



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/48-1994/Misc/Gr.II/MCH/2019-20
B	Order-in-Original No.	MCH/ADC/AK/123/2019-20
C	Passed by	Ajay Kumar Additional Commissioner of Customs, Custom House, Mundra.
D	Date of Order	12.03.2020
E	Date of Issue	16.03.2020
F	SCN NO. & Date	No SCN waived by the importer.
G	Noticee/Party/Importer/ Exporter	M/s. RKG Polyplast Pvt. Ltd., E-242, Shastri Nagar, Near Metro Pillar No. 182, Delhi- 110052
H	DIN No.	20200371MO00006M4536

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

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

2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियम 1982 के नियम 3 के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 128A 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),

7 वॉमंजिल, मृदुल टावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड, अहमदाबाद 380 009”

“THE COMMISSIONER OF CUSTOMS (APPEALS), MUNDRA

Having his office at 7th Floor, Mridul Tower, Behind Times of India,
Ashram Road, Ahmedabad-380 009”

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

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

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/-

रुपये का टिकट लगा होना चाहिए और इसके साथ निम्न लिखित 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 सं.-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 आदिके 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.

BRIEF FACTS OF THE CASE

M/s. RKG Polyplast Pvt. Ltd., E-242, Shastri Nagar, Near Metro Pillar No. 182, Delhi- 110 052 (hereinafter referred to as Importer for sake of brevity) having IEC code 0512032939 filed Bill of Entry No. 6960447 dated 20.02.2020 through their Custom Broker (CB) M/s. SSS Sai Forwarders Pvt. Ltd. for clearance of 101600 Kg. of cargo declared as "General Purpose Polystyrene (GPPS G1551)", having total declared assessable value of Rs. 75,01,958/- and customs duty of Rs. 20,80,668/-. The said goods are covered under Bill of Lading No. IIX1187EASL84355 dated 15.02.2020 & Invoice No. 1048596 dated 15.02.2020. The importer declared country of origin of the goods as UAE. Accordingly, the Bill of Entry has been assessed and ordered for examination.

1.1 As per examination report dated 28.02.2020, the subject goods are found as declared however the country of origin is mentioned on the goods/packages as Iran.

1.2 The examination report reveals that the importer mis-declared the country of origin, although they did not claim any Country of Origin benefit of notification, and thus they have failed to observe the conditions of Section 46(4) of the Customs Act, 1962 and by such mis-declaration they rendered the goods liable to confiscation under the provision of Section 111(m) of the Custom Act, 1962 and also rendered themselves liable to penal action under the provisions of Section 112(a) of the Customs Act, 1962.

1.3 The Importer vide their letter dated 04.03.2020 requested for waiver of the Show Cause Notice and Personal Hearing and to decide the matter on merit. I therefore proceed to decide the case on merit on the basis of available records.

DISCUSSION AND FINDING

2. I have carefully gone through the records of the case and correspondence with the importer. The importer vide their letter dated 04.03.2020, have requested for waiver of the Show Cause Notice and Personal Hearing in the said matter, therefore, I find that the principle of natural justice as provided in Section 122 A of the Customs Act, 1962, has been completed. Hence, I proceed to decide the case on the basis of the evidences available on records.

2.1 The Section 46(4) of the Customs Act, 1962 provides that while presenting a Bill of Entry, the importer shall make and subscribe to a declaration as to the truth of contents of the Bill of Entry. Further, the Section 46(4A) ibid provides that the importer shall ensure accuracy and completeness of the information given in the Bill of Entry and the authenticity and validity of any document supporting it. I find that on examination, though the goods have been found as declared but the country of origin is found to be mis-declared as UAE instead of actual i.e. IRAN. Therefore, I find that by this mis-declaration in respect of country of origin, the importer has violated the provisions of Section 46(4) and 46(4A) of the Customs Act, 1962. Further, Section 111(m) of the Customs Act, 1962 provides that any imported goods which do not correspond in respect of value or in any other particular with the Bill of Entry shall be liable to confiscation.

Therefore, in view of above discussed facts, for the mis-declaration of country of origin, the subject 101600 Kg. of "General Purpose Polystyrene (GPPS G1551)", having total declared assessable value of Rs. 75,01,958/- are liable for confiscation under Section 111(m) of the Customs Act, 1962.

2.2 The Section 112(a) of the Customs Act, 1962 provides for penalty on the person who does or omits to do any act which renders any imported goods liable for confiscation under Section 111 ibid. From the above discussed facts, I find that the importer has mis-declared the country of origin of the subject imported goods, violating provisions of Section 46(4) and 46(4A) of the Customs Act, 1962 and by this act, the importer is rendered the subject goods liable to confiscation under Section 111(m) ibid. Therefore, I find that for the said act, the importer is liable for penal action under Section 112(a) of Customs Act, 1962.

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


ORDER

(a) I order for confiscation of 101600 Kg. of "General Purpose Polystyrene (GPPS G1551) covered under Bill of Entry No. 6960447 dated 20.02.2020 under Section 111(m) of the Customs Act, 1962. However, I give an option to the importer to redeem the same on payment of redemption fine of Rs.2,00,000/- (Rupees Two Lakh only) under Section 125 of Custom Act, 1962.

(b) I also impose a penalty of Rs.1,00,000/- (Rupees One Lakh only) on the importer M/s. RKG Polyplast Pvt. Ltd., E-242, Shastri Nagar, Near Metro Pillar No. 182, Delhi- 110 052 under Section 112(a) of Customs Act, 1962.

4. This order is issued without prejudice to any other action which may be required to be taken against any person as per the provision of the Customs Act, 1962 or any other law for the time being in force.




(Ajay Kumar)
Additional Commissioner
Custom House, Mundra

Date: 15.03.2020

Proceed
F.No.VIII/48-1994/Misc./Gr-II/MCH/2019-20

To,
M/s. RKG Polyplast Pvt. Ltd.,
E-242, Shastri Nagar,
Near Metro Pillar No. 182,
Delhi- 110 052

Copy to:

1. The Commissioner of Custom, Custom House, Mundra.
2. The Deputy/ Assistant Commissioner (Group-II), Custom House, Mundra.
3. The Deputy/ Assistant Commissioner (RRA), Custom House, Mundra.
4. The Deputy/ Assistant Commissioner (TRC), Custom House, Mundra.
5. The Deputy/ Assistant Commissioner (EDI), Custom House, Mundra.
6. Guard file.