



**OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS,  
CUSTOM HOUSE: MUNDRA, KUTCH  
MUNDRA PORT & SPL ECONOMIC ZONE, MUNDRA-370421  
Phone No.02838-271165/66/67/68 FAX.No.02838-271169/62**

A. File No.	:	F.No. VIII/48-2031/ADJ/Gr.IV/MCH/19-20
B. Order-in- Original No.	:	MCH/ADC/AK/12/2020-21
C. Passed by	:	Shri Ajay Kumar Additional Commissioner of Customs, Custom House, AP & SEZ, Mundra.
D. Date of order /Date of issue	:	06.05.2020/06.05.2020
E. Show Cause Notice No. & Date	:	SCN waived as importer vide letter dated 11.03.2020 has sought waiver of SCN & Personal Hearing.
F. Noticee(s)/Party/ Importer	:	M/s Ram enterprise. 4-Ramnagar, Near Dig Vijay Foundry, Aji Vashant , 80 feet Road Rajkot-360003 Gujarat
G. DIN	:	20200571MO00008G4268

1. यह अपील आदेश संबन्धित को निःशुल्क प्रदान किया जाता है।

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

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

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

**“सीमा शुल्क आयुक्त) अपील(, कांडला  
7वीं मंजिल, मृदुल टावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड़, अहमदाबाद 380 009”  
“THE COMMISSIONER OF CUSTOMS (APPEALS), KANDLA  
Having his office at 7<sup>th</sup> Floor, Mridul Tower, Behind Times of India,  
Ashram Road, Ahmedabad-380 009.”**

3. उक्त अपील यह आदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए।

Appeal shall be filed within sixty days from the date of communication of this order.

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-

Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must accompanied by -

(i) उक्त अपील की एक प्रति और

A copy of the appeal, and

(ii) इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं०-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।

This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five only) as prescribed under Schedule - I, Item 6 of the Court Fees Act, 1870.

5. अपील ज्ञापन के साथ ड्यूटी/ ब्याज/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।

Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo.

6. अपील प्रस्तुत करते समय, सीमा शुल्क) अपील (नियम, 1982 और सीमा शुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.

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

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

**Sub.:-** Misdeclaration of the imported items as cargo Cast Iron Scrap vide B/E No. 6988073 Dtd. 24.02.2020 filed by M/s Ram enterprise. 4-Ramnagar, Near Dig Vijay Foundry, Aji Vashant , 80 feet Road Rajkot-360003 Gujarat holding IEC Code No. 2416900765.

## BRIEF FACTS OF THE CASE

M/s Ram enterprise, 4-Ramnagar, Near Dig Vijay Foundry, Aji Vashant, 80 feet Road Rajkot-360003 Gujarat holding IEC Code No. . 2416900765 (herein after referred to as Importer), filed Bill of Entry No. Bill of entry No. 6988073 dated 24.02.2020 through their Customs Broker M/s Saanch Logistics, for clearance of 88595 kgs of "Cast iron Scrap for melting purpose" having Assessable value at Rs.1802199.49 imported vide Bill of Lading No. BAH2002000086 dated 12.02.2020. Invoice No E0305 dated 31.01.2020.

The cargo is examined under the supervision of DC (Docks Examination), in presence of authorized person of Custom Broker and the following examination report has been uploaded in the EDI system:

*Verified description. On examination of the cargo, it appeared that goods are old/used/damaged engines of automobiles which comprised of heavy melting scrap/ cast iron scrap, aluminum scrap, and copper scrap. Further as per directions given by dc docks cb was requested to certified the cargo from chartered engineer and submit the certificate for early compliance. Cbr submitted ce cert no. elbi/mundra/20/136 dtd 06.03.2020 in which it is certified that the declared scrap cargo are scrap of damaged automobiles engines made of hms/cast iron scrap, aluminum scrap and copper scrap, however, cargo declared in the be is only cast iron scrap. In view of the above, it appears cargo has been mis-declared. Therefore, we may forward the be to group for necessary action, if agree*

Cfs wt -91075 kgs

Bl wt -91455 kgs

Further, as per CE Certificate No. elbi/mundra/20/136 dtd 06.03.2020, the CE has observed that the proportion for components of cargo is HMS 83%, Aluminum tense scrap 16% & Copper Birch Grade 1% seems fair and reasonable. Accordingly, the weight of the cargo comes to 83% HMS 73533.85 Kg, 16% aluminum 14175.2 kgs and 1 % copper birch scrap 885.95 kgs. The value for the mis-declared goods comes to Rs. 12,79,047.00/- for aluminum tense scrap and Rs. 3,63,915.60/- for copper scrap birch respectively as under:

	WEIGHT	LME RATE
<b>ALUMINIUM</b>	14175.2	1.242
USD	17605.5984	1279047
BCD	2.50%	31976.17
SWS	10%	3197.617
IGST	18%	236559.7
	<b>TOTAL DUTY</b>	<b>271733.5</b>

	WEIGHT	LME RATE
<b>COPPER</b>	885.95	5.654
USD	5009.1613	363915.6
BCD	5.00%	18195.78
SWS	10%	1819.578
IGST	18%	69107.57
	<b>TOTAL DUTY</b>	<b>89122.92</b>

The importer has mis-declared the goods to the tune of Rs 16,42,962.6/- . The duty involved in the mis-declared goods is Rs. 3,60,856.42/-

Thus the importer has contravened the provision of section 46 (4) of the Customs Act, 1962, and made the goods liable for confiscation under the provisions of section 111(m) of the Custom Act, 1962. The said importer also rendered themselves liable to penal action under the provisions of Section-112(a) of the Customs Act, 1962.

The importer vide its letter dated 11.03.2020 has waived the issuance of show cause notice and does not want to appear for personal hearing.

### **SUBMISSION OF IMPORTER AND PERSONAL HEARING**

The importer vide his letter dated 11.03.2020 stated that they had imported cast iron scrap of engine for melting purpose, however, it has some percentage of aluminium scrap being engine scrap. They further stated that the goods have been examined by the Chartered engineer who stated the percentage and quantity of the metals as under:

Cast Iron Scrap	:73533 Kg
Aluminium Scrap	:14176 Kg (16% of cargo)
Copper scrap	:886 Kg (1% of cargo)

They stated that they have not mis-declared their goods deliberately to avail any duty evasion and requested to assess the bill of entry accordingly. They said that they are ready to pay duty as applicable on those goods.

### **DISCUSSION & FINDING**

I have carefully gone through the records of the case, reply of the importers, examination report of the department and I find that the importers have waived the issuance of show cause notice and does not want to appear for personal hearing vide his letter dated 29.04.2020, hence I find that the compliance of section 122 A has been done.

I find that on examination of the cargo, it is found that goods are old/used/damaged engines of automobiles which comprised of heavy melting scrap/ cast iron scrap, aluminum scrap, and copper scrap. As the goods were not cast iron as declared but mixture of different metals like aluminum and copper, DC (Docks) and importers requested to examine the goods by the Chartered engineer. The goods were examined by Chartered Engineer, who vide his CE Cert no. elbi/mundra/20/136 dated 06.03.2020 certified that the declared scrap cargo are scrap of damaged automobiles engines made of hms/cast iron scrap, Aluminum Tense scrap and Copper Birch scrap. He further certified that the cargo is not mixed with any serviceable/usable item.

I find that the weight of the cargo comes to 83% HMS 73533.85 Kg, 16% aluminum Tense scrap 14175.2 kgs and 1 % copper birch scrap 885.95 kgs. The value for the mis-declared goods comes to Rs. 12,79,047.00/- for aluminum tense scrap and Rs. 3,63,915.60/- for copper scrap birch. Hence they have violated the provisions of section 46(4) of the Customs Act, 1962. Therefore the goods are liable for confiscation under Section 111(m) of the Customs Act, 1962. The importers are also liable for penal action under Section 112 of the Customs Act, 1962.

I also find that the importers have declared their goods as "Cast Iron Scrap" and classified in its respective heading, however, the goods are mixture of metals, which have different classification and its value and therefore are to be classified in their respective headings and to be assessed in terms of value ascertained by the group under section 14 of the Customs Act, 1962 read with Customs Valuation Rules, 2007 (As amended).


In view of foregoing discussion and findings, I pass the following order.

### **ORDER**

- a. I order to assess the goods i. e Cast Iron Scrap, Aluminium Tense Scrap and Copper Birch Scrap in their respective CTH with the value ascertained by the group in terms of section 14 of the Customs Act, 1962 read with Customs valuation Rules, 2007 (As amended).

- b. I order the confiscation of the goods valued at 12,79,047.00/- (Aluminum tense scrap) and Rs. 3,63,915.60/- (Copper scrap birch) under Section 111(m) of the Customs Act, 1962. However, I give an option to the importer to redeem the confiscated goods on payment of fine of Rs. 2,50,000.00 (Rupees Two Lakh Fifty Thousand only) under Section 125 of the Customs Act,1962.
- c. I also impose penalty of Rs. 1,00,000.00 (Rupees One Lakh only) on M/s Ram Enterprise. 4-Ramnagar, Near Dig Vijay Foundry, Aji Vashant ,80 feet Road Rajkot-360003 Gujarat under Section 112 of the Customs Act, 1962.

This order is issued without prejudice to any other action which may be contemplated against the importer or any other person in terms of any provision of the Customs Act, 1962 and/or any other law for the time being in force.

  
(AJAY KUMAR)  
Additional Commissioner,  
Custom House Mundra  
Dated: - 06.05.2020

F.NO. VIII/48-2031/Misc./GR-IV/MCH/19- 20

**To;**

M/s Ram enterprise. 4-Ramnagar,  
Near Dig Vijay Foundry, Aji Vashant ,  
80 feet Road Rajkot-360003 Gujarat

**Copy to;**

1. The Commissioner of Customs, Custom House, Mundra.
2. The Deputy Commissioner of Customs (RRA/TRC), Custom House, Mundra.
- ✓ 3. The Deputy Commissioner of Customs (EDI), Custom House, Mundra.
- 4. The Deputy Commissioner of Customs (Gr-IV), Custom House, Mundra.
5. Guard File.

