



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/48-1681/Adj/Gr.VI/MCH/2019-20
B	Order-in-Original No.	MCH/DC/Gr.VI/MK/553/2019-20
C	Passed by	Shri Mukesh Kumar, Deputy Commissioner of Customs, Custom House, Mundra
D	Date of Order	17.01.2020
E	Date of Issue	20.01.2020
F	SCN NO. & Date	SCN waived vide request letter dated 16.01.2020
G	Noticee / Party / Importer / Exporter	M/s. Sekhani Industries Private Limited, 10th Fl, Shivali High Street, Nr. Keshav Baug, Vastrapur, Ahmedabad, Gujarat-380015

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, मृदुलटावर, टाइम्स ऑफ इंडिया के पीछे, आश्रमरोड़, 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) उ 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, सीमाशुल्क (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: M/s. Sekhani Industries Private Limited, 10th Fl, Shivali High Street, Nr. Keshav Baug, Vastrapur, Ahmedabad, Gujarat-380015 having IEC Code No. 0891001565 has filed B/E No. 6386785 dtd. 07.01.2020 and have mis-declared the cargo.

BRIEF FACTS OF THE CASE: -

M/s. Sekhani Industries Private Limited, 10th Fl, Shivali High Street, Nr. Keshav Baug, Vastrapur, Ahmedabad, Gujarat-380015 (herein after referred to as Importer for sake of brevity) having IEC Code No. 0891001565 filed Bill of Entry No. 6386785 dtd. 07.01.2020 through their CB Hemjyot Agency, for clearance of 3779.150 KG of "155MM Sanitary Napkins-As panty Liners (24PCS/BAG 24BAGS/CTN) & 155MM Sanitary Napkins-As panty Liners (48PCS/BAG 24BAGS/CTN)", having Assessable value at Rs. 12,71,283.00/- imported vide Bill of Lading No. XMNA22762 DTD. 21.12.2019, Invoice No- CJ-SIPL-1105 DTD: 17.12.2019.

2. The above mentioned BOE was been assessed through RMS and examination was not been prescribed for the said B/E. The said B/E was been marked to APR by the Docks on 17.01.2020. As per docks report, CFS weight was 4665 kgs as against declared Gross weight of 3779.15 kgs and cargo was excess by 885.85 kgs. Thus The importer has mis-declared the weight to the tune of 885.85 kgs which is excess by 23.44% of the declared quantity. The values of the goods under B/E are USD 5.155200 per kg for item no 1 having weight 2371 kgs and USD 4.482784 per kg for item no 2 having weight 968.30 kgs. Hence, assessable value of excess cargo is Rs 3,50,502.94/- and duty payable is Rs 38,555.32/- as per rate of item no 1.

3. As Importer has thus mis-declared the weight of goods and failed to observe the condition of Section 46(4) of the Customs Act, 1962. Hence, undeclared excess goods having weight of 885.85 kgs, having value of Rs 3,50,502.94/- appeared liable for confiscation under section 111 (l) of the Customs Act, 1962. The Importer also appeared to be liable for penalty under section 112 (a) of the Customs Act, 1962 for their acts and omission to make the goods liable for confiscation under section 111 of the Customs Act, 1962.

WAIVER OF PERSONAL HEARING AND SCN:-

4. The Importer vide their letter dated 16.01.2020 has requested for waiver of the Show Cause Notice and Personal Hearing and to decide the matter on merit.

DISCUSSION & FINDING

5. I have carefully gone through the case records. The importer vide letter dated 16.01.2020 requested for waiver of the show cause notice and personal hearing in the matter. Hence, I proceed to decide the case on the basis of the documentary evidence available on records.

6. I find that on examination, the gross weight of cargo was found to be 4665 kgs as against declared gross weight of 3779.15 kgs. Therefore, the importer has mis-declared the quantity of the goods to evade the Customs duty. The importer has mis-declared the gross weight of goods to the tune of 885.85 kgs valued at Rs. 3,50,502.94/- with a view to evade duty of Rs 38,555.32/-.

7. I find that the importer has mis-declared the weight of goods to the tune of 885.85 kgs valued at Rs. 3,50,502.94/- in the above mentioned bill of entry and rendered the same liable to confiscation under the provisions of Section 111 (l) of the Customs Act, 1962. I also find that the importer is also liable for penal action under Section 112(a) of Customs Act, 1962 for their acts and omissions to make the goods liable for confiscation under section 111 of the Customs Act, 1962.

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

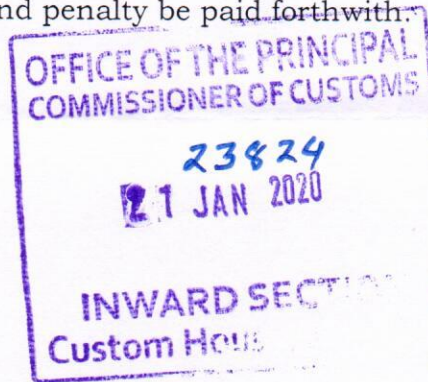
ORDER


8.1 I order that the importer will pay the appropriate duty on the excess cargo of 885.85 kgs.

8.2 I order for confiscation of goods viz 885.85 kgs of 155MM Sanitary Napkins-As panty Liners valued at Rs. 3,50,502.94/- under Section 111 (l) of Custom Act, 1962. However, I give an option to the importer to redeem the same on payment of Redemption Fine of Rs. 35,100/- (Rupees Thirty Five Thousand & One Hundred only) under Section 125 of Customs Act, 1962.

8.3 I also impose a penalty of Rs.5000/- (Rupees Five Thousand Only) on the importer under Section 112(a) of Customs Act, 1962.

The duty, fine and penalty be paid forthwith.




(Mukesh Kumar)
Deputy Commissioner
Import Group- VI
Custom House, Mundra

F.No. VIII/48-1681/Adj/Gr.VI/MCH/2019-20

Date: 20.01.2020

DIN: 20200171MO00002PD8FC

To,
M/s. Sekhani Industries Private Limited,
10th Fl, Shivali High Street, Nr. Keshav Baug,
Vastrapur, Ahmedabad, Gujarat-380015

Copy to:

- 1) The Principal 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) M/s. Hemjyot Agency - CB.
- 6) Guard File.

POCEDD
