



OFFICE OF THE 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/48-2009/Misc/GR.VI/MCH/2019-20
B	Order-in-Original No.	MCH/MK/DC/Gr.VI/180/2020-21
C	Passed by	Shri Mukesh Kumar Deputy Commissioner of Customs, Custom House, Mundra
D	Date of Order	02.06.2020
E	Date of Issue	03.06.2020
F	SCN NO. & Date	SCN waived vide request letter dated 14.05.2020
G	Noticee / Party / Importer / Exporter	M/s Finstone Granito Pvt Ltd, Sr No 69/1-1, 69/1-2, 8-A, National Highway, Vill Gala Morbi, Gujarat-363642
H	DIN	20200671MO00004KF5D7

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 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) 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: M/s Finstone Granito Pvt Ltd, Sr No 69/1-1, 69/1-2, 8-A, National Highway, Vill Gala Morbi, Gujarat-363642 holding IEC Code No. AACCF8067DFT001 has filed B/E No. 6889264 Dtd. 14.02.2020 and does not have BIS certificate for imported cargo

BRIEF FACTS OF THE CASE

M/s Finstone Granito Pvt Ltd, Sr No 69/1-1, 69/1-2, 8-A, National Highway, Vill Gala Morbi, Gujarat-363642 holding IEC Code No. AACCF8067DFT001 (herein after referred to as Importer), filed Bill of Entry No. 6889264 Dtd. 14.02.2020 through their CB M/s. Aman Seatrans Private Limited, for clearance of Ball Clay 65# and LED Light (30W) having Assessable value at Rs. 453366.30/-, imported vide Bill of Lading No. FDE2001027 dated 17.01.2020 , Invoice No. BNS20200115 dated 15.01.2020.

2. During assessment query was raised to produce the BIS certificate item no 02 i.e. LED Light (30W) 768 Nos. Importer failed to produce the same and requested to examine the cargo on first check basis. During examination by docks, it was observed that item no 02 i.e. LED Light (30W) does not have BIS certificate /mark which is required as per the BIS Rules/Regulations regarding FIXED GENERAL PURPOSE LED LUMINAIRES IS 10322 (Part 5/Sec 1):2012 w.e.f. 01.03.2016

3. Importer vide letter dated 06.03.2020 submitted the BIS certificate Registration/CRS 2018-3719/R-41102628 dated 28.09.2018 having validity upto 25.09.2020 and requested to clear the cargo. Further, docks officers were requested to examine the cargo in light of the BIS certificate submitted by the Importer. Docks officers vide report dated 18.03.2020 submitted that said certificate pertains to Manufacturer namely M/s ZHONGSHAN AIRI Lighting Technology Limited Company, China where as per Bill of Entry, supplier is M/s WEIGANG SICHUANG MACHINERY CO. LTD, China. Further, Cargo contains Model No is KDL-G3003-30 which is not covered in the product and model referred/mentioned in the said BIS certificate. Therefore, it appears that item no 02 i.e. . LED Light (30W) 768 Nos having assessable value of 3,11,147.59/- of the subject Bill of Entry is not covered under said BIS certificate.

4. Whereas it appears the importer has failed to observe the conditions of Section-46(4) of the Customs Act, 1962 and made the goods liable for confiscation under the provisions of Section-111 (d) & 111(m) of the Custom Act 1962, rendered themselves liable for the penal action under the provisions of Section-112(a) & 125 of the Customs Act, 1962.

WAIVER OF PERSONAL HEARING AND SCN:-

5. The Importer vide their letter dated 14.05.2020 has requested for waiver of the Show Cause Notice and Personal Hearing and to issue the re-export order.

DISCUSSION & FINDING

6. I have carefully gone through the case records. The importer vide letter dated 14.05.2019 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.

7. I find that on examination, importer has imported 768 Nos of LED Light (30W) without BIS certificate. I find that the above mentioned goods imported without BIS standard as per FIXED GENERAL PURPOSE LED LUMINAIRES IS 10322 (Part 5/Sec 1):2012 w.e.f. 01.03.2016.

8. I find that the importer has imported above mentioned goods LED Light (30W) 768 Nos valued at Rs. 3,11,147.59/- without BIS standards in the above mentioned bill of entry and

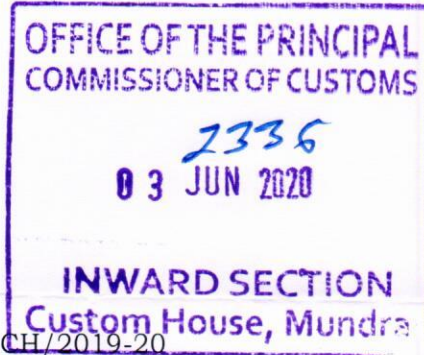
rendered the same liable to confiscation under the provisions of Section 111(d) & 111(m) of the Customs Act, 1962. The importer is also liable for penal action under Section 112(a) of Customs Act, 1962. As the offending goods, valued at Rs. 3,11,147.59/-, have been imported without BIS Certificate, I hold the importer liable to penal action 125 of the Custom Act, 1962.

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

ORDER

9.1 I order for confiscation of goods i.e. 768 Nos of Item no 02 LED Light (30W) valued at Rs. 3,11,147.59/-, under Section 111 (d) & 111(m) of Custom Act, 1962. However I give an option to the importer to redeem the same goods for the purpose of **re-export only** by paying Rs 32,000/- (Rs Thirty Two Thousands Only) under Section 125 of Customs Act, 1962.

9.2 I also impose a penalty of Rs. 13,320/- (Thirteen Thousand Three Hundred and Twenty Only) on the importer under Section 112(a) of Customs Act, 1962.



Mukesh Kumar
03/06/2020
(Mukesh Kumar)
Deputy Commissioner,
Import Group (Gr. V & VI)
Custom House, Mundra

F.No. VIII/48-2009/Misc/Gr.VI/MCH/2019-20

Date: 03.06.2020

To,

M/s Finstone Granito Pvt Ltd,
Sr No 69/1-1, 69/1-2, 8-A, National Highway,
Vill Gala Morbi, Gujarat-363642

Copy to:

- 1) The Commissioner of Customs, Custom House, Mundra
- 2) Assistant/ Deputy Commissioner (DE), Customs House, Mundra
- 3) Assistant / Deputy Commissioner (RRA), Custom House, Mundra.
- 4) The Assistant / Deputy Commissioner (TRC), Custom House, Mundra.
- 5) The Assistant / Deputy Commissioner (EDI), Custom House, Mundra.
- 6) The Assistant / Deputy Commissioner (Disposal), Custom House, Mundra.
- 7) M/s Aman Seatrans Private Limited, - CB.
- 8) The Saurashtra CFS, AP & SEZ, Mundra.
- 9) Guard File.

P.O. (M)
[Signature]