
	OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS CUSTOMS HOUSE, MP & SEZ MUNDRA, KUTCH-GUJARAT -370421 PHONE : 02838-271426/271428 FAX :02838-271425	 सत्यमेव जयते
A	File No.	CUS/APR/ASS/2948/2024-Gr 1-O/o Pr Commr-Cus-Mundra
B	OIO No.	MCH/ADC/AKM/245/2024-25
C	Passed by	Amit Kumar Mishra Additional Commissioner, (Import Assessment), Custom House Mundra.
D	Date of order	02.01.2025
E	Date of Issue	04.01.2025
F	SCN No. & Date	Importer requested for waiver in PH & SCN
G	Noticee / Party / Importer	M/s Narayan Organic Exports, Having address at Block No. 37, Naj Bareja Road, At Naj, Ahmedabad-382425
H	DIN	DIN - 20250171MO00005025B4

1. The Order – in – Original is granted to concern free of charge.
2. 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.

The Commissioner of Customs (Appeal), MUNDRA,
Office at 7th floor, Mridul Tower, Behind Times of India,
Ashram Road Ahmedabad-380009

3. Appeal shall be filed within Sixty days from the date of Communication of this Order.
4. Appeal should be accompanied by a Fee of Rs.5/- (Rupees Five Only) under Court Fees Act it must accompanied by (i) copy of the Appeal, (ii) 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. Proof of payment of duty / interest / fine / penalty / deposit should be attached with the appeal memo.
6. While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respect.
7. 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 or Penalty are in dispute, where penalty alone is in dispute.

Brief facts of the case.

M/s Narayan Organic Exports, Having address at Block No. 37, Naj-Bareja Road, At Naj, Ahmedabad-382425 have filed a Bill of Entry No. 6142095 dated 16.10.2024 to re-import the goods "Rice 18 KG Steam Basmati Rice PRAN" and "Rice 35 KG 1121 Steam Basmati Rice PRAN". The details of the goods of Bill of Entry No. 6142095 dated 16.10.2024 are:

Sr. No	Item Description	Quantity	Rate in Rs (1\$=Rs.84.85)	Value in Rs.
1	Rice 18 KG Steam Basmati Rice PRAN	78.030 MTS	84,001.5	65,54,637.04
2	Rice 35 KG 1121 Steam Basmati Rice PRAN	52.010 MTS	84,001.5	43,68,918.02

2. The Said Bill of Entry was assessed at the FAG site INCCU1 (Kolkata) on 13.11.2024. Since the goods are re-imported, first check was given with the examination order as below:

"as per rms order above, destuff and examine 100% on first check basis. establish identity of goods in presence of ac/dc, cfs. verify goods wrt export leo copy and declared description, declared quantity, declared value, import documents, import policy, notification benefit claimed and country of origin. follow rms instructions. verify weight of goods. verify pga nocs if routed.verify import documents in original. ask the cb to upload export benefits reversal documents in e-sanchit. comply with provisions of re-import notification."

2.1 After that, the examination report was fed into the ICES system by the DOCKS Officer on 12.11.2024 as:

"the goods in this boe were examined by predecessor officers on 04.11.2024. the goods on examination appeared to be basmati rice and parboiled rice. so, the samples drawn vide tm no. 1243688 dtd 04.11.2024 and 1243686 dtd 04.11.2024 respectively for testing to crcl kandla. test report of which is awaited. further, the goods were quantified on 12.11.2024 to identify the quantity of basmati and parboiled rice under supervision of supdtt and in presence of cbr. on being quantified, it was found that out of 5 containers that are reimported , 02 container goods were basmati rice and 03 containers goods were parboiled rice.

further, the goods were exported under self sealing vide s.b. 3256714 dtd 16.08.2024 which were declared as basmati rice in 07 containers but goods reimported are only 05 containers , out of which 03 containers are found to be carrying parboiled rice and only 02 are carrying basmati rice. thus, amounting to misdeclaration."

2.2 The test report from CRCL Kandla, vide Lab Report No. 6844/05112024 dated 13.11.2024 for test memo no. 1243688 dated 04.11.2024 mentions as:

"The sample as received is in the form of pale yellowish translucent rice grains of assorted sizes.

it has the following constants.

broken grain (%by mass)=2.25

foreign matter (%by mass)=nil

dam/dicol grains(%by mass)=nil

chalky grain(%by mass)=nil

weevilled grains(%by mass)=nil

average length (in mm)=6.14

average width (in mm)=1.83

L/W ratio=3.37

elongation ratio=1.34

average length of cooked rice (mm)=8.65

moisture content(%by mass)=9.45

Note- based on the physical appearance forms & analytical findings it is parboiled rice (non basmati)

sealed remnant sample returned herewith.”

2.3 The test report from CRCL Kandla, vide Lab Report No. 6845/05112024 dated 21.11.2024 for test memo no. 1243686 dated 04.11.2024 mentions as:

“The sample as received is in the form of off-white partially translucent and partially opaque rice grains of assorted sizes.

It has the following constants:

1. *Broken Grains (% by mass) = 0.24*
2. *Damaged / Discol. Grains (% by mass) = Nil*
3. *Chalky Grains (% by mass) = 6.14*
4. *Foreign Matter (% by mass) = Nil*
5. *Weevilled Grains (% by mass) = Nil*
6. *Average Length (mm) = 8.04*
7. *Average width (mm) = 1.81*
8. *Length/Width Ratio = 4.45*
9. *Average Elongation Ratio = 2.01*
10. *Average length of Cooked Rice (mm) = 17.13*
11. *Moisture Content (% by mass) = 10.80*

Based on the physical appearance, forms and analytical findings it may be considered as Basmati Rice.

Sealed Remnant returned herewith."

3. The goods were exported to "Gulf Modern Training & Marketing LLC vide Shipping Bill No. 3256714 dated 16.08.2024. The details of the goods of Shipping Bill No. 3256714 dated 16.08.2024 are:

Sr. No	Item Description	Quantity	Rate in Rs. (1\$ = Rs. 83.1)	Value in Rs.
1	Rice 35 KG 1121 Steam Basmati Rice 'PRAN'	52.010 MTS	82,269	42,78,811
2	Rice 18 KG Steam Basmati Rice 'PRAN'	78.030 MTS	82,269	64,19,450
3	Rice 18 KG Basmati Rice 'RETAJ'	52.02 MTS	82,269	42,79,633

Therefore, it appears that goods re-imported vide 6142095 dated 16.10.2024 are not the goods that were exported vide Shipping Bill No. 3256714 dated 16.08.2024 as the said shipping bill didn't contain the parboiled rice.

4. In this respect, FAG assessing officer has given the query,"*in the examination report the shed officer has reported that the exported goods were declared as basmati rice in 07 containers but the goods reimported are only 05 containers, out of which 03 containers are found to be carrying parboiled rice and only 02 are carrying basmati rice. thus, amounting to misdeclaration. kindly explain the same.*"

5. In the meanwhile, Customs Broker, M/s Daksh Shipping & Logistics on behalf of the importer has approached Group 1, Mundra Customs for the amendment vide letter dated 09.12.2024. Vide the said letter, the importer has mentioned that they have exported the parboiled rice vide another shipping Bill No. 3322872 dated 23.08.2024. Their foreign supplier, i.e. M/s Gulf Modern Trading & Marketing LLC vide their letter dated 03.10.2024 has returned the due to wrong packaging. The details of the rejected cargo is as follows:

			Export Quantity			Return Quantity		
Shipping Bill No & Date	Invoice No.	PI. No.	No. of Bags	Net Wt. (KG)	Gross Wt. (KG)	No. of Bags	Net Wt. (KG)	Gross Wt.(KG)
3256714 16.08.2024	965	NOE/ 20234/ 13	8711	182060	183400	1486	52010	52400
3322872 20.08.2024	919	NOE/ 2024/09	8670	156060	157200	4335	78030	78600

Vide their letter, the importer mentioned that they by mistake did not mention the details of Shipping Bill No. 3322872 dated 20.08.2024 and its goods in the Bill of Entry. The importer has requested to add the Shipping Bill No. 3322872 dated 20.08.2024 in the Bill of Entry No. 6142095 dated

16.10.2024. The importer submitted the shipping Bills, invoices and other documents annexed here as annexure-A.

6. The Bill of Entry was pushed by the FAG site to the PAG site for adjudication on 20.12.2024.

7. Discussion and Finding

7.1 The importer has re-imported the goods "Rice 18 KG Steam Basmati Rice PRAN" and "Rice 35 KG 1121 Steam Basmati Rice PRAN". The details of the goods of Bill of Entry No. 6142095 dated 16.10.2024.

Sr. No	Item Description	Quantity	Rate in Rs (1\$=Rs.84.85)	Value in Rs.
1	Rice 18 KG Steam Basmati Rice PRAN	78.030 MTS	84,001.5	65,54,637.04
2	Rice 35 KG 1121 Steam Basmati Rice PRAN	52.010 MTS	84,001.5	43,68,918.02

During the examination of goods, it was found that out of 5 containers, 3 containers contain parboiled rice and only 2 containers contain Basmati rice.

7.2 Samples were drawn and testing was done and find the test report, it was confirmed that the goods contained parboiled non-basmati rice also.

7.3 Therefore, it appears that goods have been mis-declared. As per the importer, their foreign supplier, to whom the goods were originally exported, returned the goods of two shipping bills i.e. 3322872 dated 20.08.2024 and 3256714 dated 16.08.2024. Vide the said Shipping Bill No. i.e. 3322872 dated 20.08.2024, Importer has exported the "parboiled rice" weighing 156060 KGs at the rate of Rs. 40.3 per KG.

7.4 However, the importer was under the impression that goods of only one Shipping bill No. 3256714 dated 16.08.2024 have been returned. Accordingly, they had mentioned only one S/B and didn't mention shipping bill No. 3322872 dated 23.08.2024 in the Bill of Entry no. 6142095 dated 16.10.2024.

7.5 Hence, partial goods of both the Shipping Bills i.e. Shipping Bill No. 3256714 dt. 16.08.2024 and 3322872 dt. 20.08.2024 were returned. However, Gulf Modern Trading and Marketing LLC issued an invoice mentioning the goods of Shipping Bill No. 3256714 dt. 16.08.2024 only which led to the mis-declaration of the goods in the B/E.

7.6 During the examination, it was found that 78.030 MTS is parboiled rice. therefore, its value needs to be re-determined. Goods are re-imported at the same rate at which they were exported. so, the parboiled rice was exported at the rate of USD 485 per MTS vide the Shipping Bill No. 3322872 dated 20.08.2024. Hence, the re-determined value of 78.030 MTS becomes Rs. 32,11,110/- (Rs. Thirty-Two Lakh Eleven Thousand one hundred Ten only) and the total assessable value of the Bill of Entry No. 6142095 dt. 16.10.2024 is re-determined as Rs. 75,80,080/- (Rs. Seventy-Five Lakh Eighty Thousand Eighty only).

7.7 M/s Narayan Organic Exports vide letter dated 27.11.2024 has requested for the waiver of SCN and Personal Hearing.

8. LEGAL PROVISIONS

Legal provisions applicable in this case under the Customs Act 1962 are as follows:

8.1 Section 46: Entry of goods on importation

(4) The importer while presenting a bill of entry shall ^{1 2} [* *] make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, ¹³ [and such other documents relating to the imported goods as may be prescribed].*

^{1 4} [(4A) The importer who presents a bill of entry shall ensure the following, namely:-

- (a) the accuracy and completeness of the information given therein;*
- (b) the authenticity and validity of any document supporting it; and*
- (c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.]*

8.2. Section 111: Confiscation of improperly imported goods, etc. –

The following goods brought from a place outside India shall be liable for confiscation:

...

(m) ²[any goods which do not correspond in respect of value or in any other particular] with the entry made under this Act or in the case of baggage with the declaration made under [section 77](#) ³ [in respect thereof, or in the case of goods under trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-section (1) of [section 54](#)];...

...

....

(o) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other

law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer;

8.3. Section 112: Penalty for improper importation of goods, etc.

Any person,—

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,

shall be liable,—

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is the greater;

(ii) in the case of dutiable goods, other than prohibited goods, to a penalty not exceeding the duty sought to be evaded on such goods or five thousand rupees, whichever is the greater;

(iii) in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty not exceeding the difference between the declared value and the value thereof or five thousand rupees, whichever is the greater;

(iv) in the case of goods falling both under clauses (i) and (iii), to a penalty not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees, whichever is the highest;

(v) in the case of goods falling both under clauses (ii) and (iii), to a penalty not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest.

8.4. Section 114 AA: 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.

8.5 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 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:

Provided that where the proceedings are deemed to be concluded under the proviso to sub-section (2) of section 28 or under clause (i) of sub-section (6) of that section in respect of the goods which are not prohibited or restricted, 3 [no such fine shall be imposed]:

Provided further that, without prejudice to the provisions of the proviso to sub-section (2) of section 115, such fine shall not exceed the market price of the goods confiscated, less in the case of imported goods the duty chargeable thereon.

(2) Where any fine in lieu of confiscation of goods is imposed under sub-section (1), the owner of such goods or the person referred to in sub-section (1), shall, in addition, be liable to any duty and charges payable in respect of such goods.]

(3) Where the fine imposed under sub-section (1) is not paid within a period of one hundred and twenty days from the date of option given thereunder, such option shall become void, unless an appeal against such order is pending.

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

ORDER

9.1 I order for confiscation of mis-declared imported goods parboiled rice (non-basmati) weighing 78030 Kgs having an assessable value of **R s . 32,11,110/- (Rupees Thirty-Two Lakh Eleven Thousand One Hundred Ten Only)** imported vide Bill of Entry No. 6142095 dated 16/10/2024 under Section 111(m) of the Customs Act, 1962.

9.2 I order to include the shipping bill no. 3322872 dated 20.08.2024 in the Bill of Entry no. 6142095 dated 16.10.2024. I also order to reject the valuation of 78030 kg of parboiled rice and re-assess it at the rate of Rs. 41.15 per KG.

9.3 I also give the importer an option to redeem the confiscated goods on the payment of Redemption Fine of Rs. 3,00,000/- (Rupees Three Lakhs only) under section 125 of the Customs Act, 1962.

9.4 I impose a penalty of Rs. 5,000/- (Rupees Five Thousand Only) on the importer M/s Narayan Organic Exports under section 112(a)(i) of the Custom Act, 1962.

Signed by

Amit Kumar Mishra

ADDITIONAL COMMISSIONER

Date: 02-01-2025 17:23:42

02-01-2025