



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/48-142/JSR/Adj/Gr.VI/MCH/2020-21
B. Order-in- Original No.	:	MCH/ADC/AK/22/2020-21
C. Passed by	:	Shri Ajay Kumar Additional Commissioner of Customs, Custom House, AP & SEZ, Mundra.
D. Date of order /Date of issue	:	16.06.2020/16.06.2020
E. Show Cause Notice No. & Date	:	SCN waived as Importer vide letter dated 29.05.2020 & 10.06.2020 sought for waiver of SCN & Personal Hearing
F. Noticee/Party/ Importer	:	M/s J S R Impex, Prop No. 1962/63/64 Katra Lachhu Singh, Bhagirath Palace, Delhi-110006
G. DIN	:	20200671MO00008Q4177

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
7 वीं मंजिल, मृदुल टावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड, अहमदाबाद 380 009”
“THE COMMISSIONER OF CUSTOMS (APPEALS), KANDLA
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 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.:- Mis-declaration of goods imported under Bill of Entry No. 6708993 dated 31.01.2020 by M/s J S R Impex, Prop No. 1962/63/64 Katra Lachhu Singh, Bhagirath Palace, Delhi-110006

BRIEF FACTS OF THE CASE

M/s J S R Impex, Prop No. 1962/63/64 Katra Lachhu Singh, Bhagirath Palace, Delhi-110006 having IEC No. 0517525801 (herein after referred to as the "Importer") filed a Bill of Entry No. 6708993 dated 31.01.2020 through its Custom Broker M/s Lara Exim Pvt. Ltd., Gandhidham for clearance of different items having total value of Rs. 16,59,672/-. The details of goods imported vide the above said Bill of Entry are as tabulated below: -

Sr. No.	Description of imported goods	No. of Pcs
1.	Decorative LED Festive Light 130L(BIS No-R-41121673)	750
2.	Decorative LED Festive Light 400L(BIS No-R-41121673)	600
3.	Decorative LED Festive Light 220L(BIS No-R-41121673)	3900
4.	Decorative LED Festive Light 36L(BIS No-R-41121673)	1000
5.	Decorative LED Festive Light 52L(BIS No-R-41121673)	31000
6.	Decorative LED Festive Light 44L(BIS No-R-41121673)	10000
7.	Decorative LED Festive Light 16L(BIS No-R-41121673)	2500
8.	Decorative LED Festive Light 60L(BIS No-R-41121673)	5000
9.	Decorative Festive Light 72L(NON-LED)	8750
10.	Decorative Festive Light 100L(NON-LED)	13500
11.	T5 Tube (NON LED) for Emergency Light (U/B) (Assorted Models)	1000
12.	T8 Tube Light (Assorted Models) (NON LED)	10700
13.	LED BAR (BUNCH)	9.73GRS
14.	Decoration Christmas Light Mini (Assorted Models)	27660

The said Bill of Entry No. 6708993 dated 31.01.2020 was put on hold on the basis of information received that there was a mis-declaration in the said bill of entry.

1.1. Whereas it appeared that the goods imported under Bill of Entry No. 6708993 dated 31.01.2020 were examined by the officers of SIIB, Custom House, Mundra under Panchnama dated 04.02.2020 and it was noticed during examination that there were 1268 numbers of brown corrugated boxes in the container and all those boxes were stuffed with LED and Non-LED Lights in another smaller boxes. The following goods were found during examination: -

Sr No.	Description mentioned on cartons	Goods found in the carton	No of boxes	No of Pcs
1	Item No: 16, Qty: 50 Pcs	Non-LED Lights containing 80L in a box, per cartons 50 boxes	175	8750
2	J S K 20W GL 100 Pcs	Tube lights 20W , per carton 100 pcs	6	600

3	JSK BL T8-18W Qty: 100 PCS	Tube Lights 18W, per carton 100pcs	70	7000
4	JSK9W BLB, 200PCS	T-5 tube lights, per carton 200pcs	15	3000
5	JSK 4W BLB 500PCS	T-5 tube lights, per carton 500pcs	2	1000
6	8W Fluorescent tube QTY:500PCS, G.W: 20 KGS N.W 18 KGS	T-5 tube lights, per carton , per carton 500pcs	11	5500
7	JSK 6W BLB 500PCS	T-5 tube lights, per carton 500 pcs	5	2500
8	JSK BL-T8 15W, QTY:PCS	T-8 tube lights, per carton 100pcs	15	1500
9	JSK BL-T8 10W, QTY:100 PCS	T-8 tube lights, per carton 100 pcs	10	1000
10	JSK 50CM rain drop light	LED lights containing 144L in a box, per carton 50pcs	28	1400
11	Item No. 320L Waterfall 3*3 QTY: 30PCS	LED Lights containing 240L in a packet, per carton 30 pcs	132	3960
12	Item No. 100L LED Qty No. 100 PCS, G.W 16 KGS N.W 15 KGS	LED Lights containing 40L per packet with remote, per carton 100 pcs	10	1000
13	Item No. 100L LED 30L Photo clips Qty-100PCS, G.W 14 KGS N.W: 13 KGS	LED lights containing 20L per packet, per carton 50 packets	45	2250
14	Item No. Frosted/Still color wire F-64 Qty: 100pcs	LED Lights containing 54L per packet, per carton 100 packet.	213	21300
15	Item No. 72L Waterfall White wire Qty: 100pcs	LED lights containing 66L per packet, per carton 100 packet.	48	4800
16	Item No. 66L PXCEL Color Wire Model No: RUIQU- 13, QTY 100PCS	LED lights containing 56L per packet, per carton 100 packet.	101	10100
17	Item No. 120L Rice Light, QTY: 100PCS, N.W: 7 KGS G.W: 8 KGS	Non LED lights containing 150L per packet, per carton 100 packet	137	13700
18	JSK 520 Waterfall3*6 Qty 20pcs	LED lights containing 420L per packet, per carton 20 packet.	30	600
19	Item	Assorted Alphabets, images such as heart, cloud etc. LED lights containing 10L, per carton 60 lights.	40	2400
20	JSK 50L Copper Light 2/3 butter	Decorative copper LED lights containing 50L, per carton 1000 lights	10	10000
21	JSK 50L Copper Light Remote	Decorative copper LED lights containing 50L with remote, 400 pieces in a box	3	1200
22	JSK 20L Bottle	Decorative LED lights containing 20L with pencil cell, per carton 100 pcs	6	600
23	JSK 10M-220V Copper Light	Decorative copper LED lights containing 100L, per carton 200pcs	21	4200
24	JSK 50L Copper Light USB	Decorative copper LED lights containing 50L, per carton 1000 pcs	3	300
25	JSK BLB	T-8 tube lights, per carton 100pcs	6	600

26	Item No. 54L PXCEL Color wire Model No RUIQU-10 QTY: 100PCS	LED lights containing 44L per packet, per carton 100 packet.	100	10000
27	JSK 12 Line Star	Decorative LED lights containing 124L per packet, per carton 30 packets.	26	780

1.2. Whereas it further appeared during examination that only "Standard Mark" of BIS was pasted, on small boxes/ transparent plastic packets, which was also easily removable. Further on many boxes no brand details, no Model Numbers and no importer details were available for which BIS registration had been taken.

1.3. Summons were issued to the Importer and the Custom Broker during the course of investigation. The statement of Manager/authorized person of the Importer, Shri Vaibhav Baid was recorded on 10.02.2020 wherein he inter alia stated that: -

- he was the Manager of the Importer firm i.e. M/s J.S.R. Impex and he has been authorized by the Proprietor of the Company to give statement, submit documents and other works related to the case against M/s JSR Impex vide their letter dated 08.02.2020; their office is situated at 1962-64, Katra Lachhu Singh, Chandni chock, Delhi-110006 bearing IEC No. 0517525801; he was looking after all the works related to the documentation and import related work of the said company. All communication with the supplier is being done by him. His email-id is vaibhavbaid83@yahoo.com and his mobile phone number is 9868860387.
- They were engaged in import of Electric goods; and basically were a trading company, that they imported only lights and that too from China only. They have imported LED and Non-LED lights initially too. They make payment to their foreign supplier through bank remittance and for the token of the same they have submitted payment made to foreign supplier for previous imports and that they had been dealing with that supplier since long hence they get goods on credit basis. He further stated that they did not make any contract agreement with their supplier.
- He further perused the Panchnama dated 04.02.2020 drawn at the All-Cargo Logistics Ltd, CFS and agreed with the contents of the Panchnama. He further stated that they had imported "LAKSHMI DEEPAVALI" brand's LED and Non-LED chain lights and also some decorative Christmas lights of the same brand. He further stated that as per his opinion there was no compulsion for writing model number as per the guidelines laid by the BIS for labelling requirements. He further stated that the supplier had printed the Model numbers for three items of the cargo, while due to upcoming China Holidays, the supplier in a hurry did not print the Model numbers on the rest of the products in the cargo.
- He further stated that as per his opinion, the Authorized Representative (of the BIS holder) should be an Indian resident. The Authorized Indian Representative declares his consent to be responsible for compliance to the provisions of the BIS Act, Rules, Regulations and Terms & Conditions laid down in BIS Licence, Agreement, Undertaking etc. executed by or on behalf of the foreign manufacturer in connection with grant and operation of the license and that he looked after all the after sales service of the goods/ products mentioned in the BIS.

1.4 Whereas it appeared that the statement of G card holder of the Customs Broker Shri Sabu George was recorded on 11.02.2020 wherein he inter alia stated that: -

- He was in this profession since 1987-88 and he had been authorized as Customs Broker by Importer M/s. JSR Impex, Chandni Chowk, Delhi-110006 for filling the said Bill of Entry No. 6708993 dated 31.01.2020. He further stated that they had called for the KYC details of the Importer and submitted all KYC documents, which had been received/ taken from importer. He further stated that since he had not seen the cargo he cannot comment whether Model numbers were mentioned on the products or not.

1.5 Whereas the following was noticed during the course of investigation with respect to the import of the goods through the Bill of Entry No. 6708993 dated 31.01.2020:

- (i) In the Bill of Entry total 14 types of items were declared. However, during the examination total 27 types of items found.
- (ii) Out of total 27 types of goods, 17 goods were different types of LED lights (total 802 cartons) and the remaining 10 goods were of NON-LED lights/tubes (466 cartons).
- (iii) On many corrugated boxes there were no mention of Model Number and brand name for which BIS registration was taken.
- (iv) On corrugated boxes there were no mentioned of country of origin, importer and manufacturer details and MRP
- (v) No lights contained/marked with rated voltage and rated wattage.
- (vi) There was no mention of exporter/importer details and other labelling requirements, on the Non-LED lights and tube lights also, as per Notification No. 44 (RE-2000)/1997-2002 dated 24.11.2000.

1.6 Whereas it appeared from the examination that 17 goods were falling under the type of LED lights. The import of LED lights is notified under Serial number 36 of "Electronics and Information Technology Goods (Requirement of Compulsory Registration) Order, 2012 as amended from time to time. As per DGFT notification 05/2015-2020 dated 07.05.2019, the import of these goods is prohibited unless they are registered with the Bureau of Indian Standards (BIS) and the same comply to the 'Labelling Requirements' published by BIS, as amended from time to time', or on specific exemption letter from Ministry of Electronics and Information Technology (MeitY) for a particular consignment, as per provisions of Gazette Notification SO No. 3022 dated 11.09.2013. The relevant DGFT notification is as under

Notification No. 5/2015-2020-DGFT

New Delhi Dated 7 May, 2019

Subject: Import policy for Electronics and IT Goods under Schedule — I (Import Policy) of ITC (HS), 2017.

S.O. 1701(E): In exercise of powers conferred by Section 3 of FT (D&R) Act, 1992, read with paragraph 1.02 and 2.01 of the **Foreign Trade Policy, 2015-2020**, as amended from time to time, the Central Government hereby amends Note No 2(c) under the General Notes Regarding Import Policy and inserts Policy Condition No 2 under Chapter 84 and as Policy Condition No. 5 under Chapter 85 of ITC (HS) 2017 as under:

Existing General Note No 2(c)	Amended General Note No.2 (c)
<p><u>(c) Import policy for electronics and IT Goods:</u> The import of Notified Goods under the "Electronics and Information Technology</p>	<p><i>(c) Import policy for Electronics and IT Goods:</i> <i>The import of Goods (new as well as second hand, whether or not refurbished, repaired or reconditioned) notified under the "Electronics and</i></p>

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Goods (requirement of Compulsory Registration) Order, 2012, as amended from time to time, will be allowed subject to registration with the Bureau of Indian Standards (BIS), or on specific exemption letter from Ministry of Electronics and Information Technology (MeitY) for a particular consignment, as per provisions of Gazette Notification SO No. 3022 dated 11.09.2013. Accordingly, import of unregistered/ non-compliant notified products as in CRO, 2012, as amended is "prohibited".

Import consignments without valid registration with BIS shall be re-exported by the importer failing which Customs shall deform the goods and dispose them as scrap under intimation to MeitY.

Information Technology Goods (Requirement of Compulsory Registration) Order, 2012, as amended from time to time, is prohibited unless they are registered with the Bureau of Indian Standards (BIS) and comply to the 'Labelling Requirements' published by BIS, as amended from time to time', or on specific exemption letter from Ministry of Electronics and Information Technology (MeitY) for a particular consignment, as per provisions of Gazette Notification SO No. 3022 dated 11.09.2013.

The importer shall re-export such prohibited Goods reaching Customs Ports else the Customs Authorities shall deform the goods beyond use and dispose of the goods as scrap under intimation to MeitY.

1.7. Whereas for further confirmation, whether the LED lights were as per BIS norms and as per Standard Labelling requirement, a letter was written to the Senior Scientist (CRS), Bureau of India Standards, New Delhi. The Senior Scientist (Registration Department), BIS Delhi vide letter dated 27.02.2020 replied that the marking label shall be marked with rated voltage, rated wattage, rated max ambient, temperature, IP, Model No, Mark of origin (trademark), country of manufacture etc (as per Section 3 of IS 10322 part1:2014). It further appeared that the 17 goods of LED lights did not have any of the above said marks except the "Standard remark". So it appeared that these goods did not confirm with BIS standard and have become prohibited goods as per DGFT notification 05/2015-2020 dated 07.05.2019 and appeared liable for confiscation under Section 111(d) of the Customs act, 1962 and the importer also appeared to have rendered itself liable for penal action as per Section 112 of the Customs act, 1962.

1.8. Whereas it further appeared that there were 10 types of Non-LED lights. As per the DGFT Notification No. 44 (RE-2000)/1997-2002 dated 24.11.2000, all the prepackaged goods imported into India should bear marks and labels. The relevant portion of the notification is reproduced below,

Notification No. 44 (RE-2000)/1997-2002 dated 24.11.2000:

(E) - In exercise of powers conferred under section 5 of the Foreign Trade (Development and Regulation) Act, 1992 read with paragraph 1.3 and 4.1 of the Export and Import Policy, 1997-2002, the Central Government hereby makes the following amendments in the ITC(HS) Classifications of Export and Import Items , 1997-2002 published on 31st March, 1997 (RE-98) as amended from time to time, namely –

2. The following shall be added after paragraph 4 of Chapter 1A: General notes regarding import policy, of ITC(HS) Classifications of Export and Import Items, 1997-2002:

"4. All such packaged products, which are subject to provisions of the Standards of Weights and Measures (Packaged Commodities) Rules, 1977 when produced/ packed/ sold in domestic market, shall be subject to compliance of all the provisions of the said rules, when imported into India. The compliance of these shall be ensured before the import consignment of such commodities is cleared by Customs for home consumption. All

prepackaged commodities, imported into India, shall in particular carry the following declarations:

- (a) Name and address of the importer;
- (b) Generic or common name of the commodity packed;
- (c) Net quantity in terms of standard unit of weights and measures. If the net quantity in the imported package is given in any other unit, its equivalent in terms of standard units shall be declared by the importer;
- (d) Month and year of packing in which the commodity is manufactured or packed or imported;
- (e) Maximum retail sale price at which the commodity in packaged form may be sold to the ultimate consumer. This price shall include all taxes local or otherwise, freight, transport charges, commission payable to dealers, and all charges towards advertising, delivery, packing, forwarding and the like, as the case may be.

5. A new Appendix V to Schedule I of ITC(HS) Classifications of Export and Import Items, 1997-2002, shall be annexed as per annexure 'A' of this Notification.

6. Import of all the products as per Appendix V to Schedule I of the ITC(HS) Classifications of Export and Import Items, 1997-2002, shall be subject to compliance of the mandatory Indian Quality Standards as mentioned in column 2 of the said Annexure, which are also applicable to domestic goods. For compliance of this requirement, all manufactures/ exporters of these products to India, shall be required to register themselves with Bureau of Indian Standards (BIS)."

1.9 Whereas it appeared from the above that all Non-Led lights and tube lights had no declarations like importer details, month and year of packing, maximum retail price etc as required under DGFT Noti No. 44 (RE-2000)/1997-2002, NEW DELHI: 24th November, 2000. The non-compliance of the said DGFT notification, appeared to have made the goods prohibited and rendered them liable for confiscation under Section 111(d) of the Customs Act, 1962 and appeared to have made the importer liable for penal action under Section 112 of the Customs act, 1962.

1.10. Thus it appeared from the investigation that all the goods imported vide Bill of Entry No. 6708993 dtd. 31.01.2020, totally valued at Rs. 16,59,672/- were liable for confiscation under Section 111(d) of the Customs Act, 1962 in terms of DGFT notification No. 5/2015-2020 dtd. 07.05.2019 and Noti. No. 44 (RE-2000)/ 1997-2002 dated 24.11.2000 and the importer liable for penal action under Section 112 of the Customs act, 1962.

WAIVER OF PERSONAL HEARING AND SCN

2. The importer, J S R Impex, Prop No. 1962/63/64 Katra Lachhu Singh, Bhagirath Palace, Delhi-110006, vide its letter dated 29.05.2020 requested that they do not want any show cause notice and personal Hearing in this matter. The importer further through its letter dated 10.06.2020 reiterated that they did not want any show cause notice or personal hearing in the matter. They also requested for release or re-export orders after taking a lenient view in the circumstances as CFSs are not giving any waiver of the charges.

DISCUSSION & FINDINGS

3. I have carefully gone through the facts of the case and records & evidences submitted before me and I find that the importer vide their letter dated 29.05.2020 and 10.06.2020 have

requested for waiver of the show cause notice and also waive the opportunity to appear before me for personal hearing in the 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 documentary evidences available on records.

- 3.1. I find that the importer filed a Bill of Entry No. 6708993 dated 31.01.2020 for clearance of different items having total value of Rs. 16,59,672/-. I find that a total of 14 different items (08 LED lights and 06 non-led lights) have been declared to be imported through the above Bills of Entry whereas on examination it is found that there are 27 different types of item/goods found during examination of the cargo. I further find that out of these 27 types of goods, 17 type of goods are different types of LED lights (total 802 cartons) and the remaining 10 goods were of NON-LED lights/ tubes (466 cartons). I find that the details such as country of origin, importer and manufacturer details, MRP of the goods etc. are not mentioned on the boxes of the goods. I also find that no lights are marked with rated voltage and rated wattage.
- 3.2. I also find that a total of 17 goods, out of the 27 goods, are falling under the type of LED lights and are covered under the Compulsory Registration Scheme under the "Electronics and Information Technology Goods (Requirement of Compulsory Registration) Order, 2012" as amended from time to time. I also find that there is on specific exemption letter from Ministry of Electronics and Information Technology (MeitY) for this particular consignment, as per provisions of Gazette Notification SO No. 3022 dated 11.09.2013. Therefore I find that these goods have become prohibited goods as per DGFT notification 05/2015-2020 dated 07.05.2019, as the same are not registered with the Bureau of Indian Standards (BIS) and the same also does not comply to the 'Labelling Requirements' published by BIS, as amended from time to time. These prohibited goods are liable for confiscation under Section 111(d) of the Customs Act, 1962.
- 3.3 I further find that there are 10 types of Non-LED lights in the import consignment which do not have the declarations like importer details, month and year of packing, maximum retail price etc on the boxes as required under DGFT Noti No. 44 (RE-2000)/1997-2002, NEW DELHI: 24th November, 2000. I find that this non-compliance of the said DGFT notification has made the goods prohibited and rendered them liable for confiscation under Section 111(d) of the Customs Act, 1962.
- 3.4 I find that that the importer has mis-declared the goods in terms of description as well as have not observed the provisions of DGFT notification 05/2015-2020 dated 07.05.2019 & DGFT Noti No. 44 (RE-2000)/1997-2002, NEW DELHI: 24th November, 2000, which has rendered the goods liable for confiscation under the provisions of Section-111(d) of the Custom Act 1962.
- 3.5 I find that the importer filed a Bill of Entry No. 6708993 dated 31.01.2020 for clearance of different items having total value of Rs. 16,59,672/-. I find that a total of 14 different items (08 LED lights and 06 non-led lights) have been declared to be imported through the above Bills of Entry whereas on examination it is found that there are 27 different types of item/goods found during examination of the cargo. I further find that out of these 27 types of goods, 17 type of goods are different types of LED lights (total 802 cartons) and the remaining 10 goods were of NON-LED lights/ tubes (466 cartons). I find that the excess goods imported vide above mentioned Bill of Entry is mis-declared in terms of Section 46(4) & (4A) of the Customs, Act, 1962 and this has made the goods liable for confiscation under the provisions of Section 111(l) of the Customs Act, 1962 which states that any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act shall be liable to confiscation. I find that the quantity and description of the goods imported vide above mentioned Bill of Entry is mis-declared in terms of Section 46(4) of the Customs, Act, 1962 and this has made the goods also liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962 which states that any goods which do not correspond in respect of value or in any other particular with the entry made under this Act shall be liable to confiscation.

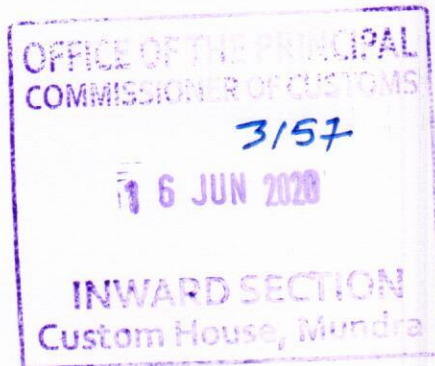
3.6 In view of the above discussion and findings, I find that that the importer has failed to observe the provisions of DGFT notification 05/2015-2020 dated 07.05.2019 & DGFT Noti No. 44 (RE-2000)/1997-2002, NEW DELHI: 24th November, 2000, the conditions laid down by Electronics and Information Technology Goods (Requirement of Compulsory Registration) Order, 2012 and the provisions of Section 46(4) and (4A) of the Customs Act, 1962 on various accounts as mentioned above, and rendered the goods liable for confiscation under the provisions of Section 111(d), 111(l) & 111 (m) of the Custom Act 1962, and therefore have rendered themselves liable for the penal action under the provisions of Section 112(a) of the Customs Act, 1962 which states that any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under Section 111, or abets the doing or omission of such an act shall be liable to a penalty.

4. In view of the above, I pass the following orders:-

ORDER

- a. I order for confiscation of the goods covered under Bill of Entry No. 6708993 dated 31.01.2020 totally valued at Rs. 16,59,672/- under Section 111(d),11(l) and 111(m) of the Customs Act, 1962. However, I give the Importer an option to redeem the confiscated goods on payment of redemption fine of Rs. 4,00,000.00 (Rupees Four lakh only) in terms of Section 125 of the Customs Act, 1962 for re-export only.
- b. I impose a penalty of Rs.2,00,000.00 (Rupees Two Lakh Only) on M/s J S R Impex, Prop No. 1962/63/64 Katra Lachhu Singh, Bhagirath Palace, Delhi-110006 under Sec 112(a) of the Customs Act, 1962.

5. This order is issued without prejudice to any other action which may be contemplated against the importer or any other person under provisions of the Customs Act, 1962 and rules/regulations framed thereunder or any other law for the time being in force in the Republic of India.



(AJAY KUMAR)

Additional Commissioner
Custom House, Mundra.

F.No.VIII/48-142/JSR/Adj/Gr.VI/MCH/2020-21

Dated: 16.06.2020

To,

M/s J S R Impex,
Prop No. 1962/63/64, Katra Lachhu Singh,
Bhagirath Palace, Delhi-110006.

Copy to:

- (1) The Commissioner, Custom House, Mundra.
- (2) The Assistant / Deputy Commissioner (RRA), Custom House, Mundra.
- (3) The Assistant / Deputy Commissioner (TRC), Custom House, Mundra
- ✓ (4) The Assistant / Deputy Commissioner (EDI), Custom House, Mundra
- (5) The Deputy Commissioner of Customs (Gr. VI), Custom House, Mundra.
- (6) The Deputy Commissioner (SIIB), Custom House, Mundra
- (7) Guard file

P.O (EDI)