



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/48-1278/ADJ/Gr.II/MCH/2019-20
B	Order-in-Original No.	MCH/ADC/AK/76 /Gr-II/2019-20
C	Passed by	Shri Ajay Kumar Additional Commissioner of Customs, Custom House, AP & SEZ, Mundra
D	Date of Order	15.11.2019
E	Date of Issue	15.11.2019
F	SCN NO. & Date	SCN waived vide letter dated 04.11.2019, Bill of Entry No. 5545464 dated 04.11.2019
G	Noticee / Party / Importer / Exporter	M/s. Pragmatic Granite Pvt. Ltd., Khasra No. 118/4 Min, Village Mundka, Delhi 110 041

9. यह अपील आदेश संबन्धित को निःशुल्क प्रदान किया जाता है।

This Order - in - Original is granted to the concerned free of charge.

10. 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.”

11. 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.

12. 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 -

(v) उक्त अपील की एक प्रति और

A copy of the appeal, and

(vi) 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 जापान 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: Excess Import of goods vide Bill of Entry No. 5545464 dated 04.11.2019 by M/s. Pragmatic Granite Pvt. Ltd., Khasra No. 118/4 Min, Village Mundka, Delhi 110 041 for violation of Customs Act and Rules thereon.

BRIEF FACTS OF THE CASE

M/s. Pragmatic Granite Pvt. Ltd., Khasra No. 118/4 Min, Village Mundka, Delhi 110 041 (hereinafter referred to as Importer for sake of brevity) having IEC code 0513027998 filed a Bill of Entry No. 5545464 dated 04.11.2019 through their Custom Broker (CB) M/s. C P Logistics for clearance of 55500 Kgs. of cargo declared as "Okoume Veneer" and having total declared assessable value of Rs. 3870797.16 imported against Bill of Lading No. 969281686 dated 04.11.2019 & Invoice No. PW/2019/036b dated 17.07.2019.

1.1 The Shipper M/s. Prime Wood Sarl, Gabon has raised the invoice no. PW/2019/036b dated 17.07.2019. The unit price mentioned is EURO 380 per CBM (FOB). For 112.301 CBM the total invoice amount is EURO 42,674/-. The total net quantity is mentioned as 55500 kg. The related packing list declares that there are 3 containers and the details packing in number of pieces per container is also given.

1.2 The cargo was examined under 2nd check in presence of authorized person of CB. During the examination of the cargo, the goods were found to be as declared as per the said B/E, invoice and packing list. However, the total weight (Gross Weight) of the cargo was found to be 63210 Kgs as against declared Gross Weight of 55500 Kgs. Thus, a quantity of 7710 Kgs has been found excess in same over and above declared quantity. Therefore, it appears that the importer has mis-declared the quantity of the goods valued at Rs 5,37,727/- and the duty involved in the mis-declared goods is Rs.1,66,588/-.

1.3 The importer has failed to observe the conditions of Section 46(4) of the Customs Act, 1962 and made the goods liable to confiscation under the provisions of Section 111 (l) and 111 (m) of the Custom Act 1962 and rendered themselves liable to the penal action under the provisions of Section 112(a) (ii) of the Customs Act, 1962.

1.4 The Importer vide their letter dated 04.11.2019 has requested for waiver of the Show Cause Notice and Personal Hearing and to decide the matter on merit. I therefore proceed to decide the case on merits.

DISCUSSION AND FINDING

2. I have carefully gone through the case records and correspondence with the importer. The importer vide their letter dated 04.11.2019, have requested for waiver of the Show Cause Notice and Personal Hearing in the said 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.

2.1 I find that on examination, the weight of cargo was found to be 63210 Kgs as against declared weight of 55500 Kgs. The importer has mis-declared the quantity of goods to the tune of 7710 Kgs. valued at Rs. 5,37,727/- and the duty involved in the mis-declared goods is Rs.1,66,588/- and violated the provisions of Section 46(4) of the Customs Act, 1962 read with the provisions of Section 111(l) and 111(m) of the Customs Act, 1962. Therefore, the imported goods are liable for confiscation under Section 111(l) and 111(m) of the Customs Act, 1962 and the importer is also liable for penal action under Section 112 (a) (ii) of Customs Act, 1962.

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

ORDER

a. I order for confiscation of mis-declared excess imported goods i.e. 7710 Kgs of "Okoume Veneer" valued at Rs. 5,37,727/- covered under Bill of Entry No. 5545464 dated 04.11.2019 under Section 111 (l) and 111(m) of Custom Act, 1962. However I give an

option to the importer to redeem the same on payment of redemption fine of Rs. 1,50,000.00 (Rupees One Lakh Fifty Thousand only) under Section 125 of Custom Act, 1962.

- b. I also impose a penalty of Rs. 50,000.00 (Rupees Fifty Thousand only) on the importer M/s. Pragmatic Granite Pvt. Ltd., Khasra No. 118/4 Min, Village Mundka, Delhi 110 041 under Section 112(a) of Customs Act, 1962.
- c. I order to re-assess the Bill of Entry accordingly.

4 This order is issued without prejudice to any other action which may be required to be taken against any person as per the provision of the Customs Act, 1962 or any other law for the time being in force.


(Ajay Kumar)

Additional Commissioner (Import)
Mundra Customs

F.No.VIII/48-1278/Adj/Gr-II/MCH/2019-20

Date: 15.11.2019

To,
M/s. Pragmatic Granite Pvt. Ltd.,
Khasra No. 118/4 Min,
Village Mundka,
Delhi- 110 041

Copy to:

1. The Principal Commissioner of Custom, Custom House, Mundra.
2. The Assistant Commissioner (Group-II/RRA/TRC), Custom House, Mundra.
3. The Assistant Commissioner (EDI), Custom House, Mundra.
4. Guard file.



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