated 09.10.2024, M/s. Shree Radhakrishna Shipping Pvt. Ltd., were called upon to show cause to the Additional/Joint Commissioner of Customs, Custom House Mundra as to why Penalty should not be imposed upon the CB (M/s. Shree Radhakrishna Shipping Pvt. Ltd.) under the provisions of Sections 117 of the Customs Act, 1962.

Personal Hearing

8 . Personal Hearing was granted to exporter M/s. Mars Trading Company and M/s. Shree Radhakrishna Shipping Pvt. Ltd., CB to appear on 06.10.2025, 15.10.2025, 29.10.2025 and 19.11.2025, however neither the exporter nor the CB appeared for personal hearing and had not submitted any documents.

Discussion and Findings

9 . I have carefully gone through the facts of the case, Show Cause Notice

dated 09.10.2024. I find that personal hearing was granted to M/s. Mars Trading Company and M/s. Shree Radhakrishna Shipping Pvt. Ltd., to appear on 06.10.2025, 15.10.2025, 29.10.2025 and 19.11.2025, however neither the exporter nor the CHA appeared for personal hearing and they had not submitted any documents in this regard. I find that in the present case principle of natural justice have been complied with and therefore, I proceed to decide the case on the basis of applicable laws/rules and documentary evidences available on record.

10. I now proceed to decide the issue framed in the instant SCN before me. On a careful perusal of the subject Show Cause Notice and case records, I find that following main issues are involved in this case, which are required to be decided at the stage of adjudication: -

(i) Whether the impugned goods covered under Shipping Bill nos. 4887176, 4887182, 4887191 and 4887192 all dated 18.10.2022 having declared assessable value of Rs. 3,98,01,214/- are liable for confiscation under Section 113(ja) of the Customs Act, 1962 or otherwise.

(ii) Whether the drawback claim of Rs.13,49,157/-(Rupees Thirteen Lakh Forty Nine Thousand One Hundred Fifty Seven Only) in respect of impugned Shipping Bill mentioned in Table-A is rejected or otherwise.

(iii) Whether the ROSCTL claim of Rs.18,90,966/-(Rupees Eighteen Lakh Ninety Thousand Nine Hundred Sixty Six Only) in respect of impugned Shipping Bill mentioned in Table-A is rejected or otherwise.

(iv) Whether Mars Trading Company is liable for penalty under Sections 114(iii) and 114AA of the Customs Act, 1962 or otherwise.

(v) Whether Shree Radhakrishna Shipping Pvt. Ltd. is liable for penalty under Sections 117 of the Customs Act, 1962 or otherwise

11. I find that the M/s. Mars Trading Company, having IEC No. . IKXPK4765B [GSTN No. 27IKXPK4765B1ZJ, had filed 04 Shipping Bills for export of "Ready-Made Garments" under CTH-62114300 and 62042300. The Country of destination is declared as Pakistan. I find that the investigation was initiated pursuant to an alert received from the NCTC in respect of Shipping Bill Nos. 4887176, 4887182, 4887191, and 4887192, all dated 18.10.2022, filed by the exporter M/s. Mars Trading Company. The alert was issued for the aforesaid shipping bills due to the high value of export incentives claimed for a risky commodity and exports made to a risky country. Further, the supply chain of the exporter appeared to be fake/manipulated, as the inward supply chain was found to be improper. In view of the exporter claiming high-value export incentives, there existed a strong probability of mis-declaration,

misclassification, and overvaluation with the intent to avail undue export incentives as well as inadmissible ITC refunds. The examination of the goods could not be carried out, as the goods covered under the aforesaid shipping bills had already been granted Let Export Order (LEO) on 18.10.2022, prior to receipt of the NCTC alert.

12. From the investigation carried out, I find that, letters were issued to jurisdictional executive Commissionerate, i.e. CGST Belapur to verify inward supply of the Exporter as well as existence of the Exporter. In reply, Deputy Commissioner (Anti Evasion), CGST Belapur Commissionerate, vide their letter dated 10.06.2024 informed that the exporter was found to be non-existent at the declared principal place of business, i.e. Shop No. 412A, Plot No. 80/81, 2nd Floor, Vashi Plaza, Vashi Kopar Khairane Road, Navi Mumbai, Thane, Maharashtra – 400703. It is further submitted that said premises belonged to Shri Vinod Bakhru, who informed that the said premises was closed since last four years and they had not rented it out to any person.

I find that the exporter was found to be non-existent at the address declared by him in the export documents and the exporter has created firm for availing export incentives i.e. Drawback and ROSCTL by fraudulent means.

13. During the course of investigation, summons dated 02.02.2024, 28.08.2024 and 11.09.2024 were issued to the exporter and summons dated 23.01.2024, 28.08.2024 and 11.09.2024 were issued to the CB to produce the export related documents, other relevant documents and tendering statement. However, neither the exporter nor the CB provided any documents and had not appeared for tendering their statement.

14. As per sub-section (2) of Section 50 of the Customs Act, 1962, the exporter while presenting a shipping bill or bill of export shall make and subscribe to a declaration as to the truth of the contents of such shipping bill and shall ensure the accuracy and completeness of the information given and the authenticity and validity of any documents and compliance with the restriction or prohibition, if any, relating to the exported goods.

15.1 I find that Confiscation of goods in terms of Section 113 (ja) of The Customs Act, 1962 is invited when:-

.....

113 (ja) any goods entered for exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the provisions of this Act or any other law for the time being in force.

Accordingly, as discussed above, I find that the exporter is non-existent at the address declared by him in the export documents and the exporter has

created firm for availing export incentives and IGST Refund. Further, neither the exporter nor the CB provided any documents and had not appeared for tendering their statement during the course of investigation. I find that the exporter with their malafide intent in order to avail undue benefit of export incentives i.e. Drawback, ROSCTL by way of overvaluation of the goods.

15.2 From the investigation carried out, I find that no details of its manufacturing, production, using imported material or excisable material therein were available in respect to the purported goods exported vide above Shipping Bills dated 18.10.2022 so it could not be ascertained whether any duties have been paid or otherwise. I also find that from investigation summons was issued to the exporter to appear for the statement and submit any relied documents. But the said exporter never appeared to this office to record his statement and further not submitted any documents in respect of manufacturing, production or use of any imported material in impugned export goods, though he was given number of opportunities to present himself for recording of his statement but he failed to produce any such details. Therefore, it appears from the investigation that necessary ingredient of clause (ii) to second proviso to Rule 3(1) of Drawback Rule, 1995' is attracted in this case, which does not permit any amount of drawback in such cases where no duty has been paid.

15.3 I also find that the Exporter, was required to furnish declarations at the time of exports in the format annexed with the circular No. 16/2009-Customs dated 25.05.2009 issued under F. No. 609/137/2007- DBK by the then CBEC inter alia provides that the merchant exporters who purchase goods from the local market for export shall henceforth be entitled to full rate of duty drawback (including the excise portion). However, such merchant exporters shall have to declare at the time of export. the name and address of the trader from whom they have purchased the goods. They shall also have to declare that no rebate (input rebate and also the final product rebate) shall be taken against the Shipping bills under which they are exporting the goods. The merchant exporters who purchase goods from traders may therefore furnish the declaration, at the time of export, in the format annexed with the said circular. As per the said format, the exporter was inter-alia required to declare the name and complete address of the traders from whom export goods had been purchased. They were also required to declare that they were not the manufacturer of the export goods and were not registered with central excise and they had purchased these goods from a trader who was also not registered with the central excise. They were also required to declare that no rebate (input rebate or/and final product rebate) would be taken against the export(s) made against this Shipping bill. However, during the course of investigation, the exporter failed to produce any documents and declaration.

15.4 I also find that as per Section 50 of the Customs Act, 1962 read with Regulation 4 of the Shipping Bill and Bill of Export (Form) Regulations, 2017, the exporter of any goods is required to file a Shipping Bill in the proforma prescribed, before the proper officer mentioning therein that the quality and specifications of the goods as stated in the Shipping Bills are in accordance with the terms of the export contract entered into with the buyer/consignee in pursuance of which the goods are being exported; the exporter while presenting the Shipping Bill, at the foot thereof, is also required to make and subscribe to a declaration as to the truthfulness of the contents of such Shipping Bills and in support of this is required to produce to the proper officer, the declaration relating to the exported goods. However, as detailed in forgoing paras, the Exporter has made wrong/false declaration in Shipping Bills filed under Section 50 of the Act, *ibid* and submitted false declaration. Moreover, the exporter has also violated the provisions of Rule 12 of the Customs and Central Excise Duties Drawback Rules, 1995, as amended and Section 11 of the Foreign Trade (Development and Regulations) Act, 1992 and Rule 11 of the Foreign Trade (Regulation) Rules, 1993, in as much as the exporter had subscribed to a wrong declaration while filling the Shipping Bills before the Customs Authorities.

15.5 Further, the exporter was found to be non-existent at the address declared by him and it is evident that the exporter has created firm for availing export incentives. Further, it cannot be ruled out that the said exporter grossly overvalued the impugned goods to obtain the higher drawback and RoSCTL, as the said exporter is non-existence and never appeared to this office to record his statement, Therefore, from these facts, it appears that the exporter has not made truthful declarations in the filing of the shipping bills. The exporter did not follow the obligation imposed through Regulations and Act and has not made correct declarations; therefore, the exporter has violated the provisions of Section 11 of FTDR Act, 1992 and Rule 11 and 14 of the Foreign Trade (Regulation) Rules, 1993. Therefore, I find that by the above-mentioned acts of various omission and commission, the said exporter defrauded the government exchequer by fraudulently claiming drawback amounting to Rs. 13,49,157/- and RoSCTL amounting to Rs. 18,90,966/- and acted in a manner which rendered the goods having declared FOB value of Rs. 3,98,01,214/- are liable for confiscation. Accordingly, any goods entered for exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the provisions of this Act or any other law for the time being in force are liable for confiscation as per the provisions of Section 113(ja) of the Customs Act, 1962.

16. **Rejection of the export benefits**

The investigation has revealed that the exporter had exported the goods with an intent to avail undue benefit of duty drawback and benefit of RoSCTL

fraudulently. The exporter purportedly given wrong details and obtained the IEC with fake and bogus documents to avail undue export-based incentives fraudulently. During the investigation, it was found that the IEC address belonged to Shri Vinod Bakhru, who informed that the said premises was closed since last four years and they had not rented it out to any person. No document was found at the registered premises of the exporter. From the investigations and scrutiny of documents gathered, it appears that the exporter obtained the IEC with an intention to export the goods illegally without following the proper procedure under Customs Act, 1962 and Rules and Regulation made thereunder and claimed the drawback amounting to Rs. 13,49,157/- and RoSCTL amounting to Rs. 18,90,966/- by deliberate misrepresentation, wilful mis-statement and suppression of facts. Therefore, I find that:-

(i) Claim of drawback amounting to Rs. 13,49,157/- by the exporter is liable to be rejected in terms of Clause (ii) to the second proviso to Rule 3(1) of the Customs, Central Excise Duties & Service Tax Drawback Rules, 1995 read with section 75 of Custom Act, 1962.

(ii) Claim of RoSCTL amounting to Rs. 18,90,966/- is also is liable to be rejected in terms of clause 3 of the Notification No.77/2021-Customs (NT) dated 24.09.2021 read with relevant provisions of the Customs Act, 1962.

17. **Penalty under section 114 of the Customs Act, 1962**

17.1 The section 114 of the Customs Act, 1962 provides for the following:

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 113, or abets the doing or omission of such an act, shall be liable,

114(i)

.....

114(iii) in the case of any other goods, to a penalty not exceeding the value of the goods, as declared by the exporter or the value as determined under this Act, whichever is the greater.]

17.2 In view of facts discussed in foregoing paras, wherein I held that for the goods covered under Shipping Bills 4887176, 4887182, 4887191 & 4887192 all dated 24.08.2023 having declared FOB value of Rs. 3,98,01,214/- , exporter rendered themselves liable for confiscation as per the provisions of Section 113(ja) of the Customs Act,1962.

I find that M/s Mars Trading filed shipping bills for the export of readymade garments to Pakistan, claiming duty drawback and ROSCTL benefits. However, the exporter was not found at the registered address and the

exporter failed to present relevant documents or evidence of manufacturing, production, or import duties paid. The exporter also did not submit the required declarations, made false statements on shipping bills, and violated customs regulations. It appears the exporter obtained IEC fraudulently to avail benefits illegally, thus rendered the goods liable for confiscation under section 113(ja) as discussed in above paras. Therefore, I find that M/s Mars Trading by this act of omission and commission has rendered themselves liable for a penalty under section 114(iii).

17.3. Further, during the course of investigation, Deputy Commissioner (Anti Evasion), CGST Belapur Commissionerate, vide their letter dated 10.06.2024 informed that the exporter was found to be non-existent at the declared principal place of business, i.e. Shop No. 412A, Plot No. 80/81, 2nd Floor, Vashi Plaza, Vashi Kopar Khairane Road, Navi Mumbai, Thane, Maharashtra – 400703. It is further submitted that said premises belonged to Shri Vinod Bakhru, who informed that the said premises was closed since last four years and they had not rented it out to any person.

I find that the exporter was found to be non-existent at the address declared by him in the export documents and the exporter has created firm for availing export incentives i.e. Drawback and ROSCTL. The exporter had submitted the false invoices, packing list and other documents. Accordingly, it is evident that M/s Mars Trading Company knowingly and intentionally made, signed, used and/or caused to be made, signed or used export documents and related papers that were false or incorrect in material particulars for the purpose of illegally exporting the subject goods. Therefore, I find that exporter is also liable for penal action under Section 114AA of the Customs Act, 1962.

18. Penalty under section 117 of the Customs Act, 1962:-

From the investigation carried out, I find that Summons dated 23.01.2024, 28.08.2024 and 11.09.2024 were issued to the CHA i.e. M/s. Shree Radhakrishna Shipping Pvt. Ltd. to tender their statement and to produce the all documents related to the shipping bills no. 4887176, 4887182, 4887191 and 4887192 all dated 18.10.2022. However, M/s. Shree Radhakrishna Shipping Pvt. Ltd. neither appeared to tender their statement against the summons nor submitted any documents related to the above mentioned Shipping Bills. It clearly indicates that M/s. Shree Radhakrishna Shipping Pvt. Ltd. had not joined the investigation and showed complete disregard to the summons. I also find that the Custom Broker had not followed due diligence in respect of the said exporter and during filling of shipping bills. Custom Broker has also failed to comply with the provisions of the Custom Broker Licensing Regulations, 2018 (CBLR, 2018), customs broker is required to verify correctness of IEC, GSTIN, identity of his client and functioning of his

client at the declared address by using reliable, independent, authentic documents, data or information. However, it appears that the CB failed to comply with the above regulation. It is also evident that custom broker was very much aware about the exporter intentions of availing undue benefit of export incentives i.e. Drawback, ROSCT by way of overvaluation of the goods. Therefore, M/s. Shree Radhakrishna Shipping Pvt. Ltd, CHA has rendered themselves liable for penal action under the provisions of Customs act, 1962. In view of foregoing paras, for their acts of omission and commission, I find the M/s. Shree Radhakrishna Shipping Pvt. Ltd liable for penal action under **Section 117** of the Customs Act, 1962.

19. Imposition of Redemption Fine

As the impugned goods are found to be liable for confiscation under Section 113(ja) of the Customs Act, 1962, I find that it is necessary to consider as to whether redemption fine under Section 125 of Customs Act, 1962, is liable to be imposed in lieu of confiscation in respect of the impugned goods as alleged vide subject SCN dated 09.10.2024. The Section 125 ibid reads as under: -

"Section 125. Option to pay fine in lieu of confiscation.-(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods 1[or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit."

As the impugned goods are liable for confiscation under Section 113(ja) of the Customs Act, 1962, I find that since the goods in question which are proposed to be confiscated are not available physically and have already been cleared from Customs by the said noticee, I refrain from imposing any redemption fine under Section 125 of the Customs Act, 1962.

20. In view of above, I pass the following order:

ORDER

(i) I order to confiscate the goods covered under Shipping Bills nos. 4887176, 4887182, 4887191 and 4887192 all dated 18.10.2022 having FOB value of Rs. 3,98,01,214/- (Rupees Three Crore ninety eight lakh one thousand two hundred fourteen only) under Section 113(ja) of the Customs Act, 1962. Since the goods are not available for confiscation, I refrain to impose redemption fine under Section 125 of the Customs

Act, 1962.

(ii) I deny and reject the drawback claim of Rs.13,49,157/- (Rupees Thirteen Lakh Forty Nine Thousand One Hundred Fifty Seven Only) in respect of goods covered under Shipping Bill Nos. 4887176, 4887182, 4887191 and 4887192 all dated 18.10.2022 in terms of Clause (ii) to the second proviso to Rule 3(1) of the Customs, Central Excise Duties & Service Tax Drawback Rules, 1995 read with Section 75 of the Customs Act, 1962 .

(iii) I deny and reject the ROSCTL claim of Rs.18,90,966/- (Rupees Eighteen Lakh Ninety Thousand Nine Hundred Sixty Six Only) in respect of goods covered under Shipping Bill Nos. 4887176, 4887182, 4887191 and 4887192 all dated 18.10.2022 in terms of clause 3 of the Notification No.77/2021-Customs (NT) dated 24.09.2021 read with relevant provisions of the Customs Act, 1962.

(iv) I impose penalty of Rs. 25,00,000/- (Rupees Twenty Five Lakh Only) upon the exporter M/s. Mars Trading Company under Section 114(iii) of the Customs Act, 1962.

(v) I impose penalty of Rs. 5,00,000/- (Rupees Five Lakh Only) upon the exporter M/s. Mars Trading Company under Section 114AA of the Customs Act, 1962.

(vi) I impose penalty of Rs. 4,00,000/- (Rupees Four Lakh Only) upon M/s. Shree Radhakrishna Shipping Pvt. Ltd, CB under Section 117 of the Customs Act, 1962.

21. This OIO is issued without prejudice to any other action that may be taken against the claimant under the provisions of the Customs Act, 1962 or rules made there under or under any other law for the time being in force.

22. The Show Cause Notice issued vide GEN/ADJ/ADC/2048/2024-Adjn-O/o Pr Commr-Cus-Mundra dated 09.10.2024 is hereby disposed off on above terms.

AMIT KUMAR MISHRA

**ADDITIONAL
COMMISSIONER**

**ADC/JC-II-O/o Pr
Commissioner-Customs-
Mundra**

To,

(1) M/s. Mars Trading Company, (IEC No. IKXPK4765B)
[GSTN No. 27IKXPK4765B1ZJ, Legal Name- Siddharth Sanjay Khaire]
Shop No. 412A, Plot No. 80/81, 2nd Floor,
Vashi Plaza, Vashi Kopar Khairane Road,
Navi Mumbai, Thane, Maharashtra – 400703.

(2)
M/s. Shree Radhakrishna Shipping Pvt. Ltd.,
1st Floor, Office No. 2, Savla Chambers,
Plot No. 455, Sector 1/A,
Gandhidham – 370201.

Copy to:

1. The Dy./Assistant Commissioner (DBK/ROSCTL), CH, Mundra.
2. The Dy./Asstt. Commissioner (RRA/TRC), Customs House, Mundra.
3. The Dy./Asstt. Commissioner (EDI), Customs House, Mundra... *(with the direction to upload on the official website immediately).*
4. The Dy./Assistant Commissioner (Export Assessment), CH, Mundra
5. The Dy./Assistant Commissioner (SIIB), CH, Mundra
6. Notice Board
7. Guard File