


EPR & 12/04

OFFICE OF THE PRINCIPAL  
COMMISSIONER OF CUSTOMS  
1 APR 2019  
853  
Custom House, Mundra

	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	
<b>A</b>	<b>File No.</b>	VIII/48-2091/Misc./Gr-III/MCH/2018-19
<b>B</b>	<b>Order-in-Original No.</b>	MCH/ADC/PK/ 05 /2019-20
<b>C</b>	<b>Passed by</b>	Shri Prashant Kaduskar Additional Commissioner of Customs, Custom House, Mundra
<b>D</b>	<b>Date of Order</b>	04.04.2019
<b>E</b>	<b>Date of Issue</b>	10.04.2019
<b>F</b>	<b>SCN NO. &amp; Date</b>	SCN & PH waived as per importer's request
<b>G</b>	<b>Noticee / Party / Importer / Exporter</b>	M/s. Jaishree Marbles, G-18 RIICO Industrial Area, Ajoliya ka Kheda, Chittorgarh, Rajastha- 312001

S/C 18

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 रोड, 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 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 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. 2212179 dated 26.02.2019 by M/s. Jaishree Marbles, G-18, RIICO Industrial Area, Ajoliya ka Kheda, Chittorgarh, Rajastha-312001 by violating the Policy Condition No. 4 under Chaper 68 of ITC (HS), Schdule-I – reg..

**BRIEF FACTS OF THE CASE:**

M/s. Jaishree Marbles, G-18, RIICO Industrial Area, Ajoliya ka Kheda, Chittorgarh, Rajasthan-312001, filed a B/E No. 2212179 dated 26.02.2019 through their Customs Broker M/s Prem Kumar Singh for clearance of 46.01 MTS of Artificial Stone Block of Chinese origin. The Bill of Lading No. JB-XM/MUR001A dated 02.02.2019 has been issued by M/s. J&B International Forwarder Co. Ltd. The port of loading is Xiamen, China and gross weight is 46010 Kgs. The Certificate of Origin No. B194702C18235017 dated 29.01.2019 has been issued by Shenzhen Customs of Peoples Republic of China. The Tariff item number mentioned 6810.99 and description as Artificial Stone Block. The invoice no. NDHL/CH/1901 dated 24.01.2019 has been raised by M/s. Nivana Diam HK Limited for 46.01 MTS of Artificial Stone Block and the unit price declared is 195 USD/MTS. The total amount is 8972 USD (FOB).

2. The Custom House Agent M/s Prem Kumar Singh 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 and adjudication will be done after 100% examination.

3. M/s Jaishree Marbles has addressed once letter to Additional Commissioner, Mundra, wherein they have stated that they have imported the artificial stone block for first time in India for sample basis and they were not aware that artificial stone block is restricted to import in India. They have sought permission to re-export the restricted goods. They have stated that they don't require any personal hearing and show cause Notice. On 100% Examination the excess weight was found to be 1390 Kgs (ascertained 47400 Kgs and declared 46010 Kgs). The % excess weight is 3.02% and value of excess goods is 21410/- on which duty is liable to be recovered.

**DISCUSSION & FINDINGS:**

4. Since the importer have waived their right of show cause notice and personal hearing and have requested for re-export, I proceeds to decide the case on merits. I find that Assessable value of Artificial Stone Block imported is Rs. 7,08,687.68/- The imported goods are classifiable under Customs Tariff item 68109990. The 1390 Kgs of goods valued at Rs. 21,410/- have been found to be excess and hence revised assessable value is Rs. 7,30,098/-. The total duty payable is Rs. 2,26,185/- instead of Rs. 1,72,353/-. I find that as per as per Public Notice No. 41/2015 of Mundra Customs which is corrigendum to Public Notice 9/2015 dated 26.03.2015 of Custom House, Mundra, when the variation in weight is 1% to 5% only then for that no adjudication need to be done but value component of excess weight will be included in the assessable value and appropriate duty will be recovered accordingly. Hence, for excess weight of 3.02% only duty recovered after incorporating the value of excess goods in the

total assessable value in case the goods are allowed for home consumption. However, in the subject case importer has decided to re-export the goods.

5. I find that for the Artificial Stone Block is classifiable under Customs Tariff item 68109990 and Policy Condition No. 4 of Chapter 68 reads "However import of rough/unprocessed blocks and slabs of agglomerated/ artificial stones shall be restricted."

Thus, I hold that 47.4 MTS of Artificial Stone blocks valued at Rs. 7,30,098/- is liable for confiscation under section 111(d) of the Customs Act, 1962 and the importer M/s. Jaishree Marbles, G-18, RIICO Industrial Area, Ajoliya ka Kheda, Chittorgarh, Rajasthan-312001 is liable for penalty under section 112(a)(i) of the Customs Act, 1962. I also take into consideration the request of the importer M/s. Jaishree Marbles to re-export the imported goods.

6. In view of the above, I passed the following order.


**::: ORDER :::**

6.1. I order the confiscation of 47400 Kgs of Artificial Stone Blocks valued at Rs. 7,30,098/- covered under Bill of Entry No. 2212179 dated 26.02.2019 in terms of Section 111(d) of the Customs Act, 1962. However, I also allow the redemption of the confiscated goods for re-export 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 only.

6.2. I also impose a penalty of Rs. 30,000/- (Rupees Thirty Thousand only) on M/s. Jai Shree Marbles, G-18, RIICO Industrial Area, Ajoliya ka Kheda, Chittorgarh, Rajasthan-312001 in terms of Section 112(a) (i) of the Custom Act, 1962.

6.3. I have taken a lenient view while imposing fine & penalty as importer seeks re-export and also due to the facts that demurrage and detention involved as goods are lying in docks for more than 35 days.

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

  
(Prashant Kaduskar) 10/4/19  
Additional Commissioner  
Customs House, Mundra.

F. No:-VIII/48-2091/Misc./GR-III/MCH/18-19 Mundra, Date:-10.04.2019

To,  
M/s. Jai Shree Marbles, G-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.(EAD), Custom House, Mundra.