अपर आयुक्त का कायालय, सीमा शुल्क,
OFFICE OF THE ADDITIONAL COMMISSIONER OF CUSTOMS
आई. सी. डी. - तुम्ब
INLAND CONTAINER DEPOT (ICD) - TUMB
(S. No. 44/1/P.K. 2, Village-Tumb, Tal.: Umbergaon, Dist.: Valsad, Gujarat-396150)

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F.No. CUS/ICFS/MISC/807/2026-ICD-UMGN-CUS-COMMRTE-AHMEDABAD

DIN- 20260871MN0000DAF3AD

A	फ़ाइल संख्या/ File No.	:	CUS/ICFS/MISC/807/2026-ICD-UMGN-CUS-COMMRTE -AHMEDABAD
B	कारण बताओ नोटिस संख्या-तारीख /Show Cause Notice No. and Date	:	**Waiver of SCN**
C	मूल आदेश संख्या/ Order-In-Original No.	:	**09/SRV/ADC/TUMB/2026-27**
D	आदेश तिथि/ Date of Order-In-Original	:	**19.08.2026**
E	जारी करनेकी तारीख/ Date of Issue	:	**19.08.2026**
F	द्वारा पारित/ Passed By	:	**Shree Ram Vishnoi** Additional Commissioner, Customs Ahmedabad
G	आयातक का नाम औरपता / Name and Address of Importer /Noticee	:	1. M/s Metalloys Recycling Limited, 12-12A Niraj Industrial Estate, Off Mahakali Caves Rd, Andheri (E), Mumbai-400093. 2. M/s. Metal Services, PSIA, S-17, Shakti Arcade, Opp. RK Hall, Science City Road, Sola Ahmedabad-380060
	यह प्रति उन व्यक्तियों के उपयोग के लिए निःशुल्क प्रदान की जाती है जिन्हे यह जारी की गयी है।		
(2	**कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध**		

)	**अपील इस आदेश की प्राप्ति की तारीख के** 60 **दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क(अपील), चौथी मंज़िल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।**
(3)	**अपील के साथ केवल पांच** (5.00) **रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए और इसके साथ होना चाहिए**:
(i)	**अपील की एक प्रति और**;
(ii)	**इस प्रति या इस आदेश की कोई प्रति के साथ केवल पांच** (5.00) **रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए।**
(4)	**इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को** 7.5% **(अधिकतम** 10 **करोड़) शुल्क अदा करना होगा जहां शुल्क या ड्यूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने में असफल रहने पर सीमा शुल्क अधिनियम**, 1962 **की धारा** 129 **के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।**

BRIEF FACTS OF THE CASE: -

M/s Metalloys Recycling Limited, 12-12A Niraj Industrial Estate, Off Mahakali Caves Rd, Andheri (E), Mumbai-400093 (hereinafter referred to as the importer) having IEC No. 0316922552, filed a Bill of Entry bearing No. 9942461 dated 17.06.2026 under Section 46 of the Customs Act, 1962 at ICD, Tumb for importing the following goods from U.S.A. in two 40 Feet Containers bearing Nos. MSMU8067200 and CAIU7749712. The further declared details in respect of the imported goods as per the said Bill of Entry are as under: -

Invoice No. & Date	Weight (MT)	Assessable Value (Rs.)	Description of Goods as per Bill of Entry	Chapter Heading No.	Assessable Value (in Rs.)	Supplier Name & Country	Customs Broker Name
AMU/ I/ 051926/002, dated 19.05. 2026	36.579 (Gross Wt. 39.064 MT)	62,54,351	Aluminium Scrap Tense As Per ISRI	76020010	62,54,350.58	M/s. Argentum Metals USA Inc, USA	M/s. Bhagwati Impex

2. In order to ascertain and identify the nature of the above-mentioned imported goods, the Faceless Assessment Group (FAG) of Customs had ordered to conduct examination of the said imported Goods as per the examination order and RMS instructions in Bill of entry no. 9942461 dated 17.06.2026. During preliminary examination of the cargo covered under the said Bill of Entry, it was observed by the officers of Customs, ICD Tumb that the imported goods declared as Aluminium Scrap appeared to be mixed with E-Waste such as old/broken laptops, Printed Circuit Boards (PCBs) and other electronic items, etc. Accordingly, 100% examination of the consignment was carried out in presence of Customs Officers, Panch witnesses, Shri Manish Tiwari, representative of Customs Broker M/s Bhagvati Impex, Shri Dhiren Mange, Associate Manager, ICD-Tumb (Custodian), and Shri Shailesh M. Gondhalekar, Chartered Engineer under two Panchnamas dated 24.06.2026 and 25.06.2026. During the course of Panchnama proceedings, declared goods Aluminium Scrap was found mixed with E-Waste items. The Chartered Engineer, Shri Shailesh M. Gondhalekar, Chartered Engineer, M/s. Astral Associates also inspected the consignment during the Panchnama proceedings reported the total qty. of E-Waste to be 4.28 MT in his report bearing Ref No. AA/CEC/SMG/2026/0684 dated 25.06.2026. Thus, the imported cargo appeared to be mis-declared with respect to description and nature of goods and contained prohibited/restricted goods in concealed manner. Hence, there appeared reason to believe that such E-waste and the entire imported goods being mis-declared were liable for confiscation under the provisions of Section 111 of the Customs Act, 1962. Further, the goods other than the E-waste had been used for concealment of the prohibited /restricted goods (E-waste) and hence the same also appeared to be liable for confiscation under Section 119 of Customs Act, 1962. Accordingly, the entire import consignment had been placed under seizure vide Seizure Memo dated 25.06.2026 under the provisions of Section 110 of Customs Act, 1962. The seized goods were handed over to the representative of custodian Shri Dhiren Mange, Associate Manager, M/s. Adani Forwarding Agent Limited (AFAL), Village Tumb, Taluka Umbergaon, District Valsad, Gujarat – 396150 vide Supratnama dated 25.06.2026 for safe custody.

3. In order to get the version of the importer and concerned Customs Broker with respect to such mis-declaration and illegal import of prohibited e-waste, Summons dated 29.06.2026 were issued to the Director of the importer company M/s. Metalloys Recycling Limited and Partner/Proprietor of concerned Customs Broker firm M/s. Bhagwati Impex to record their statement under Section 108 of Customs Act, 1962.

3.1. **Statement of Shri Manish Tiwari, Proprietor of Customs Broker firm M/s Bhagvati Impex [Customs Broker Code: AGXPT7681BCH002] was recorded under Section 108 of the Customs Act, 1962 on 30.06.2026** wherein he inter-alia stated that his firm was looking after Customs clearance work of import made by the importer M/s. Metalloys Recycling Limited (IEC No. 0316922552) since 2018. He added that he was authorised by M/s. Metalloys Recycling Limited (IEC No. 0316922552) vide letter dated 15.06.2026; that M/s. Metalloys Recycling Limited were engaged in import of aluminium scrap, zinc scrap etc. The imported items were processed and converted in to ingots and the same were exported; that Customs clearance of both, import and export work of M/s. Metalloys Recycling Limited was looked after by him.

3.2. As regards the subject Bill of Entry bearing no. 9942461 dated 17.06.2026 filed by the importer, Shri Manish Tiwari stated that his employee Shri Pramod Kumar Singh (G-Card holder) prepared and finalised the Check List and the Bill of Entry in confirmation with him (Shri Manish Tiwari) and importer M/s. Metalloys Recycling Limited (IEC No. 0316922552). He further deposed that they had verified the description of goods while preparing the Check List on the basis of documents/records so provided by the importer; that the Check List so prepared in respect of Bill of Entry no. 9942461 dated 17.06.2026 was approved from the importer vide e-mail dated 17.06.2026.

3.3. As regards the outcome of the two Panchnamas dated 24.06.2026 and 25.06.2026 along with Chartered Engineer Inspection Report dated 25.06.2026 and Seizure Memo dated 25.06.2026 in respect of 100% examination of aforesaid import consignment, Shri Manish Tiwari stated that he was present during the panchnama proceedings and he agreed that the Aluminium Scrap was found mixed with E-Waste items and the total qty. of E-Waste found to be

4.28 MT out of total Qty. of import consignment i.e. 39.064 MT; that on the basis of facts so found during Panchnama proceedings, the subject imported cargo appeared to be mis-declared with respect to description and nature of goods and contained prohibited/restricted goods viz. E-waste. He added that he was aware that import of e-waste was prohibited as per Hazardous and other Wastes (Management and Transboundary Movement) Rule, 2016, import policy of ITC (HS) issued under FTDR Act, 1992 read with provisions of Customs Act, 1962 and Rules framed thereunder.

3.4. On being asked, Shri Manish Tiwari submitted that he was not aware about the intention of the importer or exporter or similar matter in the past (if any) with respect to mis-declaration and illegal import of prohibited/restricted goods. He also showed his inability to comment on the role of importer or exporter stating that it was out of the purview of his decision.

4. **Statement of Shri Harishanker Pandey, Authorized Signatory of importer company M/s Metalloys Recycling Limited [IEC- 0316922552] was recorded under Section 108 of the Customs Act, 1962 on 01.07.2026** wherein he interalia stated that he was working as General Manager in M/s Metalloys Recycling Limited [IEC-0316922552] and he was authorized to tender statement on behalf of the importer company which is engaged in import of aluminium scrap, zinc scrap, etc. ; that the imported items were processed and converted in to ingots and the same were exported by their company.

4.1. As regards the subject import consignment, Shri Harishanker Pandey provided the declared details of the Bill of Entry bearing no. 9942461 dated 17.06.2026 and stated that the Customs Broker firm M/s Bhagwati Impex, CHA prepared and finalised the Check List and the Bill of Entry in confirmation with the importer M/s. Metalloys Recycling Limited (IEC No. 0316922552). As regards the documents relating to the said Bill of Entry, he submitted that **Invoice**, packing list, Bill of Lading (BoL), PSIC, Form-6 & Form-9, Sales Contract, Certificate of Chemical Analysis, Certificate of Origin (COO), Mines Import Registration Certificate (MIRC), CPCB/SPCB Authorisation etc. were uploaded by M/s. Metalloys Recycling Limited (IEC No. 0316922552) in respect

of Bill of Entry no. 9942461 dated 17.06.2026. He also provided photographs of load-port / suppliers' site.

4.2. Shri Harishanker Pandey further stated that they had verified the description of goods on the basis of supplier's documents. As regards the facts of the two Panchnamas dated 24.06.2026 and 25.06.2026, he agreed that the Aluminium Scrap was found mixed with E-Waste items and the total qty. of E-Waste found to be 4.28 MT out of total Qty. of import consignment i.e. 39.064 MT; that on the basis of facts so found, the subject imported cargo appeared to be mis-declared with respect to description and nature of goods and contains prohibited/restricted goods viz. E-waste.

4.3. Shri Harishanker Pandey deposed that he was aware that import of e-waste was prohibited as per Hazardous and other Wastes (Management and Transboundary Movement) Rule, 2016, import policy of ITC (HS) issued under FTDR Act, 1992 read with provisions of Customs Act, 1962 and Rules framed thereunder. However, he showed his ignorance how such e-waste goods got into the said import consignment and stated that **t**he importation of prohibited e-waste goods under Bill of Entry no. 9942461 dated 17.06.2026 was due to error on the part of loader at the yard of loading port. He claimed that the supplier exporter had e-mailed them a letter dated 25.06.2026 vide which the supplier ensured full responsibility of such exportation of prohibited e-waste goods; that the exporter had also confirmed that any costs, charges, penalties, fines, detention, demurrages, customs-related expenses would be borne by them.

4.4. On being asked, Shri Harishanker Pandey stated that an incident of similar nature did occur in the past when M/s. Metalloys Recycling Limited (IEC No. 0316922552) did importation vide Bill of Entry No. 5761569 dated 08.10.2021 and it was found that the goods declared were Aluminium Scrap however on examination the same were found to be mixed of E-Waste goods (prohibited goods). He added that the matter was adjudicated vide OIO No. 27/MK/JC/SRT/2021-22 dated 01.11.2021. In the said OIO, the prohibited goods were re-exported and redemption fine of Rs.1 lakh under Section 125 of the Customs Act; Penalty of Rs.50,000/- was imposed under Section 112(a) and Penalty of Rs.1 Lakh under Section 114AA of the Customs Act, 1962; that we

they had deposited the complete redemption fine and penalties but due to refusal of supplier, the goods were not re-exported and subsequent acceptance of the request by the department, the goods were allowed for disposal by method of destruction.

4.5. Shri Harishankar Pandey further stated that the importer company M/s. Metalloys Recycling Limited (IEC No. 0316922552) were applying waiver of written Show Cause Notice and would submit a written letter in this regard.

5. The Pre-Shipment Inspection Certificate (PSIC) bearing no. PSICMSXXXX675139AM27 dated 15.05.2026 was issued in respect of subject consignment by M/s. Metal Services, S-17, Shakti Arcade, Opp. RK Hall, Science City Road, Sola, Ahmedabad – 380060. Accordingly, a Summons dated 09.07.2026 was issued to the Director/Partner/Prop. Of M/s. Metal Services directing them to appear on 10.07.2026 for tendering statement and producing documents/evidences but they requested for adjourning the date of their appearance for further 10 days/after 20.07.2026. Accordingly, another Summons dated 10.07.2026 was issued to them vide which another date of appearance was given as 14.07.2026.

6. Statement of Shri Subeesh M S, Marketing Manager and Authorised Representative of M/s. Metal Services, **was recorded under Section 108 of the Customs Act, 1962 on 14.07.2026**. In his statement, Shri Subeesh M S, Marketing Manager of M/s. Metal Services, Ahmedabad, stated that he had been authorised by the Director of the said firm to tender the statement on behalf of the firm and its Director, and that his statement was binding upon himself, the firm and its Director. It was stated that M/s. Metal Services had been established in 2021 and was engaged in pre-shipment inspection of export consignments abroad and issuance of Pre-Shipment Inspection Certificates (PSICs), and was authorised by DGFT as a Pre-Shipment Inspection Agency (PSIA) vide Public Notice No. 11/2024-2025 dated 12.06.2024. It was further stated that the firm had branch offices in 28 countries and approximately 35 permanent employees.

6.1. Shri Subeesh M S explained the procedure of issuance of PSIC stating that, upon receipt of inspection orders from forwarders, the firm's Inspector visited the loading site abroad and conducted inspection of the cargo using radiological detection equipment and other required equipment, inter alia, to ascertain the presence of arms, ammunition, explosives, radiation and other prohibited material. Photographs and videos of the cargo were stated to be taken during inspection and forwarded to the Head Office, from where the requisite documents were uploaded on the DGFT portal and the PSIC was issued under the signature of the Director of M/s. Metal Services.

6.2. With regard to subject consignment exported by M/s. Argentum Metals USA Inc., New Jersey, USA to the importer M/s. Metalloys Recycling Limited, India, it was stated that the PSIC bearing No. PSICMSXXXX675139AM27 dated 15.05.2026, was issued by M/s. Metal Services in respect of the subject consignment declared as Aluminium Scrap “Tense”, covering Container Nos. MSBU8057200 and CAIU7749712. It was stated that the inspection of the said consignment had been carried out by the firm's Inspector, Mr. Ivan, on 11.05.2026. Photographs relating to the said PSIC were produced; however, it was observed that the photographs did not depict the stuffing process of the containers. In this regard, it was stated that a video of the stuffing process had been captured by the Inspector but could not be uploaded on the DGFT portal as either photographs or video could be uploaded, and that the said video would be subsequently furnished.

6.3. During verification of the said PSIC on the DGFT website, a discrepancy was noticed between the date of issue appearing on the PSIC produced by the importer, i.e. 15.05.2026, and the date appearing on the DGFT portal, i.e. 23.05.2026. In this regard, Shri Subhessh M S stated that the latter date appeared to be the date of uploading of the PSIC, although the reason for such discrepancy was stated to be not known to him.

6.4. On perusal of subject Panchnamas dated 24.06.2026 and 25.06.2026, Shri Subheesh M S submitted that upon 100% examination of the subject consignment under Panchnamas dated 24.06.2026 and 25.06.2026, along with the Chartered Engineer's Inspection Report dated 25.06.2026, the

declared Aluminium Scrap was found mixed with E-Waste, with 4.28 MT of E-Waste being found in the total consignment quantity of 39.064 MT. The consignment was consequently placed under seizure under Section 110 of the Customs Act, 1962. He also referred the letter dated 25.06.2026 issued by the foreign supplier, wherein it was stated that the E-Waste had inadvertently been mixed with the Aluminium Scrap from an adjacent unsorted area of the yard, was also acknowledged.

6.5. As regards the issuance of PSIC in spite of presence of e-waste in the subject consignments, Shri Subheesh M S stated that it was a mistake on the part of their Inspector who went to have lunch during the inspection proceedings and in the meantime any loader had put e-waste in the two containers from any other consignment. He admitted the mistake occurred on the part of the Inspector and stated that the Inspector did not do so deliberately but it was a negligence and he assured to take care in the future and also to cooperate in the Departmental investigation.

7. The importer had declared the assessable value of the subject import consignment in the respective Bill of Entry bearing no. 9942461 dated 17.06.2026 as Rs. 62,54,350.58/- declaring the import goods as Aluminium Scrap Tense As Per ISRI. However, on being found the subject consignment mis-declared and having concealed e-waste duly mixed with the Aluminium scrap, the valuation of the seized goods was carried out through the Govt approved Valuer Shri Shailesh P. Badge, Chartered Engineer (Mech.) of M/s. Vrishak Engineering, Mumbai who has submitted Valuation Certificate dated 07.07.2026 received vide email dated 08.07.2026 mentioning the assessed value of Aluminium Scrap (Non E-Waste) to be Rs. 74,35,080/-, for other scrap (Rs. 60,872/-) and for E-Waste Rs. 1,71,200/- (total Rs. 76,67,152/- against the declared assessable value of Rs. 62,54,350.58/-).

7.1. Whereas, the E-waste means electrical and electronic scrap items listed at Basel No. A1180 of Schedule VI of the Hazardous and other wastes (Management & Transboundary Movement) Rules, 2016 which is A1180:

Waste electrical and electronic assembles or scrap (does not include scrap assemblies from electric power generation) containing components such as accumulators and other batteries included in Part A of Schedule III, mercury-switches, glass from cathode-ray tubes and other activated glass and PCB-capacitors, or contaminated with Schedule II constituents (e.g. cadmium, mercury, lead, polychlorinated biphenyl) to an extent that they exhibit hazard characteristics indicated in Part C of Schedule III (note the related entry in Part B B1110)".

7.2. The Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 and in terms of Rule 12 (6) thereof, dealing with the Strategy for Import and export of hazardous and other wastes stipulates that "No import of the hazardous and other wastes specified in Schedule VI shall be permitted". Under CHAPTER III, Import and export (transboundary movement) of hazardous and other wastes. -The Ministry of Environment, Forest and Climate Change shall be the nodal Ministry to deal with the transboundary movement of the hazardous and other wastes in accordance with the provisions of these rules.

7.3. Under Rule 12- Strategy for Import and export of hazardous and other wastes. -

(1) No import of the hazardous and other wastes from any country to India for disposal shall be permitted.

(2) The import of hazardous and other wastes from any country shall be permitted only for recycling, recovery, reuse and utilisation including co-processing.

(6) No import of the hazardous and other wastes specified in Schedule VI shall be permitted.

7.4. From the above provisions it is apparent that the no import of the hazardous and other wastes specified in Schedule VI of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 shall be permitted.

7.5. The e-waste (Management) Rules, 2016 under chapter II clearly stipulates the responsibilities of dismantler, recycler and Responsibilities of State Government for environmentally sound management of E-waste. Further, under chapter III of e-waste (Management) Rules, 2016 stipulates the strategy and procedure for import of Hazardous and other wastes. In view of the above, it is clear that Hazardous waste as mentioned under Schedule VI of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 are prohibited for import.

8. From the facts of Panchnama, Valuation Report and statements of various persons recorded during investigation, it appeared that the present consignment was mis-declared with respect to the description and value of the import goods and it was also containing e-waste in concealed manner.

WRITTEN DEFENCE SUBMISSION OF THE IMPORTER: -

9. The importer M/s Metalloys Recycling Limited (IEC No. 0316922552), submitted a written submission dated 01.07.2026 in response to Summons dated 29.06.2026 issued under Section 108 of the Customs Act, 1962, in connection with the seizure of the import consignment covered under Bill of Entry No. 9942461 dated 17.06.2026.

- The Importer, in its written submission dated 01.07.2026, stated that it is an established 3-Star Export House and MSME engaged in aluminium scrap recycling and non-ferrous metal trading and that aluminium scrap is imported by it as raw material for manufacture of finished products against export obligations under Advance Authorisation. The Importer submitted that, pursuant to Sales Contract No. AMU/SC/042326/04 entered into with M/s Argentum Metals USA Inc., Baltimore, USA, it had placed a bona fide order for Aluminium Scrap of ISRI Grade “Tense”. It was submitted that the overseas supplier had issued Invoice No. AMU/I/051926/002 and Bill of Lading

No. MEDUXX108749 dated 19.05.2026 describing the cargo as Aluminium Scrap Tense.

- It was further submitted that the consignment, having a declared quantity of 36.579 MT, was shipped from Baltimore, USA in Container Nos. CAIU7749712 and MSBU8057200 and that the Importer filed Bill of Entry No. 9942461 dated 17.06.2026 at ICD Tumb through its Customs Broker, declaring the goods as "Aluminium Scrap Tense" under the relevant Customs Tariff classification. According to the Importer, the description declared in the Bill of Entry was identical to the description appearing in the commercial documents furnished by the overseas supplier.

- With regard to the examination and seizure proceedings, the Importer submitted that both containers were de-stuffed and examined under Customs supervision during Panchnama proceedings dated 24.06.2026 and 25.06.2026. It stated that the predominant portion of the consignment consisted of aluminium castings, housings, brackets and miscellaneous aluminium scrap pieces, while certain old and used electrical/electronic items, including old laptops, Printed Circuit Boards (PCBs), LED lights, motors with PCBs, CCTV cameras, automobile parts having electrical/plastic components and other similar items, were also found mixed with the aluminium scrap.

- The Importer referred to the Chartered Engineer's Report bearing Ref. No. AA/CEC/SMG/2026/0684 dated 25.06.2026 and submitted that the aluminium portion was found to consist of aluminium castings, housings and brackets in damaged/dented condition, fit only for recycling as scrap. It further submitted that the non-aluminium electrical/electronic items were identified as E-Waste and that the total quantity thereof was ascertained as 4,280 kg (4.28 MT Gross).

- Accordingly, the Importer submitted that, out of the total declared quantity of 36.579 MT, approximately 4.28 MT constituted the

segregated E-Waste and the balance quantity of approximately 32.30 MT constituted aluminium scrap as declared in the Bill of Entry.

- The Importer categorically denied any misdeclaration, concealment or fraudulent intention on its part. It submitted that the declaration in the Bill of Entry had been made bona fide on the basis of the invoice, packing list and other commercial documents supplied by the overseas supplier and that it had no knowledge, at the time of filing the Bill of Entry, regarding the presence of E-Waste in the consignment.

- The Importer further submitted that it had specifically ordered ISRI Grade "Tense" Aluminium Scrap and that the supplier had correspondingly issued the invoice and packing list describing the goods as such. It was therefore contended that the Importer had declared the goods in accordance with the information and documents available to it.

- It was also submitted that the containers had been loaded and sealed at the overseas supplier's premises and that the Importer had no opportunity to inspect the contents of the containers at the place of loading. The Importer further stated that it had no commercial requirement or interest in importing E-Waste, as its business activity primarily related to aluminium recycling.

- In support of its contention regarding absence of knowledge or intention, the Importer relied upon a letter dated 25.06.2026 issued by M/s Argentum Metals USA Inc., Baltimore, USA. According to the Importer, the overseas supplier, in the said letter, had:

- expressed regret and apologised for the mix-up during loading;
- stated that the loader at its yard had inadvertently loaded unsorted cartons into the containers;
- described the incident as entirely unintentional;
- accepted responsibility for the loading error; and

- undertaken to bear costs, charges, penalties, fines, detention, demurrage, Customs-related expenses and other liabilities arising directly from the said mistake.

- The Importer submitted that the aforesaid letter constituted contemporaneous evidence demonstrating that the presence of E-Waste in the consignment was attributable to an inadvertent loading error at the overseas supplier's premises and that the Importer was not aware of such admixture.

- The Importer also referred to loading photographs stated to have been taken at the supplier's premises in Baltimore and submitted that the photographs showed that the dominant character of the consignment was aluminium scrap. It was contended that the E-Waste had inadvertently been mixed with the aluminium scrap from an unsorted area at the supplier's premises.

- With regard to the provisions of Section 111 of the Customs Act, 1962, the Importer submitted that the goods should not be treated as having been intentionally misdeclared and that the ingredients necessary for alleging deliberate misrepresentation or fraudulent declaration were absent in the present case. In particular, the Importer contested the applicability of Section 111(m) of the Customs Act, 1962 to the aluminium scrap on the ground that the declaration had been made in good faith and on the basis of the documents supplied by the overseas supplier.

- The Importer further contested the applicability of Section 119 of the Customs Act, 1962. It submitted that the aluminium scrap was the genuine and contractually ordered cargo and was not used as a means of concealment of E-Waste. It was contended that there was no deliberate arrangement or design to conceal E-Waste within the aluminium scrap and that the mixing had occurred inadvertently at the overseas supplier's end.

- The Importer accordingly submitted that the entire consignment ought not to continue under seizure merely because 4.28 MT of E-Waste had been found mixed with the declared aluminium scrap. It emphasised that the two categories of goods had already been physically segregated and separately identified.

- The Importer submitted that the aluminium scrap portion of approximately 32.30 MT had been confirmed by the Chartered Engineer as aluminium castings, housings, brackets and miscellaneous scrap pieces in damaged/dented condition, fit only for recycling, and that the said goods corresponded to the goods declared in the Bill of Entry.

- On the above basis, the Importer requested provisional release of the segregated aluminium scrap under Section 110A of the Customs Act, 1962, on such bond, security or other conditions as may be prescribed by the Department. The Importer stated that provisional release of the aluminium scrap would not prejudice the investigation or proceedings in respect of the separately segregated E-Waste.

- The Importer further submitted that the goods had been imported under Advance Authorisation and that the aluminium scrap constituted raw material required for fulfilment of export obligations. It stated that certain export orders to Japan were time-sensitive and that continued detention of the aluminium scrap could adversely affect its ability to fulfil its export obligations.

- It was further submitted that continued detention of the goods was resulting in accrual of container detention, demurrage, CFS/storage and other incidental charges. The Importer therefore requested expeditious release of the aluminium scrap to mitigate the alleged commercial loss.

- With respect to the segregated E-Waste quantity of 4.28 MT, the Importer submitted that the same was subject to applicable Customs and environmental regulatory requirements. It proposed that the said E-Waste be disposed of through a recycler/processor having valid

authorisation from the competent environmental authority, including CPCB/SPCB, subject to the orders of the competent Customs authority.

- The Importer undertook to identify an eligible authorised E-Waste recycler/processor and to furnish the relevant authorisation certificate, purchase order and other documents as may be required by the Department. It further undertook to ensure transportation and receipt of the E-Waste by the authorised processor in accordance with the procedure prescribed by the competent authorities.

- The Importer also furnished an undertaking/indemnity stating, inter alia, that it would comply with the conditions imposed by the Department in respect of disposal of the segregated E-Waste and would bear such redemption fine, penalty, charges or other amounts as might be determined in accordance with law. The Importer, however, maintained that it reserved its right to recover such amounts from the overseas supplier in view of the supplier's acceptance of responsibility.

- In its written submission dated 01.07.2026, the Importer, inter alia, prayed that the statement of its Authorised Representative recorded under Section 108 of the Customs Act, 1962 be taken on record; that the Importer be held not to have committed any intentional misdeclaration; that the segregated aluminium scrap of approximately 32.30 MT be provisionally released under Section 110A of the Customs Act, 1962; that the Importer be permitted to identify an authorised E-Waste recycler/processor for the segregated E-Waste; and that such other relief as deemed appropriate be granted.

- Thereafter, vide another letter dated 03.07.2026, the Importer submitted a follow-up representation vide which they referred to the Panchnama dated 24.06.2026 and 25.06.2026, the Summons dated 29.06.2026 issued under Section 108 of the Customs Act, 1962, its written submission dated 01.07.2026 and the statement of Shri Harish Pandey recorded on 01.07.2026.

- In the said follow-up representation, the Importer submitted that the physical examination, segregation and weighing had conclusively established that approximately 32.30 MT constituted aluminium scrap and 4.28 MT constituted E-Waste. It was contended that there was no factual dispute regarding the identity of the aluminium scrap and that the only contentious portion was the E-Waste found mixed therein.

- The Importer reiterated that continued detention of the aluminium scrap was causing financial and commercial prejudice on account of detention, demurrage, CFS/storage charges and alleged impact upon its export obligations under Advance Authorisation.

- The Importer therefore once again requested immediate provisional release of approximately 32.30 MT of segregated aluminium scrap under Section 110A of the Customs Act, 1962, on execution of bond/security as may be directed by the Department.

- In the same representation dated 03.07.2026, the Importer expressly stated that, **in respect of the E-Waste quantity of 4.28 MT**, it was willing to waive issuance of a Show Cause Notice and requested that the matter be taken up for adjudication directly, with an opportunity of Personal Hearing. The Importer stated that such waiver was being made with a view to facilitating expeditious conclusion of the proceedings.

- The Importer requested that its waiver of Show Cause Notice be taken on record and that a Personal Hearing be granted before the competent adjudicating authority so that it could place its factual and legal submissions, including the supplier's letter dated 25.06.2026 and its proposal regarding disposal of the E-Waste through an authorised processor.

- The Importer also stated that it was in the process of identifying a suitable CPCB/SPCB-authorised E-Waste recycler/processor and would furnish the relevant authorisation documents and purchase order before the competent authority.

- Separately, vide letter dated 03.07.2026, the Importer requested release of the empty containers bearing Nos. CAIU7749712/40 and MSBU8057200/40 to the concerned shipping line. It stated that the containers had already been de-stuffed in the warehouse and that the imported goods had been seized on 25.06.2026. The Importer requested release of the empty containers so as to avoid further container detention charges and the request of the importer was considered.

- Subsequently, vide representation dated 17.07.2026, the Importer again followed up its earlier request for provisional release of the segregated aluminium scrap and for fixing of a Personal Hearing. The Importer reiterated that its earlier written submission and the statement of Shri Harish Pandey recorded under Section 108 of the Customs Act, 1962 were already on record.

- In the representation dated 17.07.2026, the Importer reiterated that the physical segregation had been completed under Customs supervision and that the Chartered Engineer's Report had confirmed that approximately 32.30 MT consisted of aluminium castings, housings, brackets and miscellaneous scrap pieces in damaged/dented condition, fit only for recycling.

- The Importer further reiterated that the E-Waste quantity of 4.28 MT had been separately identified and remained under Customs custody and that the said quantity was subject to adjudication proceedings.

- The Importer again submitted that the continued detention of the aluminium scrap was causing mounting detention and demurrage charges and was adversely affecting its ability to execute export orders to Japan under Advance Authorisation. It reiterated that the loading error had been admitted by the overseas supplier and was not attributable to any act or omission on the part of the Importer.

- The Importer once again stated that it unconditionally waived its right to issuance of a Show Cause Notice in respect of the subject

proceedings and requested that an early date for Personal Hearing before the adjudicating authority be fixed.

- The Importer, therefore, reiterated its prayer for immediate provisional release of the segregated aluminium scrap of approximately 32.30 MT under Section 110A of the Customs Act, 1962, against such bond/security as may be stipulated, and for fixing of an early date of Personal Hearing for adjudication of the matter.
- The Importer assured the Department of its cooperation in the further proceedings and stated that its Authorised Representative would appear before the competent authority as and when required.

WAIVER OF SHOW CAUSE NOTICE AND OPPORTUNITY OF PERSONAL HEARING

10. The importer, vide letter dated 03.07.2026 has initially sought waiver of written Show Cause Notice with respect of e-wate only, however, vide letter dated 17.07.2026, they had unconditionally waived their right to issuance of a written Show Cause Notice in the present proceedings and specifically requested for an opportunity of personal hearing before adjudication of the case. The said request of the importer has been taken on record and is being considered in accordance with the provisions of the Customs Act, 1962.

10.1. In the instant case, the importer has consciously and unconditionally requested, in writing, that no separate written Show Cause Notice be issued and has simultaneously exercised its right to be heard by specifically requesting a personal hearing.

10.2. Similarly, the PSIA viz. M/s. Metal Services vide letter/email dated 14.07.2026 expressly desired a personal hearing without issuance of written Show Cause Notice. Accordingly, the request for personal hearing was duly taken into consideration and the importer as well

as the PSIA were afforded a reasonable opportunity of presenting their case before the matter was decided on merits.

PERSONAL HEARING: -

11. The Personal Hearing in this case was initially fixed in virtual mode on 23.07.2026 which could not take place on the basis of telephonic request received from the Customs Broker about non-availability of internet connection on account of heavy rainfall near ICD Tumb. The Personal Hearing was -refixed on 30.07.2026, however, the importer vide email dated 27.07.2026 requested to held the Personal Hearing on 31.07.2026 stating the reason of having another Personal Hearing at Hon'ble Bombay High Court on 30.07.2026. The Personal Hearing was finally held on 31.07.2026 in virtual mode.

11.1. Shri Harishankar Pandey, the authorised representative of importer M/s Metalloys Recycling Limited attended the Personal Hearing on behalf of the importer and he submitted that the imported goods were found to be mixed with e-waste. He acknowledged the presence of e-waste in the consignment but stated that the importer was unaware of the same and that it had occurred inadvertently at the end of supplier. He further submitted that they were willing to dispose of the e-waste in accordance with the law and ready to bear all related expenses. It was also submitted that the valuation report prepared by the Chartered Engineer included the weight of the pallets and boxes while determining the net weight of the aluminium scrap. **Therefore, a request was made for revised report in respect of Gross weight and Net weight of the imported goods.**

11.1.2. Sh. Subeesh M S, the authorised representative of M/s Metal Services, attended the Personal Hearing on behalf of the Pre-

Shipment Inspection Agency (PSIA), and he admitted that the inspection had not been carried out properly and acknowledged the lapse on the part of their agency.

11.1.3. Sh. Manish Tiwari, Customs House Agent (CHA)/Customs Broker attended the Personal Hearing for his firm M/s Bhagwati Impex and submitted that they had received the import documents through email and that their authorised representative had remained present during the submission of documents, inspection, examination, and weighment proceedings.

11.2. As per the facts relating to the inclusion of weight of pallets and boxes in the net weight of imported cargo as pointed out by Shri Harishanker Pandey, Authorised Representative of importer during Personal Hearing dated 31.07.2026, the valuation was revised by the Govt approved Valuer Shri Shailesh P. Badge, Chartered Engineer (Mech.) of M/s. Vrishak Engineering, Mumbai who submitted Valuation Certificate dated 01.08.2026 reporting the Assessed Value of Aluminium Scrap Tense to be Rs. 69,03,900/-, for other scrap (Rs. 56,525/-) (total 69,60,425/-). Thus, alongwith the assessed value of e-waste i.e. Rs. 1,71,200/-, the Assessed Value for entire import consignment was reported to be Rs. 71,31,625/- (69,03,900+171200) against the declared Assessable Value of Rs. 62,54,350.58/-. **The importer vide email/letter dated 11.08.2026** expressed their consent/agreement over the valuation reported in this Valuation Report dated 01.08.2026.

DISCUSSION AND FINDINGS: -

12. I have carefully gone through the facts of the case, the relied upon documents (RUDs), the Panchnama drawn during examination, the

statements recorded under Section 108 of the Customs Act, 1962, the Chartered Engineer valuation report, and the written submissions made during the course of investigation. Further, the importer as well as PSIC Agency has requested to waive the issuance of show cause in the present matter and asked for the personal hearing in the matter. Before proceeding further, I would like to go through the provisions for waiver of SCN as envisaged in Section 124 of Customs Act, 1962 as under: -

"124. Issue of show cause notice before confiscation of goods, etc.*—No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person—*

(a) is given a notice in [writing with the prior approval of the officer of Customs not below the rank of [an Assistant Commissioner of Customs], informing] him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;

(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and

(c) is given a reasonable opportunity of being heard in the matter:

Provided that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person concerned be oral.

[Provided further that notwithstanding issue of notice under this section, the proper officer may issue a supplementary notice under such circumstances and in such manner as may be prescribed.]"

Perusal of Section 124 of the Act states that a Show Cause Notice may be issued in Oral on the request of noticee. If an oral SCN/ waiver has to be agreed to by the person concerned, the same ought to be in the form of a proper declaration, consciously signed by the person concerned. I find that the importer M/s. Metalloys Recycling Ltd and M/s. Metal Services, a PSIC Agency has requested for waiver of SCN/Oral SCN after preciously go through the provisions of Show Cause Notice under Section 124 of Customs Act, 1962 vide letter dated 03.07.2026, 14.07.2026 & 17.07.2026. Therefore, the Oral SCN/Waiver of SCN can be granted under Section 124 of Customs Act, 1962 on their written request and after following the principle of natural justice. In the instant case, I find that both noticee themselves have submitted their request letter for waiver of SCN which was consciously signed and both of them have availed the opportunity of personal hearing. Accordingly, the request for non-issuance of written Show Cause Notice is accepted in terms of the first proviso to Section 124 of the Customs Act, 1962 and accordingly, the matter is taken up for decision on merits.

12.1 I have carefully gone through the facts of the case and considered the evidences available on record, related documents including the Bill of Entry No. 9942461 dated 17.06.2026, Panchnama dated 24.06.2026 and 25.06.2026, the examination findings, Seizure Memo, the valuation report and other documents available on record. It is an admitted and established fact that the goods were declared in the Bill of Entry as “Aluminium Scrap Tense as per ISRI”, whereas, during detailed examination conducted under the Panchnama dated 24.06.2026 and 25.06.2026, the consignment was found to contain substantial quantity of e-waste, including old/broken laptops, Printed Circuit Boards (PCBs) and other electronic items, mixed with and concealed amongst the declared aluminium scrap. The quantity of such e-waste was found to be 4.28 MT out of the total consignment quantity of 39.064 MT (net 36.579 MT). The value of the e-waste was determined at Rs. 1,71,200/-, while the revised assessed value of the import consignment (non e-waste goods) was determined at Rs. 69,60,425/-.

12.2. I have also gone through the provisions of e-waste (Management) Rules, 2016 under chapter III which clearly stipulates that no import of the hazardous and other wastes specified in Schedule VI shall be permitted. In order to consider the issue in a better prospective, it would be worthwhile to discuss the same with relevant Foreign Trade Policy.

12.2.1. In terms of pares 2.1 of the Foreign Trade Policy 2015-20 notified by the Ministry of Commerce, Government of India under Section 5 of the Foreign Trade (Development Regulation) Act, 1992: -"Exports and imports shall be free, except where regulated by FTP or any other law in force. The item wise export and import policy shall be, as specified in ITC (HS) notified by DGFT, as amended from time to time."

Further, as per Section 3 of the Foreign Trade (Development as Regulation) Act, 1992; -

(1) The Central Government may, by order published in the Official Gazette, make provision for the development and regulation of foreign trade by facilitating imports and increasing exports.

(2) The Central Government may also, by order published in Official Gazette, make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the order, the import or export of goods or service or technology.

(3) All goods to which any order under sub-section applies shall be deemed to be goods the import or export of which has been prohibited under Section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly."

12.3. I have found from the Chartered Engineer Report and Valuation Report that 4280 Kgs of imported goods were e-waste and are covered under Basel No. A1180 of Schedule-VI of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 which prohibit the import of e-waste. As per the Rule 12(1) of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, no import of the hazardous and

other wastes from any country to India for disposal shall be permitted. Further, Rule 12(6) of the said Rule, 2016 stipulates that no import of the hazardous and other wastes specified in Schedule VI shall be permitted. Thus, I find that the that the 4280 kgs of E-Waste found during the course of examination which is not declared in the Bill of Entry is used and discarded electronic wastes which are not suitable to use and are e-waste as per the definition under the provisions of e-waste management Rules, 2016 which are prohibited to import into India.

12.4. As regards the written submissions made by the importer, I find that the importer has placed considerable reliance upon the fact that it is an established 3-Star Export House and MSME engaged in aluminium scrap recycling and non-ferrous metal trading and that it regularly imports aluminium scrap as raw material against Advance Authorisation. I have no reason to dispute the importer's status or its stated business activities. However, such status, by itself, cannot confer immunity from the statutory requirements of the Customs Act, 1962 or from the consequences arising from an incorrect declaration in a Bill of Entry. Every importer, irrespective of its status or business credentials, is required to make a true, correct and complete declaration of the imported goods and comply with the applicable import restrictions. The bona fides of an importer's past transactions may be relevant while considering the quantum of penalty or other discretionary relief, but they cannot render an otherwise incorrect declaration legally correct. **Further, in the past also, seizure of e-waste was admittedly made from the import consignments of the importer which indicates mens rea on the part of the importer.**

12.5. The importer has contended that it had placed a bona fide order for ISRI Grade "Tense" Aluminium Scrap under Sales Contract No. AMU/SC/042326/04 and that the overseas supplier's invoice, Bill of Lading and other commercial documents also described the goods as Aluminium Scrap Tense. I find that this contention establishes, at the highest, what the importer intended to purchase and what was represented in the commercial documents. It does not, however, establish that the goods actually imported

into India corresponded in every material particular with the declaration made in the Bill of Entry. The liability under the Customs Act has to be determined with reference to the goods actually imported and presented for assessment, and not merely on the basis of the description appearing in the supplier's invoice or other commercial documents.

12.6. The physical examination conducted under the Panchnama dated 24.06.2026 and 25.06.2026 is material and cannot be displaced merely by reference to the supplier's invoice or Bill of Lading. During examination, the consignment was found to contain 4.28 MT of e-waste, comprising old/broken laptops, Printed Circuit Boards (PCBs), LED lights, motors with PCBs, CCTV cameras and other electrical/electronic items, mixed with and concealed amongst the aluminium scrap. Thus, irrespective of the description appearing in the foreign commercial documents, the actual contents of the containers included a substantial and separately identifiable category of goods which had not been declared in the Bill of Entry.

12.7. I therefore do not find merit in the importer's contention that there was no mis-declaration merely because the description in the Bill of Entry was identical to that appearing in the supplier's commercial documents. The Bill of Entry is a statutory declaration made before Indian Customs by the importer for the purpose of assessment and determination of admissibility of the goods. The importer cannot discharge its statutory responsibility merely by reproducing the description furnished by its overseas supplier where the actual contents of the consignment are subsequently found to be materially different from such declaration. The commercial documents may explain the importer's stated understanding of the transaction, but they do not override the physical evidence regarding the actual goods imported.

12.8. I also find that the importer's reliance upon the fact that the predominant portion of the consignment comprised aluminium castings, housings, brackets and miscellaneous aluminium scrap does not advance its case. The issue is not whether the majority of the goods constituted aluminium scrap; the issue is whether the entire consignment corresponded with the declaration made in the Bill of Entry. The presence of 4.28 MT of

undeclared e-waste is a material circumstance because the e-waste constitutes a distinct category of goods having a different nature, regulatory status and value. The fact that the remaining portion of the consignment is aluminium scrap does not retrospectively make the undeclared e-waste part of "Aluminium Scrap Tense as per ISRI".

12.9. The importer has further relied upon the Chartered Engineer's Report dated 25.06.2026 to contend that approximately 32.30 MT constituted aluminium scrap fit only for recycling and therefore corresponded to the declared goods. I find that the Chartered Engineer's report may establish the nature and condition of the aluminium portion of the consignment, but it does not establish that the entire consignment corresponded to the declaration in the Bill of Entry. On the contrary, the very segregation undertaken on the basis of the examination and Chartered Engineer's report establishes the existence of two distinct categories of goods, namely aluminium scrap and e-waste. The report therefore does not exonerate the importer from the consequences of non-declaration of the e-waste.

12.10. As regards the importer's contention that the e-waste was inadvertently loaded by the overseas supplier and that the importer had no knowledge thereof, I find that this defence may have relevance while examining the importer's subjective knowledge and culpability for the purpose of penalty, but it does not by itself negate the objective fact of mis-declaration or the statutory liability of the goods to confiscation. The Customs Act makes a distinction between the liability of goods to confiscation under section 111 and the personal liability of an individual for penalty under the relevant provisions. The existence of an innocent explanation, even if accepted to some extent, does not alter the physical composition of the imported consignment or cure the incorrect declaration made before Customs.

12.11. I have also considered the letter dated 25.06.2026 purportedly issued by M/s Argentum Metals USA Inc., Baltimore, USA, wherein the overseas supplier expressed regret, stated that the loader had inadvertently loaded unsorted cartons into the containers and accepted responsibility for the loading error. I find that the said letter is essentially a communication from

the supplier after detection of the discrepancy and represents the supplier's version of events. It may have evidentiary relevance regarding the possible origin of the e-waste, but it cannot, by itself, conclusively establish the importer's lack of knowledge or absolve the importer of the statutory consequences flowing from the goods actually imported.

12.12. In particular, the said letter is not a statutory document issued by a competent authority and does not alter the findings recorded during Customs examination. Nor does an undertaking by the overseas supplier to bear detention, demurrage, penalties, fines or Customs-related expenses determine the liability of the importer under Indian Customs law. The allocation of commercial liability between the importer and its overseas supplier is a matter inter se between those parties and cannot curtail or defeat the statutory powers and obligations of Customs.

12.13. The loading photographs relied upon by the importer also do not materially alter the position. Even if the photographs demonstrate that the dominant character of the consignment was aluminium scrap, they do not establish that the containers remained free from e-waste up to the point of examination in India. More importantly, photographs showing the goods at the overseas premises cannot, by themselves, disprove the positive physical evidence of 4.28 MT of e-waste actually found inside the imported containers.

12.14. I find that the importer's contention that the containers were loaded and sealed at the overseas supplier's premises and that the importer had no opportunity to inspect them before shipment is also not sufficient to absolve it from the statutory consequences of the incorrect declaration. The importer chose to file the Bill of Entry on the basis of the documents available to it. Once the goods were presented for clearance, the importer was responsible for the correctness of the declaration made before Customs. The fact that the importer may not have physically examined the containers before shipment may be a circumstance relevant to determining the degree of culpability, but it does not convert an objectively incorrect declaration into a correct declaration.

12.15. I now turn to the importer's specific challenge to the applicability of section 111(m) of the Customs Act, 1962. The importer has argued that section 111(m) should not apply because there was no deliberate misrepresentation and the declaration was made bona fide on the basis of the supplier's documents. I find this argument legally untenable insofar as it seeks to make proof of deliberate intention a prerequisite for confiscation under section 111(m). Section 111(m) provides for confiscation where imported goods do not correspond in respect of value or in any other particular with the entry made under the Act. The statutory test under this clause is correspondence between the goods actually imported and the particulars declared in the entry.

12.16. In the present case, the goods actually imported did not correspond with the declaration in two material respects. First, the importer declared the consignment as "Aluminium Scrap Tense as per ISRI", whereas 4.28 MT of identifiable e-waste was found mixed with and concealed amongst the declared scrap. Secondly, the value declared in the Bill of Entry did not correspond with the value determined on examination/valuation. Thus, the requirements of section 111(m) are attracted on the basis of the objective discrepancy between the goods and the declaration. The importer's contention regarding absence of fraudulent intention cannot, by itself, defeat the operation of section 111(m).

12.17. I further find that the non-declaration of the 4.28 MT of e-waste independently attracts section 111(l) of the Customs Act, 1962, which covers dutiable or prohibited goods which are not included, or are in excess of those included, in the entry made under the Act. The importer made an entry only for aluminium scrap and did not include the e-waste as a separate category of imported goods. Consequently, the e-waste was goods not included in the entry made under the Act and is liable to confiscation under section 111(l), subject to the applicable statutory conditions.

12.18. To the extent the e-waste falls within a category whose import is prohibited under the applicable environmental/waste-management regime, section 111(d) is also attracted. Section 111(d) applies where goods are

imported contrary to a prohibition imposed by or under the Customs Act or any other law for the time being in force. The regulatory status of the e-waste therefore has to be determined with reference to the applicable environmental legislation, including the E-Waste (Management) Rules, 2022 and, where applicable, the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016. The E-Waste (Management) Rules, 2022 regulate electrical and electronic equipment and their components, consumables, parts and spares and came into force from 01.04.2023.

12.19. The importer's reliance on the absence of intention is similarly misplaced in relation to section 111(d). Where the importation is contrary to a prohibition imposed under another law, the statutory consequence under section 111(d) follows from the character of the goods and the applicable prohibition. The question whether the importer knowingly or deliberately imported the prohibited material is a separate consideration relevant, inter alia, to the personal penalty provisions. It does not, by itself, render otherwise prohibited goods permissible for import.

12.20. I have also considered the importer's challenge to section 119 of the Customs Act, 1962. Section 119 provides for confiscation of goods used for concealing smuggled goods, notwithstanding that the goods used for concealment may themselves not be liable to confiscation. The importer argues that the aluminium scrap was genuine cargo and was not deliberately used as a means for concealing the e-waste. I find that the applicability of section 119 has to be determined on the basis of the actual facts and the statutory ingredients of that provision and not merely on the description of the goods in the commercial contract.

12.21. The importer has also relied upon its Advance Authorisation and stated that the aluminium scrap is required as raw material for manufacture of finished products against export obligations. I find that the existence of Advance Authorisation may explain the commercial urgency asserted by the importer, but it does not override the provisions of the Customs Act or the applicable import restrictions. An exemption/concession or authorisation available in respect of otherwise permissible inputs cannot be construed as

authorisation to import goods which are prohibited or not covered by the relevant declaration and conditions.

12.22. Similarly, the importer's reference to time-sensitive export orders, potential loss of business, container detention, demurrage, CFS charges and other incidental expenses cannot determine the legality of the import or the liability of the goods to confiscation. Such commercial consequences are unfortunate but are collateral to the statutory determination required under the Customs Act.

12.23. I also find that the importer's submission that it acted bona fide cannot be accepted as a complete defence to the mis-declaration in the Bill of Entry. A Bill of Entry is a statutory declaration made for the purpose of Customs assessment and clearance. The importer cannot simply transfer the statutory consequences of an incorrect declaration to the overseas supplier by stating that the declaration was copied from the supplier's documents. If the importer seeks to rely upon the defence of absence of knowledge, such defence has to be evaluated against the entire evidentiary record, including the circumstances of procurement, contractual terms, communications with the supplier, inspection arrangements, loading documents, photographs and the conduct of the importer after detection of the discrepancy.

12.24. I have also taken note of the importer's subsequent conduct in cooperating with the investigation, furnishing the supplier's letter and proposing segregation and lawful disposal of the e-waste. Such conduct may be relevant as a mitigating circumstance. However, subsequent cooperation cannot retrospectively convert the incorrect declaration into a correct one or extinguish the statutory liability of the goods under section 111.

12.25. In view of the foregoing discussion, I find that the importer's submission that there was no mis-declaration merely because the declaration corresponded with the overseas supplier's documents is not acceptable. The physical examination establishes that the actual consignment contained 4.28 MT of e-waste which was not declared in the Bill of Entry. The declaration therefore did not correspond with the goods actually imported.

12.26. On the basis of facts and evidences available on record, I find that the declaration made by the importer in the Bill of Entry was not a true and complete declaration of the goods actually imported. The importer declared the entire consignment as “Aluminium Scrap Tense as per ISRI”, whereas the physical examination established the presence of a distinct category of goods, namely e-waste, which was neither declared in the Bill of Entry nor separately accounted for in the import documents. The e-waste comprised old/broken laptops, PCBs and other electronic items and was found mixed with and concealed by the declared aluminium scrap. Therefore, the description of the imported goods furnished by the importer was materially incorrect and incomplete.

12.27. I find that Self-Assessment in Customs was introduced w.e.f. 8.4.2011 vide Finance Act, 2011 by suitable changes to Sections 17, 18, 46, and 50 of the Customs Act, 1962 to reduce dwell time and transaction cost involved in customs clearance to make Indian trade more competitive. Under Self-Assessment Scheme, Customs Department has reposed its faith in the assessee/importer as far as assessment (which includes both classification and valuation) is concerned; accordingly, it is the responsibility of the assessee/importer to correctly declare value, classification, and description of goods, exemption notifications etc. and self-assess the duty thereon, if any. Self-Assessment is expected to usher in a new era of trust-based Customs - Trade partnership leading to greater facilitation of compliant traders. Therefore, it is the primary responsibility of the importer to declare the correct description, classification and the valuation in respect of the imported goods sought to be cleared from Customs. I find that after introduction of self-assessment through amendment in Section 17 of the Customs Act, 1962 vide Finance Act, 2017, it is the responsibility of the Importer to correctly declare the description, classification, applicable exemption Notification, applicable Duties, rate of Duties and its relevant Notifications etc. in respect of said imported goods and pay the appropriate Duty accordingly. Further, section 46 of the Customs Act, 1962 requires an importer filing a Bill of Entry to make a

proper declaration of the imported goods and furnish the prescribed particulars. The declaration in a Bill of Entry is the basis upon which Customs undertakes assessment and determines the admissibility of the goods for clearance. A declaration which describes the entire consignment merely as aluminium scrap, while omitting a substantial quantity of e-waste physically present in the consignment, cannot be considered a correct declaration for the purposes of the Customs Act. The non-declaration of the e-waste is therefore a substantive mis-declaration and not a mere procedural or technical lapse.

12.28. I further find that the import policy governing metallic waste and scrap contains specific safeguards against the import of hazardous, toxic and other prohibited material along with metallic scrap. Para 2.51 of the Handbook of Procedures, 2023 stipulates, inter alia, that import of metallic waste and scrap shall be subject to the condition that it shall not contain hazardous, toxic waste, radioactive contaminated waste/scrap containing radioactive material, arms, ammunition, mines, shells, live or used cartridges or explosive material. The same framework also provides for the prescribed Pre-Shipment Inspection Certificate in respect of import consignments of metallic waste and scrap, subject to the specified exceptions.

12.29. In the present case, the physical examination has established the presence of 4.28 MT of e-waste, comprising old/broken laptops, PCBs and other electronic items, which had been mixed with and concealed amongst the declared aluminium scrap. To the extent the said material falls within the prohibited category under the applicable environmental/waste-management provisions governing import of such e-waste, its import is contrary to the prohibition/restriction imposed under law. Section 111(d) of the Customs Act, 1962 provides that goods imported or attempted to be imported contrary to any prohibition imposed by or under the Customs Act or any other law for the time being in force are liable to confiscation. Accordingly, the prohibited e-waste found in the subject consignment is liable to confiscation under **section 111(d)** of the Customs Act, 1962.

12.30. I also find that the manner in which the e-waste was found in the consignment is material. The e-waste was not openly declared as a separate component of the import but was mixed with and concealed amongst the declared aluminium scrap. Section 111(e) of the Customs Act, 1962 renders dutiable or prohibited goods liable to confiscation where such goods are found concealed in any manner in a conveyance, while section 111(i) similarly covers dutiable or prohibited goods found concealed in any manner in a package, whether before or after unloading. In the present case, the facts recorded during the Panchnama establishes that the e-waste was concealed/mixed with the declared scrap within the import containers. I therefore hold that, subject to the precise manner of concealment established from the Panchnama and examination records, the undeclared/prohibited e-waste is also liable to confiscation under **section 111(e)** and/or **section 111(i)** of the Customs Act, 1962.

12.31. Further, section 111(l) of the Customs Act, 1962 provides for confiscation of dutiable or prohibited goods which are not included, or are in excess of those included, in the entry made under the Act. In the present case, the importer made an entry only for "Aluminium Scrap Tense as per ISRI" and did not include the 4.28 MT of e-waste found during examination. The e-waste was therefore goods not included in the entry made under the Customs Act. Consequently, I hold that the said undeclared e-waste is liable to confiscation under **section 111(l)** of the Customs Act, 1962 as well.

12.32. As regards the declared aluminium scrap and the valuation thereof, I find that the value declared by the importer in the Bill of Entry did not correspond to the value of the goods actually imported. The valuation exercise resulted in a revised assessed value of Rs. 69,60,425/-, as against the value declared by the importer. The difference in value is material and, when considered along with the mis-declaration of description and the concealment/non-declaration of e-waste, establishes that the particulars furnished in the Bill of Entry did not correctly correspond with the goods imported.

12.33. Section 111(m) of the Customs Act, 1962 specifically provides for confiscation of goods which do not correspond, in respect of value or in any other particular, with the entry made under the Act. The expression "in any other particular" is of significance in the present case because the discrepancy is not confined merely to valuation; the physical composition and description of the consignment were also found to be materially different from the declaration. I therefore find that the subject goods are liable to confiscation under **section 111(m)** of the Customs Act, 1962 on account of the material discrepancy between the goods actually imported and the description and value declared in the Bill of Entry.

12.34. I further observe that section 14 of the Customs Act, 1962 provides the statutory basis for determination of the value of imported goods for the purposes of assessment, while the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 prescribe the manner in which such value is to be determined. In the present case, in view of the established mis-declaration of the description and composition of the consignment, the originally declared value could not be accepted as representing the value of the goods actually imported. The revised assessed value of Rs. 69,60,425/- has accordingly been adopted for the purposes of assessment in accordance with the applicable valuation provisions. The discrepancy in value consequently constitutes an additional ground for holding the goods liable to confiscation under section 111(m).

12.35. I further find that the remaining aluminium scrap, though otherwise constituting the declared commodity, was not merely found in the same consignment along with the undeclared e-waste, but was actually used as a means for concealing the said e-waste. I find that the aforesaid 4.28 MT of undeclared e-waste constitutes 'smuggled goods' within the meaning of Section 2(39) of the Customs Act, 1962, inasmuch as the same was imported into India in contravention of the applicable prohibition/restriction governing its import and without making the requisite declaration before Customs. The goods were therefore liable to confiscation under the applicable provisions of

Section 111 of the Customs Act, 1962 and, consequently, fall within the statutory expression 'smuggled goods' for the purposes of Section 119.

12.36. I find that Section 119 of the Customs Act, 1962 is specifically intended to cover the goods which are used as a means of concealing smuggled goods. In the present case, the e-waste was not openly declared as a separate commodity in the Bill of Entry, but was found concealed/mixed amongst the declared aluminium scrap. The aluminium scrap therefore acquired a role beyond that of the declared cargo and became the very medium through which the undeclared e-waste was concealed from Customs examination.

12.37. The contention of the importer that the aluminium scrap was its bona fide contracted cargo and that the admixture of e-waste occurred inadvertently at the overseas supplier's premises does not, in my considered view, obliterate the objective fact that, at the time of importation and examination, the aluminium scrap was actually found to have been used for concealing the undeclared e-waste. Section 119 deals with the confiscation of the goods used for concealment and does not, in its express language, make the confiscability of such concealing goods dependent upon proof of the knowledge or intention of their owner. The explanation to Section 119 merely excludes a conveyance used as a means of transport from the expression 'goods'. The plea regarding absence of knowledge may, therefore, be considered separately while determining the personal culpability and quantum of penalty against the importer, but cannot, by itself, negate the established factual use of the aluminium scrap as the concealing material.

12.38. I also find that the subsequent physical segregation of the aluminium scrap and e-waste during Customs examination does not retrospectively remove the manner in which the goods were presented for import. The relevant circumstance for the purpose of Section 119 is the manner in which the goods were brought before Customs, and the evidence on record establishes that the e-waste was concealed within/mixed with the aluminium scrap at the time of examination. Thus, the fact that the two categories of

goods could subsequently be segregated does not alter the fact that the aluminium scrap had been used for concealing the undeclared e-waste.

12.39. Accordingly, I hold that the aluminium scrap, to the extent it was used for concealing the aforesaid undeclared/smuggled e-waste, is liable to confiscation under **Section 119** of the Customs Act, 1962, in addition to its liability to confiscation under the other applicable provisions of Section 111 of the said Act. The fact that the aluminium scrap is otherwise a permissible recyclable commodity does not confer immunity from Section 119 when the same goods have, in the facts and circumstances of the present case, been used as the means of concealing goods liable to be treated as smuggled goods. I therefore hold the subject aluminium scrap liable to confiscation under Section 119 of the Customs Act, 1962."

12.40. I am therefore of the considered view that the contravention in the present case is substantive in nature. The goods were not merely found to contain an insignificant accidental admixture or an immaterial variation from the declaration. A quantity of 4.28 MT of e-waste, forming part of a total consignment of 39.064 MT (net 36.579 MT), was found mixed with the declared aluminium scrap. The e-waste comprised identifiable electronic items such as old/broken laptops and PCBs and had a separately ascertainable value of Rs. 1,71,200/-. Such material was not declared in the Bill of Entry. The fact that the e-waste was physically mixed with and concealed by the declared aluminium scrap further establishes that the actual contents of the containers were materially different from the description declared before Customs.

12.41. I also find that the fact that the quantity of e-waste constituted approximately 4.28 MT out of 39.064 MT (net 36.579 MT) cannot be considered insignificant merely on the ground that the major portion of the consignment comprised aluminium scrap. The statutory provisions relating to confiscation do not prescribe a minimum percentage of undeclared or prohibited goods before section 111 becomes applicable. What is relevant is whether the goods were prohibited, whether they were included in the declaration, and whether the goods corresponded with the particulars

declared in the Bill of Entry. In the present case, all these circumstances stand established from the examination and Panchnama proceedings.

12.42. I further find that the subsequent determination of the value of the e-waste at Rs. 1,71,200/- does not make the import of such goods permissible. Value and admissibility are distinct considerations under the Customs Act. The fact that the prohibited/undeclared e-waste has a comparatively lower value than the balance of the consignment does not take away its liability to confiscation where the conditions of section 111(d), section 111(l) or other applicable clauses are satisfied.

12.43. The provisions of section 125 of the Customs Act, 1962 regarding option of redemption fine, if applicable, are to be considered separately in respect of goods whose importation is not prohibited. However, where any portion of the goods is established to be absolutely prohibited for import under the applicable law, the question of allowing redemption of such prohibited goods would have to be considered in accordance with the nature and extent of the prohibition and the statutory powers of the adjudicating authority.

12.44. In view of the foregoing findings, I hold that the imported consignment covered by Bill of Entry No. 9942461 dated 17.06.2026 is liable to confiscation under the Customs Act, 1962. In particular, the undeclared/prohibited e-waste weighing 4.28 MT and valued at Rs. 1,71,200/- is liable to confiscation under sections 111(d), 111(l) and, on the basis of the established concealment, section 111(e) and/or section 111(i) of the Customs Act, 1962. The balance/declared goods are also liable to confiscation under section 111(m) on account of the material discrepancy in description and value, read with the findings regarding the actual composition of the consignment and under Section 119 for concealment of smuggled e-waste. The revised assessed value of the consignment being Rs. 69,60,425/-, the goods are accordingly liable to the consequences prescribed under the Customs Act, 1962.

ROLE AND CULPABILITY OF IMPORTER:

13. I find that the importer, in the aforesaid Bill of Entry, declared the goods as "Aluminium Scrap Tense as per ISRI" and declared an assessable value of Rs. 62,54,350.58/-. However, upon examination, the consignment was found not to conform to the declaration made in the Bill of Entry, as e-waste had been concealed/mixed with the declared aluminium scrap. Thus, the declaration made by the importer did not correctly and completely disclose the nature and description of the imported goods. Section 46 of the Customs Act, 1962 requires an importer to make a proper Bill of Entry containing the prescribed particulars, while section 46(4) read with the scheme of assessment under section 17 requires the importer to ensure the truth and correctness of the particulars furnished in the entry. Further, section 111(l) renders liable to confiscation any dutiable or prohibited goods which are not included, or are in excess of those included, in the entry made under the Act. In the instant case, the e-waste found mixed/concealed in the consignment was not declared at all in the Bill of Entry. Accordingly, I find that the subject goods are liable to confiscation under section 111(l) of the Customs Act, 1962.

13.1. I further find that the declaration of the goods merely as "Aluminium Scrap Tense as per ISRI" was materially incorrect because the actual contents of the consignment included e-waste in addition to aluminium scrap and other scrap. The mis-declaration is not a mere technical or clerical discrepancy but goes to the identity, nature, composition and value of the imported goods. Section 111(m) of the Customs Act, 1962 specifically provides for confiscation of goods which do not correspond in respect of value or in any other particular with the entry made under the Act. The finding of e-waste concealed/mixed with the declared aluminium scrap, therefore, squarely attracts section 111(m) of the Act. The fact that the undeclared e-waste was mixed with the declared scrap does not cure the mis-declaration; rather, such manner of packing/concealment demonstrates that material particulars of the imported goods were withheld from Customs at the time of filing the Bill of Entry.

13.2. As regards the valuation, section 14 of the Customs Act, 1962 provides that the value of imported goods shall ordinarily be the transaction value, subject to the conditions and manner prescribed under the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Rule 12 of the said Valuation Rules empowers the proper officer to reject the declared value where, on the basis of the available material and after seeking the requisite information/documents from the importer, there remains a reasonable doubt regarding the truth or accuracy of the declared value. The said Rule specifically recognises mis-declaration of goods in parameters such as description, quality and quantity as one of the circumstances giving rise to doubt regarding the truth or accuracy of the declared value. Once the declared value is rejected under Rule 12, the value is required to be re-determined sequentially in accordance with Rules 4 to 9 of the Valuation Rules.

13.3. In the present case, there are sufficient and cogent grounds for rejecting the declared assessable value of Rs. 62,54,350.58/-, since the goods actually imported were materially different from the goods declared in the Bill of Entry and included undeclared e-waste. The mis-declaration of description and the non-declaration of a separate category of goods having a distinct commercial character and value constitute circumstances giving rise to a reasonable doubt regarding the truth and accuracy of the declared value. Accordingly, I hold that the declared value cannot be accepted under Rule 3 of the Customs Valuation Rules, 2007 and is liable to be rejected under Rule 12 thereof. Thereafter, the value is required to be determined in accordance with the sequential mechanism prescribed under Rules 4 to 9.

13.4. In this regard, the valuation of the goods was undertaken by the Government-approved Valuer, Shri Shailesh P. Badge, Chartered Engineer (Mech.), M/s. Vrishak Engineering, Mumbai, who submitted Valuation Certificate dated 01.08.2026. As per the said valuation certificate, the Asseessed Value for entire import consignment was reported to be Rs. 69,60,425/- for non e-waste goods and Rs. 71,32,625/- (69,60,425+1,71,200) for entire cargo against the declared Assessable Value of Rs. 62,54,350.58/-. I

find that the said valuation report, prepared by a Government-approved Chartered Engineer after examination of the actual goods, provides a reasonable and credible basis, in the facts of the present case, for determination of the value under the residual method prescribed under Rule 9 of the Customs Valuation Rules, 2007, subject to the statutory requirements of section 14 of the Customs Act, 1962. Rule 9 permits determination of value by reasonable means consistent with the principles and general provisions of the Valuation Rules on the basis of data available in India, where the value cannot be determined under the preceding rules.

13.5. I therefore hold that the declared assessable value of Rs. 62,54,350.58/- is not acceptable and is liable to be rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with section 14 of the Customs Act, 1962. Consequently, for the purpose of adjudication and assessment, the value of the subject goods is liable to be re-determined at Rs. 71,31,625/-, comprising Rs. 69,03,900/- towards Aluminium Scrap (Non-E-Waste), Rs. 56,525/- towards other scrap and Rs. 1,71,200/- towards e-waste, in terms of Rule 9 of the said Rules, on the basis of the valuation report placed on record.

13.6. I further find that the e-waste found concealed/mixed with the aluminium scrap cannot be treated as a permissible part of the declared scrap merely because it was physically present within the same consignment. The E-Waste (Management) Rules, 2022 define e-waste to include electrical and electronic equipment discarded wholly or partly as waste or rejected from manufacturing, refurbishment or repair processes, and the Rules cover specified electrical and electronic equipment and their components, consumables, parts and spares listed in Schedule I. The Rules also specifically provide that transportation of e-waste destined for final disposal is subject to the provisions of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016.

13.7. **Insofar as the concealed e-waste falls within the prohibited category of hazardous and other wastes, I find that its import is contrary to the applicable waste-management regime. The Ministry of**

Environment, Forest and Climate Change has expressly recorded that e-waste covered under Basel No. A1180 is included in Schedule VI of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 and is prohibited for import. Schedule VI includes waste electrical and electronic assemblies or scrap containing specified hazardous components/contaminants. Accordingly, where the e-waste recovered from the subject consignment is covered by the said prohibited category, its import is in contravention of the applicable environmental restrictions and consequently attracts the provisions of section 111(d) of the Customs Act, 1962, which provides for confiscation of goods imported contrary to a prohibition imposed under the Customs Act or any other law for the time being in force.

13.8. The concealment/non-declaration of the prohibited e-waste also attracts section 111(e) and/or section 111(i), as applicable to the precise manner in which the goods were concealed, since the said provisions cover dutiable or prohibited goods found concealed in a conveyance or in a package. Further, by deliberately presenting the entire consignment as Aluminium Scrap Tense and omitting the e-waste from the Bill of Entry, the importer rendered the goods liable to confiscation under sections 111(d), 111(l) and 111(m) of the Customs Act, 1962. They also rendered the goods other than e-waste , which were used for concealment of smuggled e-waste, liable for confiscation under Section 119 of Customs Act, 1962.

13.9. From above, I find that the importer has rendered the subject goods liable for confiscation under the provisions of Section 111 and or 119 of Customs Act, 1962. Also, they were concerned with carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or otherwise dealing with goods which they knew or has reason to believe were liable to confiscation under section 111. Hence, I find that the importer is liable to penalty under **Section 112(b)** of Customs Act, 1962.

13.10. I further find that the declaration made in the Bill of Entry, insofar as it described the entire consignment as Aluminium Scrap Tense and declared a value of Rs. 62,54,350.58/- despite the actual presence of undeclared e-

waste and other scrap, constitutes a false/incorrect declaration in a material particular for the purposes of the Customs Act. Further, in the past also, seizure of e-waste was made from the import consignments of the importer which indicates mens rea on the part of the importer. Thus, I find that the importer had knowingly or intentionally made, signs or used, or causes to be made, signed or used, declarations under the Bill of Entry which are false or incorrect. Hence, I find that the importer is liable to penalty under **Section 114AA** of Customs Act, 1962.

ROLE AND CULPABILITY OF PSIA M/s. METAL SERVICES, AHMEDABAD:

14. I now proceed to examine the role and liability of M/s. Metal Services, Ahmedabad, the Pre-Shipment Inspection Agency (PSIA) which had issued the Pre-Shipment Inspection Certificate (PSIC) in respect of the subject consignment. The role of a PSIA in respect of import of metallic waste and scrap is not merely ministerial or documentary. The PSIA is a DGFT-recognised inspection agency entrusted with the responsibility of carrying out the prescribed pre-shipment inspection and issuing the PSIC only after the required inspection has actually been carried out. The Handbook of Procedures (HBP) 2023, Para 2.52, provides for recognition of PSIAs and issuance of PSICs, **while Para 2.53 specifically lays down the Responsibility and Liability of PSIA and Importer.** In terms of Para 2.53(a), in case of any mis-declaration in the PSIC, the PSIA is liable for penal action under the Foreign Trade (Development & Regulation) Act, 1992, in addition to suspension/cancellation of its recognition. Further, Para 2.53(c) stipulates that the PSIC shall be generated by the PSIA only after the required inspection has been carried out.

14.1. I find from the records that the PSIA, M/s. Metal Services, Ahmedabad, issued the PSIC in respect of the subject consignment of metallic scrap. The PSIC was intended to certify compliance with the prescribed requirements relating to the imported metallic waste/scrap. The importance of such certification is particularly significant in the present case because the applicable DGFT provisions governing import of metallic waste and scrap require the PSIC to certify, inter alia, that the imported material is actually

metallic waste/scrap as per internationally accepted parameters and that the consignment satisfies the prescribed conditions. Thus, the correctness and reliability of the PSIC constitute an important safeguard against the entry of prohibited or otherwise non-permissible material concealed within consignments of metallic scrap.

14.3. The statement of Shri Subheesh M. S., authorised representative of M/s. Metal Services, Ahmedabad, assumes considerable evidentiary significance in this regard. In his statement, he admitted that the lapse had occurred on the part of their Inspector at the loading port itself. He stated that during the inspection proceedings, the Inspector had gone for lunch and, in the meantime, a loader had put e-waste into the two containers from some other consignment. He further admitted that the mistake had occurred on the part of the Inspector, though he stated that the Inspector had not done so deliberately and that the lapse was attributable to negligence. He also assured that due care would be taken in future and that the agency would cooperate with the Department in the investigation.

14.4. I find that the above admission does not exonerate the PSIA. On the contrary, it establishes that the PSIA Inspector was entrusted with the physical inspection of the consignment and that the inspection process was not continuously and effectively supervised until completion of stuffing/sealing of the containers. The explanation that the Inspector went for lunch and that, during his absence, a loader allegedly introduced e-waste into the containers from another consignment demonstrates a serious deficiency in the inspection and supervision mechanism adopted by the PSIA. The very purpose of the pre-shipment inspection is defeated if, after inspection or during the stuffing/sealing process, the consignment is left unattended or is not subjected to effective verification before issuance of the PSIC.

14.5. I further find that Para 2.53(c) of HBP 2023 expressly requires that the PSIC be generated only after the required inspection has been carried out. Further, Para 2.53(d) prescribes specific documentary safeguards in the form of photographs/video recordings of the inspection, testing instruments, stuffing of containers and sealing process, including photographs identifying

the Inspector, container number and sealed container. These requirements are intended to ensure traceability and to demonstrate that the inspection and stuffing/sealing process were actually carried out in accordance with the prescribed procedure. The prescribed photographic/video requirements also reinforce the obligation of the PSIA to maintain effective control and verification of the goods and containers during the inspection process.

14.6. In the instant case, the fact remains that despite the PSIA having issued the PSIC, e-waste was subsequently found concealed/mixed with the declared aluminium scrap in the subject containers. The PSIA's own authorised representative has admitted that the lapse occurred because the Inspector was not present during a material stage of the inspection/stuffing process. Therefore, irrespective of whether the introduction of e-waste was done by the loader of another consignment and irrespective of the absence of any admitted deliberate intention on the part of the Inspector, the PSIA failed to discharge the standard of care and diligence expected of a DGFT-recognised Pre-Shipment Inspection Agency.

14.7. I find that Para 2.53(a) of HBP 2023 is directly attracted in the present case. The said provision specifically provides that, in case of any mis-declaration in the PSIC, the PSIA would be liable for penal action under the Foreign Trade (Development & Regulation) Act, 1992, in addition to suspension/cancellation of recognition. Thus, the regulatory framework itself recognises the liability of the PSIA where the PSIC does not correctly reflect the material actually imported. The admission of the authorised representative, coupled with the physical finding of undeclared e-waste in the very consignment for which the PSIC had been issued, establishes a clear failure on the part of the PSIA to perform the inspection function with the diligence mandated under the DGFT framework.

14.8. In the present case, the PSIA, being a recognised inspection agency, was under a specific regulatory obligation to conduct the required inspection and issue the PSIC only after satisfying itself regarding the actual nature and contents of the consignment. By its own admission, the PSIA Inspector left the inspection process unattended and, during such absence, e-waste came

to be introduced into the containers. The PSIA nevertheless issued the PSIC for the consignment. I therefore find that the PSIA failed to exercise the degree of care and diligence mandated under Para 2.52 and Para 2.53 of HBP 2023 and thereby facilitated the import of a consignment which was subsequently found to contain undeclared e-waste.

14.9. The defence of the PSIA that the lapse was not deliberate also requires consideration. I find that the absence of deliberate intention may be relevant while determining the quantum of penalty, but it does not obliterate the contravention arising from failure to comply with the prescribed inspection obligations. The PSIA was not a casual participant in the transaction; it was a specialised agency specifically recognised by DGFT for the purpose of pre-shipment inspection and certification. The inspection and certification functions entrusted to such agency carry a corresponding duty to exercise due diligence. A failure arising from the Inspector leaving the inspection process unattended during a critical stage constitutes, at the least, a serious lapse in the discharge of the statutory/regulatory responsibility entrusted to the PSIA.

14.10. Further, Section 3(3) of Foreign Trade (Development & Regulation) Act, 1992 stated that any contravention under FT(D&R) Act, 1992 are treated as violations under Customs Act, 1962. The relevant text of Section 3(3) of Foreign Trade (Development & Regulation) Act, 1992 is as:-

"(3) all the goods which any order under Sub Section 2 applies shall be deemed to be goods the import or export of which has been prohibited under Section 11 of Customs Act, 1962 and all the provisions of that Act shall have effect accordingly."

As the PSIC M/s. Metal Service Ahmedabad has failed to fulfil the responsibilities as laid down under Para 2.53 of HBP 2023 which rendered the subject goods liable for confiscation under Section 111 of Customs Act, 1962. I also find that the omission of the PSIA is relevant for the purpose of **section 112(a)** of the Customs Act, 1962. In the present case, the subject goods were found liable to confiscation under section 111 on account of, inter

alia, non-declaration/mis-declaration of the goods and the presence of prohibited/undeclared material. The PSIA's admitted failure to maintain effective inspection and supervision enabled the subject consignment to pass the pre-shipment inspection stage notwithstanding the presence of undeclared e-waste. Accordingly, I find that the omission attributable to the PSIA falls within the ambit of **section 112(a)** of Customs Act, 1962.

14.11. In view of the foregoing, I hold that M/s. Metal Services, Ahmedabad, being the PSIA which issued the PSIC for the subject consignment, failed to discharge the inspection and certification responsibilities prescribed under Para 2.52 and Para 2.53 of the Handbook of Procedures 2023. The statement of its authorised representative establishes the admitted lapse of its Inspector and confirms that the inspection was not effectively supervised during a critical stage, resulting in the PSIA certifying a consignment which was subsequently found to contain undeclared e-waste. I therefore hold that M/s. Metal Services, Ahmedabad, has rendered itself liable to penalty under section 11(2) of the Foreign Trade (Development & Regulation) Act, 1992, read with Para 2.53(a) of the Handbook of Procedures 2023, for failure to discharge its prescribed PSIA obligations and for issuance of a PSIC in respect of a consignment which was found to contain undeclared e-waste. Further, insofar as the ingredients of section 112(a) of the Customs Act, 1962 are established from the evidence on record, M/s. Metal Services, Ahmedabad, is also liable to penalty under the said provision for its omission/failure in the inspection process which contributed to the goods becoming liable to confiscation under section 111 of the Customs Act, 1962.

15. In view of the facts discussed in foregoing paras, I pass the following Orders:

ORDER

15.1. I order that the goods covered under Bill of Entry No. 9942461 dated 17.06.2026, declared as "Aluminium Scrap Tense as per ISRI", having been found materially mis-declared in respect of description and value and having been found to contain undeclared e-waste, are liable to confiscation under the

provisions of section 111(d), 111(l), section 111(m) and Section 119 of the Customs Act, 1962.

15.2. I further hold that the 4.28 MT of e-waste, comprising old/broken laptops, Printed Circuit Boards (PCBs) and other electrical/electronic items, which was not declared in the Bill of Entry and was found mixed with/concealed amongst the declared aluminium scrap, is liable to confiscation under section 111(l) of the Customs Act, 1962. To the extent the said e-waste is established to fall within a category whose import is prohibited under the applicable environmental/waste-management provisions, the same is also liable to confiscation under section 111(d) of the Customs Act, 1962.

15.3. I also order that the goods, insofar as they do not correspond with the declaration in respect of their description and value, are liable to confiscation under section 111(m) of the Customs Act, 1962. The physical examination established the presence of a distinct category of e-waste which was not declared, while the valuation undertaken in the proceedings resulted in the revised assessed value of the consignment being determined at Rs. 69,60,425/-. Thus, the goods actually imported did not correspond with the particulars declared in the Bill of Entry. Section 111(m) expressly covers goods which do not correspond in respect of value or in any other particular with the entry made under the Act.

15.4. Accordingly, I order confiscation of the subject import goods pertaining to the Bill of Entry No. 9942461 dated 17.06.2026 under sections 111(d), 111(l), 111(m), 111 (e) /111(i) and 119 of the Customs Act, 1962, to the extent and in the manner indicated hereinabove.

15.5. As regards the 4.28 MT of e-waste, valued at Rs. 1,71,200/-, I find that the said goods are not permissible for clearance for home consumption where their import is prohibited under the statutory authorities /provisions discussed supra. In the circumstances of the present case, and having regard to the nature of the e-waste, its non-declaration in the Bill of Entry and the applicable restrictions governing its import, I order that the said 4.28 MT of e-waste shall not be released for home consumption. Accordingly, I

order for its re-export at importer's own cost under the provisions of Rule-15 of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 within 90 days of receipt of this order. The importer is permitted to re-export the aforesaid 4.28 MT of e-waste to the overseas supplier/exporter, subject to obtaining and complying with all requisite permissions/NOCs, if any, from the competent authorities and subject to the satisfaction of the Customs authorities regarding the identity, quantity and destination of the goods. The re-export shall be carried out at the cost and responsibility of the importer and in accordance with the procedure prescribed by Customs and all applicable environmental/waste-management laws.

15.6. The re-export shall be permitted only after the importer furnishes an undertaking/bond, in such form and for such amount as may be prescribed by the proper officer, undertaking that the e-waste shall be exported out of India and shall not be diverted, sold, transferred or otherwise disposed of within India contrary to law. The importer shall also bear all expenses relating to transportation, handling, stuffing, examination, documentation, freight, detention/demurrage and other incidental charges arising in connection with such re-export.

15.7. The importer shall produce documentary evidence of actual re-export, including the relevant shipping/export documents and such proof of receipt at the overseas destination as may be required by the proper officer. The re-export shall not be treated as completed merely upon movement of the goods from the Customs area/CFS and shall remain subject to verification by the Customs authorities.

15.8. The above permission for re-export shall be without prejudice to the liability of the importer to pay the redemption fine, penalty, duty, interest or any other amount adjudged under this order. The importer’s right, if any, to recover such amounts from the overseas supplier is a matter inter se between the contracting parties and shall not affect implementation of this order.

15.9. As regards the remaining aluminium scrap having Assessed Value of Rs. 69,60,425/-, I order confiscation thereof under section 111 and section 119 of Customs Act, 1962 on account of the grounds narrated supra. However, in exercise of the powers conferred under section 125 of the Customs Act, 1962, I give to the importer an option to redeem the confiscated aluminium scrap for home consumption on payment of a redemption fine of **Rs. 10,00,000/-** (Rupees Ten Lakh only), in lieu of confiscation, subject to payment of the applicable customs duty, differential duty, interest and penalty and compliance with all other applicable statutory requirements as per Section 125(2) of Customs Act, 1962. Upon payment of the aforesaid redemption fine and the applicable duty, differential duty, interest and penalty and upon completion of all requisite Customs formalities, the segregated aluminium scrap may be released to the importer for home consumption, subject to verification by the proper officer that the goods being released correspond to the aluminium scrap identified and segregated during examination.

15.10. I impose a penalty of **Rs. 1,71,200/- (Rupees One Lakh Seventy-One Thousand Two Hundred only)** upon M/s. Metalloys Recycling Limited under section 112(b)(i) of the Customs Act, 1962 for the goods imported under Prohibition i.e E-Waste.

15.11. I impose a penalty of **Rs. 6,49,000/- (Rupees Six Lakh Forty-Nine Thousand only)** upon M/s. Metalloys Recycling Limited under section 112(b)(v) of the Customs Act, 1962 for the dutiable goods imported by the noticee i.e Aluminium Scrap.

15.12. I impose a penalty of **Rs. 13,50,000/- (Rupees Thirteen Lakh Fifty Thousand only)** upon M/s. Metalloys Recycling Limited under section 114AA of the Customs Act, 1962.

15.13. I impose a combined penalty of **Rs. 3,00,000/- (Rupees Three Lakh only)** upon M/s. Metal Services under section 112(a)(i) and 112(a)(ii) of the Customs Act, 1962 for the imported goods falls under the category of prohibited goods as well dutiable goods. The above finding and penalty under

the Customs Act shall be without prejudice to any separate regulatory action that may be taken by the DGFT or other competent authority against M/s. Metal Services, Ahmedabad under the applicable Foreign Trade Policy/Handbook of Procedures governing recognition and functioning of PSIA, including any action relating to suspension, cancellation or other regulatory consequences in accordance with law. Para 2.51 of HBP 2023 specifically regulates metallic waste and scrap imports and the PSIA regime.

16. The above order shall be without prejudice to any separate action that may be taken by the DGFT, CPCB, SPCB or any other competent authority under the applicable Foreign Trade Policy, E-Waste (Management) Rules, 2022, Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, or other applicable law.

17. The importer shall comply with the above directions within the period prescribed by the proper officer. Failure to comply with the conditions of redemption/re-export shall render the goods liable to such further action as may be permissible under the Customs Act, 1962 and other applicable laws.

18. This order is issued without prejudice to any other action that may be taken under the Customs Act, 1962 or any other law for the time being in force in respect of the acts/omissions established during investigation.

Digitally signed by
SHREE RAM VISHNOI
Date: 19-08-2026
17:25:59

(Shree Ram Vishnoi)
Additional Commissioner
Customs Ahmedabad

Date:-19-08-2026

DIN- 20260871MN0000DAF3AD

By Speed Post A.D./E-mail /Hand Delivery/Through Notice Board

To:-

1. **M/s Metalloys Recycling Limited,**
   12-12A Niraj Industrial Estate,
   Off Mahakali Caves Rd, Andheri (E), Mumbai-400093

2. **M/s. Metal Services, PSIA,**
   S-17, Shakti Arcade,

Opp. RK Hall, Science City Road, Sola
Ahmedabad-380060

Copy to:

i. The Commissioner, Customs Ahmedabad (Kind Attn:- RRA);
ii. The Dy. Commissioner, ICD Tumb, Customs Ahmedabad
iii. Guard File.