



ऑफिस ऑफ द कमिशनर ऑफ कस्टम्स
OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-V
जवाहरलाल नेहरू कस्टम हाउस, न्हावा-शेवा,
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA-SHEVA,
ताल-ऊरण, डिस्ट-राइगड़, महाराष्ट्र-४००७०७.
TAL. URAN, DIST. RAIGAD, MAHARASHTRA - 400 707.

F. No.: S/10-99/2025-26/ADC/GrVI/NS-V/CAC/JNCH

Date of Order: 25.11.2025

Date of issue: 26.11.2025

Passed By: **Shri Satish Kumar**

Additional Commissioner of Customs, NS-V

DIN- 20251178NX000000C3D0

Order-In-Original No. 1208/2025-26/ADC/GR.VI/NS-V/CAC/JNCH

(Arising out of SCN No. 367/2025-26/ADC/Gr.VI/NS-V/CAC/JNCH dated 02.07.2025)

Noticee: M/s Radhe Enterprises (IEC- ASUPV0595M)

मूलआदेश

- यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निः शुल्क दी जाती है।
- इस आदेश के विरुद्ध अपील सीमाशुल्क अधिनियम 1962 की धारा 128 (1) के तहत इस आदेश की संसूचना की तारीख से साठ दिनों के भीतर सीमाशुल्क आयुक्त (अपील), जवाहरलाल नेहरू सीमाशुल्क भवन, शेवा, ता. उरण, जिला - रायगढ़, महाराष्ट्र - 400707 को की जा सकती है। अपील दो प्रतियों में होनी चाहिए और सीमाशुल्क (अपील) नियमावली, 1982 के अनुसार फॉर्म सी.ए. 1 संलग्नक में की जानी चाहिए। अपील पर न्यायालय फीस के रूप में 1.50 रुपये मात्र कास्टांप लगाया जायेगा और साथ में यह आदेश या इसकी एक प्रति लगायी जायेगी। यदि इस आदेश की प्रति संलग्न की जाती है तो इस पर न्यायालय फीस के रूप में 1.50 रुपये का स्टाम्प भी लगाया जायेगा जैसा कि न्यायालय फीस अधिनियम 1970 की अनुसूची 1, मद 6 के अंतर्गत निर्धारित किया गया है।
- इस निर्णय या आदेश के विरुद्ध अपील करनेवाला व्यक्ति अपील अनिर्णीत रहने तक, शुल्क या शास्ति के संबंध में विवाद होने पर माँगे गये शुल्क के 7.5% का, अथवा केवल शास्ति के संबंध में विवाद होने पर शास्ति का भुगतान करेगा।

ORDER-IN-ORIGINAL

- This copy is granted free of charge for the use of the person to whom it is issued.
- An appeal against this order lies with the Commissioner of Customs (Appeal), Jawaharlal Nehru Custom House, Nhava Sheva, Tal: Uran, Dist.: Raigad, Maharashtra – 400707 under section 128(1) of the Customs Act, 1962 within sixty days from the date of communication of this order. The appeal should be in duplicate and should be filed in Form CA-1 Annexure on the Customs (Appeal) Rules, 1982. The Appeal should bear a Court Fee stamp of Rs.1.50 only and should be accompanied by this order or a copy thereof. If a copy of this order is enclosed, it should also bear a Court Fee Stamp of Rs. 1.50 only as prescribed under Schedule 1, items 6 of the Court Fee Act, 1970.
- Any person desirous of appealing against this decision or order shall, pending the appeal, make 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.

Brief Facts of Case

Whereas, M/s Radhe Enterprises (IEC- ASUPV0595M) was issued adjudication order, OIO no. 1550/2022-23/ADC/NS-V/Gr.VI/CAC/JNCH dated 02.03.2023, for re-export of the goods imported vide Bill of Entry 2725795 dated 03.10.2022, the syndicate members made a copy of a checklist of a fake Shipping Bill to remove the goods from the customs bonded warehouse in the

guise of re-export, whereas actually goods were not re-exported, rather the same were diverted to the local market. The syndicate members illegally removed the said goods on the fake checklist of the shipping bill without payment of the duty, redemption fine and penalty, imposed on the goods confiscated vide OIO no. 1550/2022-23/ADC/NS-V/Gr.VI/CAC/JNCH dated 02.03.2023.

The details of the confiscated goods, which were illegally removed from the Axismundi Logistics and Warehousing (OPC) Pvt.Ltd.(NSA1U 161) warehouse and diverted to the local market. The relevant details are as below:-

Table 1: Details of the adjudicated goods

Importer Name	M/s Radhe Enterprises (IEC- ASUPV0595M)
Bill of Entry No./date	2725795 dated 03.10.2022
Name of Warehouse	Axismundi Logistics and Warehousing (OPC) Pvt. Ltd.(NSA1U 161)
Goods description	Water Ring Trick, Rubic Cube Trick
Adjudication order for re-export	Yes
Adjudication / O-I-O Number and Date	1550/2022-23/ADC/NS-V/Gr.VI/CAC/JNCH dated 02.03.2023
Adjudicating Authority	Additional Commissioner of Customs, Group-6, NS-V, JNCH
Fake Checklist of the Shipping BillNo./date	8195276 dated 13.04.2023

Details of the goods illegally removed from the warehouse is as below:

Table-2

Sr. No.	Shipping Bill No.	BE No	Goods Description	Re-determined Assessable Value of the goods	Re-determined differential Duty as per the adjudication order
1	8195276 dated 13.04.2023	2725795 dated 03.10.2022	Water Ring Trick, Rubic Cube Trick	Rs. 21,53,088/-	Rs. 4,10,539/-

2. Relevant Legal Provisions that relate to the facts of the case are brought out below:

2.1 Section 7 & 11 of the Foreign Trade (Development and Regulation)

Act, 1992 reads as follows:-

7. Importer-exporter Code Number - No person shall make any import or export except under an Importer-exporter Code Number granted by the Director General or the officer authorized by the Director General in this behalf, in accordance with the procedure specified in this behalf by the Director General.

11. Contraventions of provisions of this Act, Rules, Orders, and export and import policy

(1) No export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and the export and import policy for the time being in force.

Rule 12 and 14 of FOREIGN TRADE (REGULATION) RULES, 1993 read as follows;

12. Declaration as to Importer-exporter Code Number - On the importation into or exportation out of any Customs port of any goods the importer or exporter shall in the Bill of Entry or Shipping Bill or, as the case may be, in any other documents prescribed by rules made under the Act or the Customs Act, 1962 (52 of 1962), state the Importer-exporter Code Number allotted, to him by the competent authority.

14. Prohibition regarding making, signing of any declaration, statement or documents.-

(1) No person shall make, sign or use or cause to be made, signed or used any declaration, statement or document for the purposes of obtaining a licence or importing any goods knowing or having reason to believe that such declaration, statement or document is false in any material particular.

(2) No person shall employ any corrupt or fraudulent practice for the purposes of obtaining any licence or importing or exporting any goods.

2.2 The Customs Act, 1962

i. **Section 2(3A) —beneficial owner** means any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported;]

ii. **Section 2(26)** "Importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner, beneficial owner or any person holding himself out to be the importer.

iii. **Section 2(39) 'smuggling'**, in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113;

iv. **Section 11A of the Customs Act, 1962** Definitions. - In this Chapter, unless the context otherwise requires- "illegal import" means the import of any goods in contravention of the provisions of this Act or any other law for the time being in force;

v. **Section 12.** Dutiable goods.—(1) Except as otherwise provided in this Act, or any other law for the time being in force, duties of customs shall be levied at such rates as may be specified under the 1 [Customs Tariff Act, 1975 (51 of 1975)], or any other law for the time being in force, on goods imported into, or exported from, India. 2 [(2) The provisions of sub-section (1) shall apply in respect of all goods belonging to Government as they apply in respect of goods not belonging to Government.]

vi. **Section 28(4):-**

Where any duty has not been [levied or not paid or has been short-levied or short-paid] or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,—

(a) collusion; or

(b) any wilful mis-statement; or

(c) suppression of facts,

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been 4 [so levied or not paid] or which has been so short-

levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

1[**Section 28AA.** Interest on delayed payment of duty—(1) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2), whether such payment is made voluntarily or after determination of the duty under that section.

(2) Interest at such rate not below ten percent. and not exceeding thirty-six percent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

(3) Notwithstanding anything contained in sub-section (1), no interest shall be payable where,-

(a) the duty becomes payable consequent to the issue of an order, instruction or direction by the Board under section 151A; and

(b) such amount of duty is voluntarily paid in full, within forty-five days from the date of issue of such order, instruction or direction, without reserving any right to appeal against the said payment at any subsequent stage of such payment.]

1 [**Section 28AA.** Interest on delayed payment of duty. -

(1) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section(2), whether such payment is made voluntarily or after determination of the duty under that section.

(2) Interest at such rate not below ten per cent. and not exceeding thirty-six percent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

(3) Notwithstanding anything contained in sub-section (1), no interest shall be payable where,-

(a) the duty becomes payable consequent to the issue of an order, instruction or direction by the Board under section 151A; and

(b) such amount of duty is voluntarily paid in full, within forty-five days from the date of issue of such order, instruction or direction, without reserving any right to appeal against the said payment at any subsequent stage of such payment.]

vii. **Section 46** Entry of goods on importation—

(1) The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting electronically on the Customs automated system] to the proper officer a Bill of Entry for home consumption or warehousing [in such form and manner as may be prescribed:

(2) Save as otherwise permitted by the proper officer, a Bill of Entry shall include all the goods

mentioned in the bill of lading or other receipt given by the carrier to the consignor.

(4) The importer while presenting a Bill of Entry shall make and subscribe to a declaration as to the truth of the contents of such Bill of Entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, [and such other documents relating to the imported goods as may be prescribed].

(4A) The importer who presents a Bill of Entry shall ensure the following, namely:—

- (a) The accuracy and completeness of the information given therein;
- (b) The authenticity and validity of any document supporting it; and
- (c) Compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

viii. **Section 47** Clearance of goods for home consumption. —

(1) Where the proper officer is satisfied that any goods entered for home consumption are not prohibited goods and the importer has paid the import duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance of the goods for home consumption :

Provided that the Central Government may, by notification in the Official Gazette, permit certain class of importers to make deferred payment of said duty or any charges in such manner as may be provided by rules.

(2) The importer shall pay the import duty -

- (a) on the date of presentation of the Bill of Entry in the case of self- assessment; or
- (b) within one day (excluding holidays) from the date on which the Bill of Entry is returned to him by the proper officer for payment of duty in the case of assessment, reassessment or provisional assessment; or
- (c) in the case of deferred payment under the proviso to sub-section (1), from such due date as may be specified by rules made in this behalf, and if he fails to pay the duty within the time so specified, he shall pay interest on the duty not paid or short-paid till the date of its payment, at such rate, not less than ten per cent. but not exceeding thirty-six per cent. per annum, as may be fixed by the Central Government, by notification in the Official Gazette.

ix. **Section 50-** Entry of goods for exportation.— (1) The exporter of any goods shall make entry thereof by presenting 1[electronically] 2[on the customs automated system] to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export 3[in such form and manner as may be prescribed].

[Provided that the 4[Principal Commissioner of Customs or Commissioner of Customs] may, in cases where it is not feasible to make entry by presenting electronically 2[on the customs automated system] , allow an entry to be presented in any other manner.]

(2) The exporter of any goods, while presenting a shipping bill or bill of export, shall 5*** make and subscribe to a declaration as to the truth of its contents.

2[(3) The exporter who presents a shipping bill or bill of export under this section shall ensure the following, namely:—

- (a) the accuracy and completeness of the information given therein;
- (b) the authenticity and validity of any document supporting it; and
- (c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or

under any other law for the time being in force.]

x. **Section 51.** Clearance of goods for exportation.—6[(1)] Where the proper officer is satisfied that any goods entered for export are not prohibited goods and the exporter has paid the duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance and loading of the goods for exportation: 7 [8[Provided that such order may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria: Provided further that] the Central Government may, by notification in the Official Gazette, permit certain class of exporters to make deferred payment of said duty or any charges in such manner as may be provided by rules.] 7[(2) Where the exporter fails to pay the export duty, either in full or in part, under the proviso to sub-section (1) by such due date as may be specified by rules, he shall pay interest on said duty not paid or short-paid till the date of its payment at such rate, not below five per cent and not exceeding thirty-six per cent per annum, as may be fixed by the Central Government, by notification in the Official Gazette.]

x. **Section 111. Confiscation of improperly imported goods, etc. -**

The following goods brought from a place outside India shall be liable to confiscation:

- (a) any goods imported
- (d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;
- (e)
- (f) any dutiable or prohibited goods required to be mentioned under the regulations in an arrival manifest or import manifest or import report which are not so mentioned;
- (g)
- (j) any dutiable or prohibited goods removed or attempted to be removed from a customs area or a warehouse without the permission of the proper officer or contrary to the terms of such permission;
- (l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;
- (m) [any goods which do not correspond in respect of value or in any other particular] with the entry made under this Act or in the case of baggage with the declaration made under section 77 3 [in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54];

xi. **Section 112. Penalty for improper importation of goods, etc.—**Any person,

- (a) Who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under Section 111(j) and 111(m), or abets the doing or omission of such an act, or
- (b) Who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under Section 111(j) and 111(m), shall be liable,—
- (i) in the case of goods in respect of which any prohibition is in force under this Act or any other

law for the time being in force, to a penalty 5[not exceeding the value of the goods or five thousand rupees], whichever is the greater;

[(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher:

Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined;].....

xii. **Section 114AA** - Penalty for use of false and incorrect material. —If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.

xiii. **Section 114A.** Penalty for short-levy or non-levy of duty in certain cases. —Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under 9 [sub- section (8) of section 28] shall, also be liable to pay a penalty equal to the duty or interest so determined:]

xiv. **Section 124. Issue of show cause notice before confiscation of goods, etc.**

No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person -

a. is given a notice in writing with the prior approval of the officer of Customs not below the rank of an Assistant Commissioner of Customs, informing] him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;

b. is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and

c. is given a reasonable opportunity of being heard in the matter:

PROVIDED that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person concerned be oral.

PROVIDED FURTHER that notwithstanding issue of notice under this section, the proper officer may issue a supplementary notice under such circumstances and in such manner as may be prescribed.

2.3. **Public Warehouse Licensing Regulations, 2016:-**

Public Warehouse Licensing Regulations, 2016 Notification No. 70/2016-

Customs (N.T.) dated 14th May, 2016 G.S.R (E).-

4. Conditions to be fulfilled by applicant. – Where, after inspection of the premises, evaluation of compliance to the conditions under regulation 3 and conducting such enquiries as may be necessary, the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, is satisfied that licence may be granted, he shall require the applicant to,-

(a) provide an all risk insurance policy, that includes natural calamities, riots, fire, theft, skilful

pilferage and commercial crime, in favour of the President of India, for a sum equivalent to the amount of duty involved on the dutiable goods proposed to be stored in the public warehouse at any point of time;

- (b) provide an undertaking binding himself to pay any duties, interest, fine and penalties payable in respect of warehoused goods under sub-section (3) of section 73A or under the Warehouse (Custody and Handling of Goods) Regulations, 2016;
- (c) provide an undertaking indemnifying the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, from any liability arising on account of loss suffered in respect of warehoused goods due to accident, damage, deterioration, destruction or any other unnatural cause during their receipt, delivery, storage, dispatch or handling; and
- (d) appoint a person who has sufficient experience in warehousing operations and customs procedures as warehouse keeper.

2.4 Warehouse (Custody and Handling of Goods) Regulations, 2016

Notification No. 68 /2016- Customs (N.T.) Dated 14th May, 2016

i. 8. Removal of warehoused goods for home consumption. -

- (1) A licensee shall not allow goods to be removed from the warehouse for home consumption unless the bond officer permits the removal of the goods.
- (2) Upon the owner of the goods producing an order made by the proper officer under section 68, the bond officer shall permit removal of the goods and the licensee shall, - (a) deliver the quantity of goods as mentioned in the bill of entry for home consumption to the owner of the goods and retain a copy of the bill of entry; and (b) take into record the goods removed.

ii. 9. Removal of warehoused goods for export. -

- (1) A licensee shall not remove or cause to be removed any warehoused goods for export except by an order made by the proper officer under section 69.
- (2) Upon the bond officer permitting the removal of the goods from the warehouse, the licensee shall, in the presence of the bond officer, cause the goods to be loaded onto the means of transport and affix a one-time-lock to the means of transport.

2.5 Warehoused Goods (Removal) Regulations, 2016. Notification No. 67/2016- Customs (N.T.) dated 14th May, 2016

4. Conditions for transport of goods. -Where the goods are removed from the customs station of import to a warehouse or from one warehouse to another warehouse or from the warehouse to a customs station for export, the transport of the goods shall be under one-time lock, affixed by the proper officer or the licensee or the bond officer, as the case may be: Provided that the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may having regard to the nature of goods or manner of transport, permit transport of the goods without affixing the one-time-lock.

5. Conditions for due arrival of goods. - The owner of the goods shall produce to the bond officer or proper officer under sub-section (1) of section 60, as the case may be, within one month or within such extended period as such officer may allow, an acknowledgement issued by the licensee or the bond officer of the warehouse to which the goods have been removed or the proper officer at the customs station of export, as the case may be, stating that the goods have arrived at that place, failing which the owner of such goods shall pay the full amount of duty chargeable on account of such goods together with interest, fine and penalties payable under subsection (1) of section 72.

2.6 Regulation 4 of the Shipping Bill (Electronic Integrated Declaration and Paperless Processing) Regulations, 2019 :-

"The shipping bill shall be deemed to have been filed and self-assessment completed when, after entry of the electronic integrated declaration on the ICEGATE or by way of data entry through the service centre, a shipping bill number is generated by the Indian Customs Electronic Data Interchange System for the said declaration."

3. WRITTEN SUBMISSION OF THE NOTICEE

3.1 In response to the Show Cause Notice no. 367/2025-26/ADC/Gr.VI/NS-V/CAC/JNCH dated 02.07.2025, response from only Shri Avinash Bajirav Shilonikar, CEO of Axismundi and Warehousing (OPC) Pvt. Ltd., residing at flat no. 2104, Vasundhara Heights, Plot no. 5, opposite Juinagar Railway Station, Sector-11, Navi Mumbai-400705 is received. In his written reply, he had stated that,

- 1) Being the CEO of warehouse of the Axismundi and Warehousing (OPC) at Survey No. 9/3, Gavhan Phata Chirner Road, Opp. Transworld CFS, Veshvi Village, Taluka Uran, Navi Mumbai-410206, I have received the show cause notice pertaining to the investigation regarding M/s Radhe Enterprises. I submit that the cargo of Ms. Radhe Enterprises was stored under section 49 at my ware-house, bearing license no. (NSA1U161), Order of section 49 was obtained by competent customs authority.
- 2) His statement was recorded pertaining to the investigation on dated 06/07/2023 as per the provision of section 108 of the Customs Act 1962 wherein he has stated in detail and clarified his role hence he had no control over the goods which were once taken from his custom bonded ware-house. He stated that he has taken due diligence while releasing the goods and verified and got verified the documents which were also approved from the authority supreme to me, i.e. bond department JNCH.
- 3) The superintendent of Customs Bond Department JNCH have stamped and signed and issued forwarding for releasing the goods on the shipping bill copy.
- 4) The Bond Department JNCH have created one whatsapp group in which all Public Customs Bonded ware-house team members have to take the permission by posting the document, accordingly he has posted the forwarding duly stamp and signed by the Custom Bond Superintendent, JNCH to the whatsapp group and taken the approval of re-export and acted accordingly when he got the permission to re-export.
- 5) personally telephoned the concerned person Mr. Sagar Bhanushali of D.V. Shipping, a customs broker and asked whether we should handover the Cargo to Mr. Omkar Panchal who is representative of M.s Radhe Enterprises to which Mr. Sagar Bhanushali confirmed him to handover the Cargo which Mr. Sagar Bhanushali has also confirmed in the investigation.
- 6) Received the tariff of bonded ware-house charges through NEFT/IMPS which also he is ready to produce the statement as and when required , as such it shows the clear intention of not playing any foul play and only followed his duty to re-export by procuring the documents.
- 7) Stated that it is common practice that after the re-export the importer submits the LEO copy and CLP to the bonded ware-house after the month which verifies that the goods have been re-exported to the concern place. He stated that after over a stipulated time he failed to receive the LEO Copy and CLP. He contacted the importer by sending them letter by registered A/D, but importer with the mala-fied intentions failed to produce the copies which created doubt in his mind , therefore he sent the letter to the importer demanding the copies as there was such immense pressure on him from the customs which could also spoil the reputation and goodwill of his ware-house which can certainly impact his business.
- 8) Took all the necessary measures and followed the procedure of customs law to re-export the goods, he has received the forwarding which was duly signed by the Superintendent and it was approved by the bond department, received the tariff of bonded warehouse which certainly left no scope to hold the goods and released the goods to re-export , therefor it is the duty of M/s. Radhe Enterprises who have violated the laws and went beyond the scope of the customs and also failed to re-export the goods, avoided the penalty of Customs, which also created the harmful impression upon his ware-house.
- 9) Humbly requested to the Authority that he had taken all the required necessary steps before releasing the Goods and therefore request not to impose penalty under Section 112(a) of the Customs Act, 1962.

4 RECORDS OF THE PERSONAL HEARINGS

4.1 In order to comply to the Principles of Natural Justice, personal hearing letters were issued to all the Noticees with a request to appear before the Adjudicating Authority for personal hearing. In response to the same, only the authorized representative of M/s Axismundi Logistics And Warehousing(OPC) Pvt. Ltd., Shri Avinash Bajirao Shinolikar attended the hearings virtually. The first personal hearing was held on 22.08.2025, during which Mr. Avinash Bajirao Shinolikar appeared online and stated that before letting the consignment go outside the warehouse, the Shipping Bill having signature of Superintendent concerned was verified. It was also ascertained in the Whatsapp Group in which concerned the Superintendent was also a member. They also received warehouse charges online. Also copy of Let Export Order is received by them after one-two months and so it cannot be verified immediately as to whether the goods have been exported or not. He also reiterated his written submission dated 29.06.2025 and prayed for closure of case against him. Other Noticees neither appeared on date nor submitted any reply.

4.2 The second hearing was conducted on 04.09.2025. Shri Amit Momaya, authorized representative of the Noticee M/s Radhe Enterprises appeared before me for personal hearing and stated that he has not received the goods and the subject goods were taken by some other unknown person and therefore, they failed to re-export those goods. He also requested to close the proceedings in view of the above submission and the fact of the case. Other Noticees neither appeared on date nor submitted any reply.

4.3 The third hearing was conducted on 17.10.2025. Mr. Avinash Bajirao Shinolikar, CEO of Axismundi Logistics appeared again for personal hearing on 17.10.2025 and reiterated his submission during first personal hearing. Other Noticees neither appeared on date nor submitted any reply.

Since sufficient opportunity has been given to all noticees and therefore now this case is being decided on the basis of available records, documents, and written submission received from M/s Axismundi Logistics And Warehousing(OPC) Pvt. Ltd., submission made by M/s Radhe Enterprises and M/s Axismundi Logistics And Warehousing(OPC) Pvt. Ltd. through their authorized representative at the time of personal hearing.

DISCUSSION AND FINDINGS

5 I have gone through the facts of the case, material on records, including the import documents and the submissions made by the authorized representatives of the Importer and CEO of Ms. Axismundi Logistics and Warehousing Pvt. Ltd. during personal hearing. From the records and submission, I find the following allegations has been made in the instant case:

Subject goods were illegally removed without payment of duty, redemption fine and penalty. Hence, the goods of value Rs. 21,53,088 were illegally removed from the warehouse by the syndicate members, the applicable differential duty of Rs. 4,10,539/- as explained in Table No. 2 above is to be demanded under Section 28(4) of the Customs Act, 1962, from M/s Radhe Enterprises (IEC- ASUPV0595M) through its proprietorship, Ms. Radhika Vyas and her husband, Shri Yogesh Vyas, for their act of collusion, wilful mis-statement and suppression of facts. Further, the firm is also liable for a penalty under Section 114 AA of the

Customs Act, 1962, as the duty has been evaded by means of collusion, wilful mis-statement and suppression of facts.

I find that the following issues involved in this case are to be decided:

- (i) Whether the goods are liable for confiscation under section 111(j) of the Customs Act, 1962.
- (ii) Whether differential duty amounting to Rs. 4,10,539/- (Rupees Four Lac Ten Thousand Five Hundred Thirty Nine only)(as mentioned in the Adjudication order for re-export) is to be demanded as per the provisions of Section 28 (4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962.
- (iii) Whether penalty under Section 114AA of the Customs Act, 1962 should be imposed on the noticees.
- (iv) Whether penalty under Sections 114 A of the Customs Act, 1962 should be imposed on M/s Radhe Enterprises (IEC- ASUPV0595M).
- (v) Whether penalty under Section 112 (a) and 112 (b) of the Customs Act, 1962 should be imposed on the noticees.

6 After having identified and framed the main issues to be decided, I now proceed to examine each of the issues individually for detailed analysis based on the facts and circumstances mentioned in the SCN; provision of the Customs Act, 1962, as well as Noticee' written submissions and documents / evidences available on record.

7.1 I find that the investigation of DRI has categorically established that syndicate members illegally removed the confiscated goods without payment of duty, redemption fine and, penalty. Hence, the goods of value Rs. 21,53,088/- were illegally removed from the warehouse by the syndicate members and the applicable differential duty of Rs. 4,10,539/- as explained in Table No. 2 in Para No. 1 above is to be demanded under Section 28(4) of the Customs Act, 1962, from M/s Radhe Enterprises (IEC- ASUPV0595M) through its proprietorship, Ms. Radhika Vyas and her husband, Shri Yogesh Vyas, for their act of collusion, wilful mis-statement and suppression of facts. Further, the firm is also liable for a penalty under Section 114 A of the Customs Act, 1962, as the duty has been evaded by means of collusion, wilful mis-statement and suppression of facts. I find that, it has been established in the investigation conducted by DRI that M/s Radhe Enterprises (IEC- ASUPV0595M) through its proprietorship, Ms. Radhika Vyas and her husband, Shri Yogesh Vyas colluded with various persons in illegally clearing the goods in local market which were allowed only for re-export.

I. Liability for Confiscation under Section 111(j)

- a. Section 111 of the Customs Act, 1962 prescribes confiscation of improperly imported goods. Clause (j) thereof provides that "any dutiable or prohibited goods removed or attempted to be removed from a customs area or a warehouse without the permission of the proper officer or contrary to the terms of such permission;" shall be liable to confiscation. The legislative intent behind Section 111(j) is to ensure legality of the process and proper documentation in order to avoid use of fraudulent means for clearance of goods.
- b. In the instant case, I find that M/s Radhe Enterprises (IEC- ASUPV0595M) through its proprietorship Ms. Radhika Vyas by creating a copy of a checklist of a dummy/fake Shipping Bill got the confiscated goods removed from the customs bonded warehouse i.e. Axismundi Logistics and Warehousing (OPC) Pvt. Ltd. (NSA1U 161) in the guise of re-export, whereas actual goods were taken to the local market instead of re-exporting the

same without payment of duty, redemption fine and, penalty attracting the provisions of Section 111(j) of the Customs Act as per the investigation conducted by the DRI. Hence, the goods imported under the Bills of Entry enumerated in Table No. 2 in Para No. 1 are held liable to confiscation under Section 111(j).

- c. However, it is noted that the subject goods have already been cleared and are not physically available for seizure. On the issue whether redemption fine can still be imposed in such circumstances, I rely upon the ratio of the Hon'ble Madras High Court in the case of M/s Visteon Automotive Systems India Ltd. [2018 (9) G.S.T.L. 142 (Mad.)], wherein it was held as under:

"The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields... The availability of the goods is not necessary for imposing the redemption fine. The power to impose redemption fine springs from the authorization of confiscation of goods provided for under Section 111 of the Act... Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act."

- d. The above legal view was subsequently followed by the Hon'ble Gujarat High Court in M/s Synergy Fertichem Pvt. Ltd. [2020 (33) G.S.T.L. 513 (Guj.)], reaffirming that redemption fine may be imposed even where the goods are no longer physically available, provided that confiscation is otherwise authorized under the Act. These decisions remain unchallenged and are therefore good law.
- e. I further note that the judgment of the Hon'ble Madras High Court in Visteon Automotive Systems India Ltd. (supra) relied upon the earlier decision of the Hon'ble Bombay High Court in Finesse Creations Inc. [2009 (248) E.L.T. 122 (Bom.)], affirmed by the Hon'ble Supreme Court [2010 (255) E.L.T. A120 (S.C.)], which held that the power to impose redemption fine flows from the authority to confiscate under Section 111 and does not depend on physical custody of the goods.
- f. In view of the above judicial pronouncements, I hold that though the goods illegally cleared by M/s Radhe Enterprises (IEC- ASUPV0595M) from the warehouse are not available for confiscation, the act of misdeclaration has rendered them liable for confiscation under Section 111(j). Therefore, a redemption fine is imposable under Section 125 of the Customs Act, 1962.

II. Differential Basic customs duty (as mentioned in the Adjudication order for re-export) totally amounting to Rs. 4,10,539/- (Rupees Four Lakhs Ten Thousand Five Hundred and Thirty-nine only), as illustrated in Table No. 2 in Para No. 1.

I find that the importer, in the instant case was liable to pay re-determined differential duty as per the adjudication order 1550/2022-23/ADC/NS-V/Gr.VI/CAC/JNCH dated 02.03.2023. However, I find that the importer removed the confiscated goods without paying any duty, fine and penalty and wilfully did not fulfil the liability as per adjudication order mentioned above. Accordingly, the demand of Rs. **4,10,539/-** is confirmed under Section 28(4).

In the present case, I have already held in the preceding paragraphs that the differential customs duty amounting to Rs. **4,10,539/-** is recoverable **M/s Radhe Enterprises (IEC- ASUPV0595M)** under Section 28(4) of the Customs Act, 1962,. Accordingly, in terms of Section 28AA, interest on the aforesaid amount of differential duty is also

recoverable from the importer, calculated from the date of short-payment till the date of actual payment.

III. Penalty under Section 114AA on Shri Omkar Santosh Panchal, Shri Nilesh Singh, Shri Yogesh Vyas and Shri Deepak Kumar Singh.

- a. Section 114AA penalizes any person who knowingly makes or uses false documents. In the instant case, from the investigation conducted by DRI, I find that Shri Omkar Santosh Panchal, Shri Nilesh Singh, Shri Yogesh Vyas and Shri Deepak Kumar Singh made fake checklist of a shipping bill and goods which were allowed to be re-exported, were removed from the warehouse.
- b. Section 114AA of the Customs Act, 1962 provides that "if a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, such person shall be liable to a penalty not exceeding five times the value of the goods."
- c. Using a fake checklist of a shipping bill to secure illegal delivery of goods from warehouse without payment of duty, fine and penalty. This constitutes use of false statements, declarations within the meaning of Section 114AA. Accordingly, penalty under Section 114AA is also justified.

IV. Penalty under Sections 114 A of the Customs Act, 1962 on M/s Radhe Enterprises (IEC- ASUPV0595M)

Section 114A provides for non-levy of duty or short levy of duty due to certain reasons. In the present case, it is established from the investigation carried out by DRI that the importer **M/s Radhe Enterprises (IEC- ASUPV0595M)** secured illegal delivery of goods from warehouse without payment of duty, fine and penalty. This constitutes use of false statements, declarations within the meaning of Section 114A. Accordingly, penalty under Section 114A is justified. I find the submission of the noticee M/s Radhe Enterprises (IEC- ASUPV0595M) during personal hearing through its authorized representative that they have not received the goods and the subject goods was taken by someone else as not tenable as the documents for re-export was submitted in their name and it was their responsibility to re-export the subject goods.

V. Penalty under Sections 112(a) and/or 112(b) of the Customs Act, 1962.

- a) Section 112(a) penalises any person for improper importation of goods, etc for an act of omission committed would render such goods liable to confiscation. Also, Section 112(b) prescribes any person who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under Section 111(j) and 111(m).

- b) In the present case, the importer alongwith the syndicate members removed confiscated goods illegally by creating a checklist and dummy/fake shipping bill, that rendered such goods liable for confiscation under Section 111(j) of the Customs Act, 1962. Further it is clear that Shri Yogesh Vyas was aware that the goods were removed from the said warehouse and he himself paid the warehouse charges of the said warehouse. He also failed to provide the Let Export Order copy as evidence of exports to the customs authorities and to the Customs bonded warehouse licensee. From his acts,

it is evident that he was involved in the illegal removal of the goods in terms of keeping, removing, transferring of the same from the warehouse. I hold that the importer is liable to penalty under Sections 112(a) of the Customs Act, 1962. I find that the investigation of DRI has categorically established that,

a) **Shri Yogesh Vyas** was aware that the goods were removed from the said warehouse, and he himself paid the warehouse charges of the said warehouse. Shri Yogesh Vyas failed to provide the Let Export order copy as evidence of exports to the customs authorities and to the customs bonded warehouse licensee. From his acts, I find that he was also involved in the illegal removal of the goods from the customs bonded warehouse and dealt with the goods in terms of keeping, removing, transferring of the same from the warehouse. I hold that Shri Yogesh Vyas is liable to penalty under Section 112 (b) of the Customs Act, 1962. Also his acts of omission and commission in the illegal removal of the confiscated goods having a value of Rs. 21,53,088/- from the Customs Area on the basis of fake checklist of a shipping bill, that rendered such goods liable for confiscation under Section 111 (j) of the Customs Act, 1962, Shri Yogesh Vyas is held liable to penalty under Section 112 (a) of the Customs Act, 1962.

b) **Shri Omkar Santosh Panchal** took the delivery of the goods from M/s Axismundi Logistics and Warehousing (OPC) Pvt. Ltd., a Customs bonded warehouse. He handed over the checklist of the fake shipping bill number 8195276 dated 13.04.2023, along with other documents, to Shri Avinash Bajirav Shinolikar and took the delivery fraudulently from the customs bonded warehouse. He did not turn up for the investigation despite being summoned. Hence, for his acts of omission and commission in the illegal removal of the confiscated goods having a value of Rs. 21,53,088/- from the Customs Area on the basis of fake checklist of a shipping bill, that rendered such goods liable for confiscation under Section 111 (j) of the Customs Act, 1962, I hold Shri Omkar Santosh Panchal liable to penalty under Section 112 (a) of the Customs Act, 1962. Also, for his role in the illegal removal of the confiscated goods having a value of around Rs. 21,53,088/- from the Customs Area based on the checklist of a fake shipping bill, I hold Shri Omkar Santosh Panchal liable to penalty under Section 112(b) of the Customs Act.

c) **Shri Nilesh Singh** managed to prepare the fake shipping bill bearing number-8195276 dated 13.04.2023 through his contacts and arranged the transportation of goods from the Axismundi Logistics and Warehousing (OPC) Pvt. Ltd. to a warehouse in Bhiwandi. He arranged the warehouse in Bhiwandi where the goods were taken. The delivery of the goods was finally handed over to unknown persons at the direction of Shri Nilesh Singh. Due to this act, prohibited goods were imported and subsequently were illegally removed from the warehouse. Hence, for his acts of omission and commission in the illegal removal of the confiscated goods having a value of Rs. 21,53,088/- from the Customs Area on the basis of fake checklist of a shipping bill, that rendered such goods liable for confiscation under Section 111 (j) of the Customs Act, 1962, Shri Nilesh Singh is liable to penalty under Section 112 (a) of the Customs Act, 1962. I also hold Shri Nilesh Singh liable to penalty under Section 112 (b) of the Customs Act, 1962 for his role in the illegal removal of goods, depositing the said goods at the warehouse at Bhiwandi.

d) **Shri Deepak Kumar Singh** aided the other syndicate members in illegal removal of the goods. Due to this act, prohibited goods were imported and subsequently were illegally removed from the warehouse. commission in the illegal removal of the confiscated goods having a value of Rs. 21,53,088/- from the Customs Area on the basis of fake checklist of a shipping bill, that rendered such goods liable for confiscation under Section 111 (j) of the Customs Act, 1962, Shri Deepak Kumar Singh is liable to penalty under Section 112 (a) of the Customs Act, 1962.

e) **M/s Axismundi Logistics and Warehousing (OPC) Pvt. Ltd.** The customs bonded warehouse allowed illegal removal of goods from warehouse based on fake checklist of shipping bill and they failed to take due diligence in complying with the extant provisions. They neither submitted documents confirming exports to the Bond Section, JNCH, nor intimated that they had not received the Let Export Order (LEO) copy regarding the subject consignment. They allowed removal of goods without complying with the requirements of Public Warehouse Licensing Regulations, 2016 and Warehouse (Custody and Handling of Goods) Regulations, 2016, and Warehoused Goods (Removal) Regulations, 2016 in the subject matter making the goods liable for confiscation under Section 111(j) of the Customs Act, 1962. I find that M/s Axismundi Logistics and Warehousing (OPC) Pvt. Ltd. through its CEO Shri Avinash Bajirav Shinolikar acted carelessly and allowed the subject goods to be illegally removed from the warehouse without proper documents and therefore, he is liable for penalty under section 112(a) of the Customs Act, 1962.

8. Since the improper importation of goods has also resulted in short levy of customs duty, which has been demanded under Section 28(4) of the Customs Act, 1962, the importer is further liable to penalty under Section 114A of the Act. However, it is observed that penalties under Sections 112(a)/112(b) and 114A are mutually exclusive. The fifth proviso to Section 114A specifically provides that where a penalty is imposed under Section 114A, no penalty shall be imposed under Section 112 or Section 114 in respect of the same act or omission.

9. In view of the above discussions, I pass the following order:

ORDER

- I. **I confirm the differential duty demanded and order to recover the differential duty amounting to Rs. 4,10,539/- (Rupees Four Lac Ten Thousand Five Hundred Thirty Nine only) (as mentioned in the Adjudication order for re-export)) from M/s Radhe Enterprises (IEC- ASUPV0595M) under Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA from the date of short-payment till the date of actual payment.**
- II. **I impose penalty equal to the differential duty i.e Rs. 4,10,539/- (Rupees Four Lac Ten Thousand Five Hundred Thirty Nine only) and interest under Section 114A of the Customs Act, 1962 on M/s M/s Radhe Enterprises (IEC- ASUPV0595M) .**
- III. **I order to confiscate the goods i.e. Water Ring Trick, Rubic Cube Trick having re determined assessable value of Rs. 21,53,088/-(Rupees Twenty One Lakhs Fifty Three Thousands and eighty eight only) (which were already confiscated under Section 111 (d), 111 (l) and 111 (m) of the Customs Act, 1962) under Section 111(j) of the Customs Act, 1962. I impose a redemption fine of Rs. 21,53,088/-(Rupees Twenty One Lakhs Fifty Three Thousands and eighty eight only) under Section 125 of Customs Act, 1962.**
- III **I impose,**

- a) a penalty of Rs. Rs. 21,53,088/- (Rupees Twenty One Lakhs Fifty Three Thousands and eighty eight only) on Shri Nilesh Singh under Section 114 AA of the Customs Act, 1962.
- b) a penalty of Rs. 11,00,000/- (Rupees Eleven Lakhs only) on Shri Nilesh Singh under Section 112(a) of the Customs Act, 1962.

IV I impose,

- a) a penalty of Rs. Rs. 21,53,088/- (Rupees Twenty One Lakhs Fifty Three Thousands and eighty eight only) on Shri Yogesh Vyas under Section 114 AA of the Customs Act, 1962.
- b) a penalty of Rs. 11,00,000/- (Rupees Eleven Lakhs only) on Shri Yogesh Vyas under Section 112(a) of the Customs Act, 1962.

V I impose,

- a) a penalty of Rs. 21,53,088/- (Rupees Twenty One Lakhs Fifty Three Thousands and eighty eight only) on Shri Omkar Santosh Panchal under Section 114 AA of the Customs Act, 1962.
- b) a penalty of Rs. 11,00,000/- (Rupees Eleven Lakhs only) on Shri Omkar Santosh Panchal under Section 112(a) of the Customs Act, 1962.

IV I impose,

- a) a penalty of Rs. 21,53,088/- (Rupees Twenty One Lakhs Fifty Three Thousands and eighty eight only) on Shri Deepak Kumar Singh under Section 114 AA of the Customs Act, 1962.
- b) a penalty of Rs. 11,00,000/- (Rupees Eleven Lakhs only) on Shri Deepak Kumar Singh under Section 112(a) of the Customs Act, 1962.

V I impose a penalty of Rs. 2,00,000/- (Rupees Two Lakhs only) on Shri Avinash Bajirav Shinolikar under section 112(a) of the Customs Act, 1962.

10. This order is issued without prejudice to any other action that may be taken against the said company or persons or any other companies or persons concerned with the said goods, under the Customs Act, 1962, and /or any other law for the time being in force in the republic of India.

(डॉ. सतीश कुमार / Dr. Satish Kumar)

अतिरिक्त आयुक्त, सीमा शुल्क / Additional Commissioner of Customs

ग्रुप-VB, एनएस-V, जेएनसीएच / Gr.VB, NS-V, JNCH

To,

Shri Ms. Radhika Vyas, (Proprietor) of M/s Radhe Enterprises

401 GURU IRSHAD BUILDING, SANT NAMDEV PATIL,

NEAR GOGRASSWADI, C GATE DOMBIVALI EAST,

KALYAN, THANE, MH-421201.

2. Shri Nilesh Singh A-1201, PARKWOODS,

GHODBUNDER ROAD, KASARVADAVALI,

THANE WEST, MH-400615

3. Shri Yogesh Vyas 401 GURU IRSHAD BUILDING,

SANT NAMDEV PATIL, NEAR GOGRASSWADI,

C GATE DOMBIVALI EAST, KALYAN, THANE, MH-421201.

4. Shri Omkar Santosh Panchal B/5,

SAINATH NAGAREKTA SOC KOPRI

THANE EAST-400603

5. Shri Deepak Kumar Singh A-1201,

PARKWOODS, GHODBUNDER ROAD,
KASARVADAVALI, THANE WEST,
MH-400615

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