



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/48-796/Recall/Gr-III/MCH /19-20
B	Order-in-Original No.	MCH/ADC/PSK/54/2019-20
C	Passed by	Shri Prashant Kaduskar Additional Commissioner of Customs, Custom House, AP & SEZ, Mundra
D	Date of Order	21.08.2019
E	Date of Issue	26.08.2019
F	SCN NO. & Date	SCN waived vide letter dated 21.08.2019, Bill of Entry No. 4446573 dated 10.08.2019
G	Noticee / Party / Importer / Exporter	M/s Vimal Granites, FA-367, Ground Floor, Mansarovar Garden, New Delhi

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 128A 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 वींमंजिल,मृदुल टावर,टाइम्स ऑफ इंडिया के पीछे,आश्रम रोड़,अहमदाबाद380 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/- रुपये का टिकट लगा होना चाहिए और इस के 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 जापन के साथ इयूटि/ 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 Granite Polished Slabs by M/s Vimal Granites, FA-367, Ground Floor, Mansarovar Garden, New Delhi vide BE No. 4446573 dt. 10.08.2019 in violation of Customs Act and Rules thereon.

Brief facts of the case:

M/s Vimal Granites, Mansarovar Garden, New Delhi, filed the Bill of Entry No. 4446573 dt. 10.08.2019 for Granite Polished Black Pearl Slabs (Size- 60-100x170-350x1.6cm) – 229.46 SQM having unit price US \$ 50/SQM and having Assessable Value Rs. 8,27,762.03/-. The Second item is Granite Polished Antique Slabs (Size- 60-100x170-350x1.6cm) having unit price US \$ 46.00/SQM total 253.66 SQM. The Assessable Value is Rs. 8,41,856.99/-. The total assessable value is Rs. 16,69,619.02/-.

2. The Commercial invoice no. 2019-02/DN-PT dt. 24.07.2019 is for 2 items:-

- (i) Polished Black Pearl Slabs - Size- 60-100x170-350x1.6cm – 229.46 SQM & unit price is US \$ 50/SQM & amount is US \$ 11,473.00 total amount.
- (ii) The Polished Antique Slabs Size- 60-100x170-350x1.6cm. The quantity is 253.66 SQM & unit price US \$ 46.00/SQM & total amount is US \$ 11668.36.
- (iii) The freight cost from Ho Chi Minh to Mundra is 450 USD/SQM. The Grand Total = USD 23,591.36 C&F. The related packing list states that - total 244 polished Granite Slabs weight 27,000 Kg & total SQM is 483. The Bill of Lading dt. 24.07.2019 has been raised by M/s Gold Star Line Ltd. The port of loading is Ho Chi Minh City. The freight said to be prepaid. The importer has produced a Certificate of Origin dt. 29.07.2019 (Ref No. VN-IN 19/02/07419). The country of origin is said to be Vietnam.

3. The Notification No. 29/RE-2015/2015-2020 dt. 17.09.2016 state that Central Government amends the Import Policy condition of Schedule 1 (Import Policy) stipulated under Notification no. 38 dt. 26.08.2013 in respect of ITC(HS) codes 68022310, 68022390, 68022900 & 68029300 related to granite slabs w.e.f. 01.10.2016. The policy condition in respect of above ITC(HS) codes shall read as under:

“Import permitted freely provided CIF value is US \$ 50 or above per Square meter (for maximum thickness of slab of 20mm).”

This means where the CIF value is less than US \$ 50 per SQM (for maximum thickness of slab of 20mm) will not be freely importable and will be restricted for imports w.e.f. 01.10.2016. Thus in the subject case the item no. 2, 253.66 SQM Granite polished antique slabs is having unit price US \$ 46.00/SQM (FOB). The assessable value is Rs. 8,41,856.99 or CIF is US \$ 47.41/SQM only which is less than US \$ 50/SQM. Hence, as per Notification: 29/RE-2015/2015-2020 dt. 17.09.2016 the 253.66 SQM of Granite polished antique slabs (Size- 60-100x170-350x1.6cm) valued at Rs. 8,41,856.99/- appear liable for confiscation in terms of Section 111(d) of the Customs Act, 1962. The importer M/s Vimal Granites, Mansarovar Graden, New Delhi – 110015 is also liable for their acts & omissions rendering the goods liable for confiscation under Section 111 of the Customs Act, 1962.

Waiver of Show Cause Notice and Personal Hearing

4. M/s Vimal Granites vide their letter dated 21.08.2019 has stated that value of item no. 2 is FOB USD 46/SQM (FOB), USD 47.50/SQM CIF but as per Custom Notification: 29/RE-2015/2015-2020 dt. 17.09.2016 the rate should be USD 50/SQM CIF. They have stated that they are ready to pay the fine and penalty against the said Bill of Entry. They have also waived the Show Cause Notice & Personal Hearing in the matter.

Discussion & Findings:

5. I find that as per the Notification: 29/RE-2015/2015-2020 dt. 17.09.2016 the goods covered under Custom Tariff Heading 68029300 related to granite slab are not allowed to be imported freely if the CIF value is less than US \$ 50 or less (for maximum thickness of slab of 20mm) w.e.f. 01.10.2016. Thus, I hold that these 253.66 SQM of Granite polished Antique Slabs having declared Unit Price US \$ 47.41/SQM and (below US \$ 50/SQM) total value of Rs. 8,41,856.99/- and classifiable under 68029300 (Custom Tariff Item) are liable for confiscation under Section 111(d) of the Customs Act, 1962 being restricted for imports as per DGFT Notification: 29/RE-2015/2015-2020 dt. 17.09.2016. The importer has agreed their mistake have stated that they are ready to pay the fine & penalty. I also hold that for their acts & omissions to render the 253.66 SQM of polished granite antique slabs having value of Rs. 8,41,856.99/- liable for confiscation under Section 111(d) of the Customs Act, 1962, the importer M/s Vimal Granites, New Delhi is also liable for penalty under Section 112(a)(i) of the Customs Act. 1962.

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

ORDER

- 6.1 I order confiscation of 253.66.SQM of polished Granite Antique Slabs having value of Rs. 8,41,856.99/- & covered under Bill of Entry No. 4446573 dt. 10.08.2019 in terms of Section 111(d) of the Customs Act, 1962. However, I allow the confiscated cargo to be redeemed on payment of redemption fine of Rs. 1,75,000/- (Rupees One Lakh & Seventy Five Thousand Only) in terms of Section 125 of the Customs Act, 1962.
- 6.2 I also impose penalty of Rs. 25,000/- (Rupees Twenty Five Thousand Only) on M/s Vimal Granites, FA-367, Ground Floor, Mansarovar Garden, New Delhi-110015 in terms of Section 112(a)(i) of the Customs Act, 1962.

The fine and penalty be paid forthwith.



(Prashant Kaduskar) 26/8/2019
Additional Commissioner,
Mundra Customs

F.No. VIII/48-796/Recall/ Gr-III/MCH /19-20

Date: 26.08.2019

To
M/s Vimal Granites,
FA-367, Ground Floor,
Mansarovar Garden,
New Delhi-110015

Copy to:

- (1) The Principal Commissioner of Customs, Custom House, Mundra
- (2) The Assistant/Deputy Commissioner of Customs (RRA), Custom House, Mundra
- (3) The Deputy Commissioner of Customs (EDI), Custom House, Mundra
- (4) Guard file

