



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.	VIII/48-2090/Misc./Gr-III/MCH/2018-19
B	Order-in-Original No.	MCH/ADC/PK/ 04 /2019-20
C	Passed by	Shri Prashant Kaduskar Additional Commissioner of Customs, Custom House, Mundra
D	Date of Order	04.04.2019
E	Date of Issue	10.04.2019
F	SCN NO. & Date	SCN & PH waived as per importer's request
G	Noticee / Party / Importer / Exporter	M/s. Pista Marbles Pvt. Ltd., H-1,13,14,17,18, RIICO Industrial Area, Ajoliya ka Kheda, Chittorgarh, Rajastha-312001

OFFICE OF THE PRINCIPAL  
COMMISSIONER OF CUSTOMS

10 APR 2019

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Custom House, Mundra

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),  
7 वीं 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/- रुपये 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:** Import of goods under Bill of Entry No. 2211705 dated 26.02.2019 by M/s. Pista Marbles Pvt. Ltd., H-1,13,14,17,18, RIICO Industrial Area, Ajoliya ka Kheda, Chittorgarh, Rajastha-312001 by violating the Policy Condition No. 4 under Chapter 68 of ITC (HS), Schedule-I – reg..

### **BRIEF FACTS OF THE CASE:**

M/s. Pista Marbles Pvt. Ltd., H-1,13,14,17,18, RIICO Industrial Area, Ajoliya ka Kheda, Chittorgarh, Rajasthan-312001, filed a B/E No. 2211705 dated 26.02.2019 through their Customs Broker M/s Prem Kumar Singh. For clearance of 46.43 MTS of Artificial Stone Block of Chinese origin Shipped by M/s. Nivana Diam HK Limited, Room F-6/Fwinner Building, 36 Man Yue Street, Hunghom, Kowloon, Hongkong. The Bill of Lading No. JB-XM/MUR001C dated 02.02.2019 has been raised by M/s. J&B International Forwarder Co. Ltd. The gross weight mentioned is 46890.00 Kgs and description is Artificial Stone Block, Segment for Granite, Abrasive Disk. The Commercial invoice No. NDHL/CH/2001 dated 24.01.2019 is raised by M/s. Nivana Diam HK Limited and the unit price of Artificial Stone Block declared in USD FOB 195/MTS and quantity of Artificial Stone Block is 46.425 MTS. The total amount of amount is USD 9052.88 for 46.425 MTS. The net weight of Artificial Stone Block is 46425 Kgs for Artificial Stone Block.

2. M/s Prem Kumar Singh the CHA vide their letter dated 08.03.2019 addressed to the Deputy Commissioner, Mundra Custom House, has requested for first check examination as goods imported Artificial Stone Block is restricted and licence is not available.

3. M/s Pista Marble Private Limited is a letter written to the Additional Commissioner, Custom House, Mundra, has stated that they import artificial stone block for first time in India for sample basis. They were not aware that artificial stone block is restricted to import in India. They have stated that they want to re-export these restricted goods imported by them. They have waived their right to show cause notice and personal hearing in the matter.

4. On 100% examination of the goods as much as 960 Kgs was found to be in excess. This is 2.07% of the declared weight and the value of the excess goods is Rs. 14,689/- and as per amendment to Public Notice 9/2015 dated 26.03.2015 of Mundra Customs if the deviation of ascertained weight from that of the declared weight is in range of 1% to 5% then no adjudication need to be done only the value of the excess weight need to be included in the assessable value and differential duty need to be manually paid if the goods are all cleared for home consumption. In the subject case the importer has requested for re-export the offending goods which are restricted for import.

5. Out of the three type of goods imported viz (1)Artificial Stone Block weight 46.425 MTS is classifiable under Customs Tariff item 68109990. The Policy Condition No. 4 of Chapter 68 reads "However import of

rough/unprocessed blocks and slabs of agglomerated/ artificial stones shall be restricted.”

Thus, Artificial Stone blocks 46.425 MTS are restricted for import and the importer has requested for re-export of the restricted cargo. The other goods are segment for granite and Abrasive disk which are not offending goods but are freely importable.

**DISCUSSION & FINDINGS:**

6. As there is excess weight of 960 Kgs of offending goods viz Artificial Stone Block which is restricted for import and the value thus need to be enhanced to Rs. 7,25,115/- from Rs. 7,10,426/-.

I find that, these restricted Artificial stone block having weight of 47850 Kgs is restricted for import as per Policy Condition No. 4 under Chapter 68 of ITC (HS), Schedule I. These goods are liable for confiscation under section 111 (d) of the Customs Act, 1962. The importer M/s. Pista Marble Private Limited is also liable for penalty under section 112(a)(i) of the Customs Act, 1962. The importer though has requested to permit them to re-export the artificial stone blocks restricted for import. In view of the above I hold that the 47850 Kgs of Artificial stone block imported from China and valued at Rs. 7,25,115/- needs to be confiscated under section 111(d) of the Customs Act, 1962, whereas non-offending goods viz. Segment for granite 44.50 kgs and 420 kgs of Abrasive Disk need to be released on payment of appropriate duty.

7. In view of the above, I pass the following order-

**::: ORDER:::**


7.1. I order the confiscation of 47850 Kgs of Artificial Stone Blocks valued at Rs. 7,25,115/- covered under Bill of Entry No. 2211705 dated 26.02.2019 in terms of Section 111(d) of the Customs Act, 1962. However, I allow the redemption of the confiscated goods on payment of redemption fine of Rs. 1,00,000/- (Rupees One Lakh only) in terms of Section 125 of the Customs Act, 1962. The redemption is allowed only for re-export and not for home consumption.

7.2. I also impose penalty of Rs. 30,000/- (Rupees Thirty Thousand only) on M/s. Pista Marbles Pvt. Ltd., H-1,13,14,17,18, RIICO Industrial Area, Ajoliya ka Kheda, Chittorgarh, Rajasthan-312001 in terms of Section 112(a) (i) of the Custom Act, 1962.

7.3. I have taken a lenient view while imposing fine & penalty as the offending goods have been re-exported and not permit for home consumption. I also note

that the imported goods are under demurrage and detention for more than 35 days.

The fine, penalty, be paid forthwith on offending goods. The non-offending goods be released on payment of appropriate duty.

  
(Prashant Kaduskar) 10/4/2019.  
Additional Commissioner  
Customs House, Mundra.

F. No:-VIII/48-2090/Misc./GR-III/MCH/18-19 Mundra, Date:-10.04.2019

To,  
M/s. Pista Marbles Pvt. Ltd., H-1,13,14,17,18, RIICO Industrial Area, Ajoliya  
ka Kheda, Chittorgarh, Rajasthan-312001

**Copy to:-**

1. The Principal Commissioner of Customs, Custom House, Mundra.
2. The Deputy Commissioner (RRA), Custom House, Mundra.
3. The Deputy Commissioner (Recovery), Custom House, Mundra.
4. M/s. Prem Kumar Singh, Custom Broker.
5. Guard File.

✓ 6. D.C. (EO) for uploading on website of Mundra Customs.