



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/48-1402/Gr.V/SHM/MCH/2019-20 |
| B | Order-in-Original No. | MCH/DC/Gr.V/CKP/470/2019-20 |
| C | Passed by | Shri C. K. Patel Deputy Commissioner of Customs, Custom House, Mundra |
| D | Date of Order | 28.11.2019 |
| E | Date of Issue | 02.12.2019 |
| F | SCN NO. & Date | SCN waived vide request letter dated 25.11.2019 |
| G | Noticee / Party / Importer / Exporter | M/s Sober Ceramics, Nr Dariyalal Resorts, 8-A, National Highway, Post Box No. - 304, Morbi - 363641, Gujarat |

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, टाइम्सऑफ इंडिया के पीछे,आश्रमरोड,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 जापन 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 Sober Ceramics, Nr Dariyalal Resorts, 8-A, National Highway, Post Box No. - 304, Morbi - 363641, Gujarat holding IEC Code No. 2499003111 has filed B/E No. 5685466 dated 15.11.2019 and have mis-declared the cargo.

BRIEF FACTS OF THE CASE

M/s Sober Ceramics, Nr Dariyalal Resorts, 8-A, National Highway, Post Box No. – 304, Morbi – 363641, Gujarat (herein after referred to as Importer), had filed Bill of Entry No. 5685466 dated 15.11.2019 for clearance of various items of Second hand Machinery for ceramic industry imported vide Bill of Lading No. 7002042120 Dated 11.10.2019, Invoice No. 258 Dated 07.10.2019 through CB M/s Bharti Trading.

2. On 100% examination under first check, item no 3 i.e. Second Hand Machinery for ceramic industry, Cutting Disc was found to be new as against declared as second hand. Further as per CE certificate No. CE/Guj/4013/2019-20 dated 22.11.2019, item no 3 is new. As per CE certificate, assessable value of the item no 3 is EUR 2530 FOB as against the EUR 500 FOB. Thus importer has mis-declared the goods i.e. item no 3, valued at Rs. 2,02,779.5/- involving duty of amount Rs 56,241.02/-.

3. The Importer has thus mis-declared the goods appearing at item no 3 of above mentioned Bill of Entry and failed to observe the condition of Section 46(4) of the Customs Act, 1962 as they have mis-declared the description and value of item no 3. Hence, mis-declared goods having having value of Rs 2,02,779.5/- appeared liable for confiscation under section 111 (m) of the Customs Act, 1962. The Importer M/s Sober Ceramics, Morbi, 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(m) of the Customs Act, 1962.

WAIVER OF PERSONAL HEARING AND SCN:-

4. The Importer vide their letter dated 25.11.2019 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 25.11.2019 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.

6. I find that on examination, as per docks report dated 25.11.2019, goods at item no 3 i.e. Second Hand Machinery for ceramic industry, Cutting Disc was found to be new as against declared as second hand. Further as per CE certificate No. CE/Guj/4013/2019-20 dated 22.11.2019, item no 3 is new and value of goods of item no 3 is EUR 2530 FOB against the declared value of EUR 500 FOB. Therefore, the importer has mis-declared the goods at item no 3 to evade the Customs duty. The importer has mis-declared the goods valued at Rs 2,02,779.5/- with a view to evade duty of Rs 56,241.02/-.

7. I find that the importer has mis-declared the goods as old valued at Rs 2,02,779.5/- in the above mentioned bill of entry and rendered the same liable to confiscation under the provisions of Section 111 (m) 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.

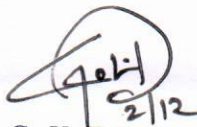
8. In view of foregoing discussion and findings, I pass the following order.

ORDER

8.1 I order for confiscation of mis-declared goods i.e. item no 3 Cutting Disc valued at 2,02,779.5/- under Section 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. 20,000/- (Rupees Twenty Thousands) under Section 125 of Customs Act, 1962.

8.2 I also impose a penalty of Rs. 5,600/- (Rupees Five Thousand Six Hundred Only) on the importer under Section 112(a) of Customs Act, 1962.

The duty, fine and penalty be paid forthwith.


(Dr. C. K. Patel)
Deputy Commissioner
Import Group- V
Custom House, Mundra

F.No. VIII/48-1402/Gr.V/SHM/MCH/2019-20

Date: 02.12.2019

To

M/s Sober Ceramics,
Nr Dariyalal Resorts, 8-A, National Highway,
Post Box No. - 304, Morbi - 363641, Gujarat

Copy to:

- 1) The Principal Commissioner, Custom House, Mundra.
- 2) The Assistant / Deputy Commissioner (EDI), Custom House, Mundra.
- 3) The Assistant / Deputy Commissioner (RRA), Custom House, Mundra.
- 4) The Assistant / Deputy Commissioner (TRC), Custom House, Mundra.
- 5) M/s. Bharti Trading - CB.
- 6) Guard File.

