

 सत्यमेव जयते	भारत सरकार/ Government of India वित्त मंत्रालय/ Ministry of Finance आयुक्त सीमा शुल्क एनएस-II का कार्यालय, केंद्रीकृत अधिनिर्णयन प्रकोष्ठ, जवाहरलाल नेहरू सीमा शुल्क भवन न्हावा शेवा, तालुका-उरण, जिला -रायगढ़, महाराष्ट्र- 400 707 OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-II CENTRALIZED ADJUDICATION CELL, JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA, DIST- RAIGAD, MAHARASHTRA-400707	
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फा. सं./F. No. S/10-137/2025-26 /ADC/CEAC/NS-II/CAC/ JNCH

Date of Order: 28.11.2025

Date of Issue: 28.11.2025

द.प.सं./ DIN NO.- 20251178NT0000823598

SCN No. 92(L)/2025-26/ADC/CEAC/NS-II/CAC/JNCH

SCN Date: 21.03.2025

जारीकर्ता/Passed By: **Shri Raghu Kiran B.,**  
**Additional Commissioner of Customs,**  
**CEAC, NS-II, JNCH, Nhava Sheva.**

मूल आदेश सं./Order-In-Original No.: 1233/2025-26/ADC/CEAC/NS-II/CAC/JNCH

निर्यातककानाम/Name of the Parties/Noticee: M/s Pragati Pack (India)Pvt Ltd (IEC No. AZWPD6422C)

### 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 – ४०० ७०७, महाराष्ट्र 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 2.00 रुपये मात्र का स्टॉप 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 2.00 रुपये का स्टॉप भी लगाया जायेगा जैसा कि न्यायालय फीस अधिनियम 1870 की अनुसूची 1, मद 6 के अंतर्गत निर्धारित किया गया है।
- इस निर्णय या आदेश के विरुद्ध अपील करने वाला 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, item 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 THE CASE**

Based on intelligence received, it was found that M/s. Pragati Pack (India) Pvt. Ltd. (IEC: 0901008401), having its office at Survey No. 18, Non-SEZ Fab City, Raviryal Village, Maheswaram, Ranga Reddy, Telangana – 501510, had filed Shipping Bill No. 4228891 dated 27.09.2023 (RUD-1) for export of certain goods through their Customs Broker, M/s. Y.K Logistics had filed the Shipping Bill No. 4228891 dated 27.09.2023 (**RUD-1**) for export of following goods through their Custom Broker – M/s. Y.K Logistics declared the goods as Multi Colour Printed Cartons of 3 types i.e DAB0026-Dabble Gilly O Gella, DAB0033-Dabble Pirates Paradise and DAB0037-Dabble Frame the Fake Art Heist and classified under CTH 48192020. A total number of 397 packages are being exported to the overseas buyer M/s. MobilizAR Technologies Pvt Ltd, c/o Need It Now/Bradford 70 Newfield Ave, Edison NJ 08837, United States under claim of export incentive scheme viz. Drawback and RoDTEP on the export goods. Declared details of the Shipping Bill No. 4228891 dated 27.09.2023 is as under-

**TABLE-1**

SB No. and date	Descriptions	Inv No.	No of Packages	FOB value	DBK Claimed	RODTEP Amt.
4228891 dtd 27.09.2023	Multi Colour Printed Cartons of 3 different types.	PK2324010871	321	11,69,446.79	15202.81	12863.91
	Multi Colour Printed Cartons of 3 different types.	PK2324010883	76	2,74,750.32	3571.75	3022.26
	Total		397	1444197.11	18775/-	15886/-

2. The goods covered in the said Shipping Bill were carted at Gateway Distriparks Limited. There were two invoices in the said shipping bill i.e Inv No: PK2324010871 dtd 26.09.2023 covering 321 packages/boxes (**RUD-2**) and Inv No: PK2324010883 dtd 26.09.2023 covering 76 packages/boxes (**RUD-3**). Docks officer had cleared the goods covered under the said shipping bill for export after following the RMS instructions. A total number of 76 packages (pertaining to Inv No: PK2324010883 dtd 26.09.2023) out of 397 packages were shutout from the container while stuffing and exporter had requested docks officer for back to town of the 76 packages vide letter dtd 16.10.2023 (**RUD-4**). Out of 76 packages, 35 boxes were of DAB0026 – Dabble Gilly O Gella, 33 boxes were of DAB0033 Dabble Pirates Paradise and 8 boxes were of DAB0037 Dabble Frame the Fake Art Heist. In this regard, docks officer had opened the goods and examined the goods 100%. Total 76 packages were opened and examined. On examination of the goods, docks officer had noticed that there are 3 types of game items in packing of 12 pieces in each carton. The goods found were game items for 2-4 players for ages of 6-99 years as mentioned on the goods. The exporter had declared the goods under CTH 48192020. The CTH 48192020 is for boxes. But the goods found in examination were game items for 2-4 players which should be rightly classified under CTH 9503. In view of this docks officer had submitted that the exporter had mis-declared the goods in terms of description and classification.

For the sake of clarity, in respect of classification of goods by exporter covered under shipping bill no. 4228891 dtd 27.09.2023, the chapter heading 48192020 is produced below:

4819	CARTONS, BOXES, CASES, BAGS AND OTHER PACKING CONTAINERS, OF PAPER, PAPERBOARD, CELLULOSE WADDING OR WEBS OF CELLULOSE FIBRES; BOX FILES, LETTER TRAYS, AND SIMILAR ARTICLES, OF PAPER OR PAPERBOARD OF A KIND USED IN OFFICES, SHOPS OR THE LIKE				
4819 10	-	<i>Cartons, boxes and cases, of corrugated paper or paperboard :</i>			
4819 10 10	---	Boxes	kg.	10%	-
4819 10 90	---	Other	kg.	10%	-
4819 20	-	<i>Folding cartons, boxes and cases, of non-corrugated paper and paperboard :</i>			
4819 20 10	---	Cartons, boxes, cases, intended for the packing of match sticks	kg.	10%	-
4819 20 20	---	Boxes	kg.	10%	-
4819 20 90	---	Other	kg.	10%	-
4819 30 00	-	Sacks and bags, having a base of a width of 40 cm or more	kg.	10%	-
4819 40 00	-	Other sacks and bags, including cones	kg.	10%	-
4819 50	-	<i>Other packing containers, including record sleeves :</i>			
4819 50 10	---	Made of corrugated paper or paperboard	kg.	10%	-
4819 50 90	---	Other	kg.	10%	-
4819 60 00	-	Box files, letter trays, storage boxes and similar articles, of a kind used in offices, shops or the like	kg.	10%	-

The goods should be rightly classified under CTH 95030020 is detailed as below:

Tariff Item	Description of goods	Unit	Rate of duty	
			Standard	Preferential Areas
(1)	(2)	(3)	(4)	(5)
9503	TRICYCLES, SCOOTERS, PEDAL CARS AND SIMILAR WHEELED TOYS; DOLLS' CARRIAGES; DOLLS; OTHER TOYS; REDUCED-SIZE ("SCALE") MODELS AND SIMILAR RECREATIONAL MODELS, WORKING OR NOT; PUZZLES OF ALLKINDS			
9503 00	-	<i>Tricycles, scooters, pedal cars and similar wheeled toys; dolls' carriages; dolls; other toys; reduced-size ("scale") models and similar recreational models, working or not; puzzles of all kinds:</i>		
9503 00 10	--- Electronic	u	70%	-
9503 00 20	--- Non electronic	u	70%	-
	--- Parts:			
9503 00 91	---- Of electronic toys	u	70%	-
9503 00 99	---- Other	u	70%	-

3. **Seizure** : The 76 packages covered under shipping bill no. 4228891 dtd 27.09.2023 and pertaining to Inv No: PK2324010883 dtd 26.09.2023 were seized vide seizure memo dtd 26.12.2024 (DIN No: 20241278NT000000905) under section 110 of the Customs act.

4. **Summons and Statement:**

(i) The director of M/s. Pragati Pack (India) Pvt Ltd was summoned vide summons dtd 15.11.2023 to attend on 30.11.2023 for recording the statement and to give evidence in respect of the said goods. The exporter had requested vide letter dtd 14.12.2023 that they were unable to appear on 30.11.2023

and deputed their finance manager Deepak Kumar to represent the exporter on 15.12.2023. The Statement (RUD-5) of Shri Deepak Kumar, Finance manager and Authorized representative of M/s. Pragati Pack (India) Pvt. Ltd., was recorded under Section 108 of the Customs Act, 1962.

(ii) In his statement dtd 15.12.2023, he stated that he is looking after GST, Customs and accounts receivable of M/s. Pragati Pack (India) Pvt. Ltd. He stated that M/s. Pragati Pack (India) Pvt. Ltd is Manufacture Company. He stated that Cartons, Boxes, Labels, Blister and Blister cards are manufactured by M/s. Pragati Pack (India) Pvt. Ltd. Manufacturing unit of the company is located at Survey No.18, Non-SEZ Fab City, Raviryal Village, Maheswaram, Ranga Reddy, Telangana – 501510.

(iii) When asked about the goods having description 1. Multicolour Printed Cartons-DAB0026-Dabble Gilly O Gella, 2. Multicolour Printed Cartons-DAB0033-Dabble Pirates Paradise and 3. Multicolour Printed Cartons-DAB0037-Dabble Frame the Fake Art covered under the Shipping Bill No. 4228891 dtd 27.09.2023 were classified under CTH 48192020, but during examination of goods by docks officer, it was found that cartons contain game items for 2-4 players, the exporter stated that about 98% of the product value is made of printed paper and paper board by M/s. Pragati Pack (India) Pvt. Ltd and rest 2% value items like dice, token stand, spinner, moustache and pen were bought out items from M/s. Mobilizar Technologies Private Limited. He stated that majority of the product was manufactured in their plant using paper and paper board and so they classified the goods under CTH 48192020. Further he stated that they are ready to accept the observation of the Docks officer that the goods should be classified as game items under the relevant CTH 9503 as suggested by the Docks officer.

(iv) When asked about the tax invoice of 2% value of the goods covered under said shipping bill bought from M/s. Mobilizar Technologies Private Limited, the exporter stated that the 2% value of the goods covered under the said shipping bill would be invoiced to M/s. Pragati Pack (India) Pvt Ltd on completion of their purchase order. He stated that purchase order would be completed by Feb, 2024 and the Tax invoice would be submitted in due course. He has stated that they have done 6 shipments of such product having description of Game items for 2-4 players.

(v) The exporter had submitted Invoice raised by M/s. MobilizAR technologies Pvt Ltd and invoiced to M/s. Pragati Pack (India) Pvt Ltd. The exporter had submitted screenshot of February GSTR1 return of M/s. MobilizAR technologies Pvt Ltd, displaying the above Invoice, screenshot of the February GSTR2 return of M/s. Pragati Pack (India) Pvt Ltd showing the said above referred invoice and price break up for Dabble SKU. The above documents have been received by SIIB(X) office on 08.05.2024.

TABLE -2

Price Break-Dabble-SKU submitted by Exporter is as below:

Dabble SKU	Gilly Gilly O Gella		Pirates Paradise		Frame the Fake (Art Heist)	
	U/Price (INR)	Component (Desc)	U/Price (INR)	Component (Desc)	U/Price (INR)	Component (Desc)

Box including Fitment	110	Rigid Box	87	Rigid Box No Print, Sleeve	76	Corr.Box
Game Board	75	Round with Edge Coloring	60	Square	68	Hexagon
Printed Inserts (Cards, Tokens, Leaflets)	71	34 Cards, Tokens, Instructions	68	Spinner Board, Tokens, Instructions, Eye Patch, Pirate Hat	106	Briefcases, 25 Paintings, Other Tokens, Passes, Instr.Booklet
Bought out parts	11.75	4 Token Stands, 1 Dice	20.19	4 Token Stands, 1 Dice, 1 Spinner, 2 Moustaches	24.5	9 Token stands, 1 Dice, 1UV Pen
Packing	12.5		12.5		12.5	
Markup	35.03		30.96		36.9	
Total (INR)	315.28		278.65		323.9	
Total (\$)	\$3.84		\$3.40		\$3.95	

(vi). It is apparent that the items had been mis-classified. The exporter had classified the goods under CTH 48192020 and should be correctly classified under CTH 95030020 instead.

5. Past Exports:

During course of investigation, past exports data of the Exporter M/s Pragati Pack (India) Pvt Ltd (IEC : 0901008401) had been retrieved from ICES since 2020, it was found that BRC had not been realised in case of 2 Shipping bills. Details of past shipping bills since 2020 are as below.

**TABLE - 3**

Sr No.	Shipping Bill No	Date	FOB Value	BRC
1	2182997	17.03.2020	336700.91	Realised
2	2967087	02.06.2020	378730.5	Realised
3	6646626	10.12.2021	113247.25	Realised
4	8456155	14.03.2023	338412.3	Realised
5	1815745	17.06.2023	741627.28	Not Realised
6	3233728	16.08.2023	150245.55	Not Realised
7	3861648	12.09.2023	1187674.92	Realised
8	3900976	13.09.2023	1622242.28	Realised
9	3934691	14.09.2023	1193119.85	Realised
10	4106953	22.09.2023	1919351.22	Realised
11	4228891	27.09.2023	1444197.11	Realised

The BRC/remittance or sales proceed of shipping bills 1815745 dtd 17.06.2023 and 3233728 dtd 16.08.2023 was not received/submitted till date having FOB value of Rs. 8,91,872.83/- in which the drawback amount claimed of Rs 11,594/- appears to be recoverable under Rule 17 of Customs and Central Excise Duties Drawback Rules, 2017 read with section 75 of the Customs Act, 1962 along with applicable interest under the second provision of section 75A of the Customs Act, 1962 read with section 28AA of the customs act, 1962 and corresponding claimed RoDTeP duty scrips amounting to Rs 9811/- appears recoverable in terms of Para 5 of Notification no-76/2021-Cus(N.T) dated 23.09.2021 along with applicable interest under Section 28AA of Customs act 1962. The details are as under:

**Table-4**

Sr No.	SB No and date	FOB Value	Drawback received	RoDTEP received	Total export incentives received
1	1815745 dtd 17.06.2023	741627.28	9641.00	8158.00	17799.00
2	3233728 dtd 16.08.2023	150245.55	1953.00	1653.00	3606.00
	Total	891872.83	11594.00	9811.00	21405.00

**6. Relevant provisions of law applicable in this case:-**

- (i) **Section 50 (2) of the Customs Act, 1962:** "The exporter of any goods, while presenting a Shipping bill or bill of export, shall at the foot thereof make and subscribe to a declaration as to the truth of its contents"
- (ii) **Section 50 (3) of the Customs Act, 1962:** 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.
- (iii) **Section 75A(2) of the Customs Act, 1962:** Where any drawback has been paid to the claimant erroneously or it becomes otherwise recoverable under this Act or the rules made there under, the claimant shall, within a period of two months from the date of demand, pay in addition to the said amount of drawback, interest at the rate fixed under section 28AA and the amount of interest shall be calculated for the period beginning from the date of payment of such drawback to the claimant till the date of recovery of such drawback.
- (iv) **Section 113 (i) of the Customs Act, 1962:** Confiscation of goods attempted to be improperly exported, etc.- The following export goods shall be liable to confiscation- any goods entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act.
- (v) **Section 113(ia):** Any goods entered for exportation under claim for drawback which do not correspond in any material particular with any information furnished by the Exporter or manufacturer

under this Act in relation to the fixation of the rate of drawback under Section 75, shall be liable to confiscation;

(vi) **Section 113(ja):** any goods entered for exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the provisions of this Act or any other law for the time being in force;

(v) **Section 114 (iii) of the Customs Act, 1962:** in the case of any other goods, to a penalty not exceeding the value of the goods, as declared by the exporter or the value as determined under this Act, whichever is the greater.

(vi) **Customs and Central Excise Duties Drawback Rules, 2017**

**Rule 17:** Repayment of erroneous or excess payment of drawback and interest. - Where an amount of drawback and interest, if any, has been paid erroneously or the amount so paid is in excess of what the claimant is entitled to, the claimant shall, on demand by a proper officer of Customs repay the amount so paid erroneously or in excess, as the case may be, and where the claimant fails to repay the amount it shall be recovered in the manner laid down in sub-section (1) of section 142 of the Customs Act, 1962.

## 7. Findings of the investigation:

i). M/s. Pragati Pack (India) Pvt. Ltd., (IEC - 0901008401) had filed the Shipping Bill No. 4228891 dated 27.09.2023 for the export of 397 packages. Out of 397 packages, 321 packages (Inv No: PK2324010871 dtd 26.09.2023) had already been exported and the exporter had requested to take Back to Town of remaining 76 packages pertaining to Inv No. PK2324010883 dtd 26.09.2023. Upon examination by docks officer it was found that the exporter has mis-classified the goods under CTH 48192020, but should be rightly classified under CTH 95030020. Therefore, the goods covered under Shipping Bill No. 4228891 dated 27.09.2023 pertaining to Inv No. PK2324010883 dtd 26.09.2023 having declared FOB value of Rs. 2,74,750.33/-, become liable for confiscation under Section 113 (i) of the Customs Act, 1962, thereby the exporter is liable for penal action under 114(iii) of the Customs Act, 1962.

(ii) Further, It was apparent that all the goods have been mis-classified in the Shipping Bill No. 4228891 dated 27.09.2023. The exporter in his statement dtd 15.12.2023 accepted that the goods should be classified under relevant CTH 9503.

(iii) In respect of Past Exports of FOB amounting to Rs 8,91,872.83/- under 2 shipping bills as declared in Table-4, though the goods are physically not available for confiscation, are liable for confiscation under Section 113(i), 113(ia) and 113 (ja) of the Customs Act 1962 and exporter is liable to penalty u/s 114(iii) of the Customs Act, 1962.

8. Now, therefore, the exporter M/s. Pragati Pack (India) Pvt. Ltd. having address at Survey No.18, Non-SEZ Fab City, Raviryal Village, Maheswaram, Ranga Reddy, Telangana – 501510 is hereby called upon to explain in writing to the Addl./Joint Commissioner of Customs, NS-II, JNCH, Nhava-Sheva, Tal.-Uran, Dist-Raigad, Maharashtra 400707 (the Adjudicating Authority in this case), within 30 days of the issue of this notice as to why:-

- (i) The goods covered under Shipping bill no- 4228891 dtd 27.09.2023 and pertaining to Inv No: PK2324010883 dtd 26.09.2023 (76 packages as per Table-1) having declared FOB value of Rs 2,74,750.32/- should not be confiscated under Section 113 (i) of the Customs Act, 1962.
- (ii) The goods exported vide Shipping bill no- 4228891 dtd 27.09.2023 and pertaining to Inv No: PK2324010871 dtd 26.09.2023 (321 packages as per Table-1) having declared FOB value of Rs. 11,69,446.79/- should not be confiscated under section 113(i) of the Customs Act, 1962
- (iii) Penalty should not be imposed upon the exporter M/s Pragati Pack (India) Pvt. Ltd under Section 114 (iii) of the Customs Act 1962 for omission on the part of the Exporter for misclassification as detailed above which have rendered the export goods liable for confiscation under section 113 of the Customs Act, 1962.
- (iv) Further, the goods exported vide 02 past shipping bills (Shipping Bill No: 1815745 dtd 17.06.2023 and 3233728 dtd 16.08.2023) detailed in Table-4 wherein foreign remittance has not been received having FOB of Rs. 8,91,872.83/-, though not available for confiscation, should not be held liable to be confiscated under Section 113(i), 113(ia) & 113(ja) of the Customs Act 1962.
- (v) Drawback amounting to Rs. 11,594/- (Rs Eleven Thousand Five Hundred Ninety Four rupees) claimed against above said 02 past shipping bills wherein foreign remittance has not been realized, for the goods covered under past shipments should not be recovered under Rule 17 of Customs and Central Excise Duties Drawback Rules, 2017 read with section 75 of the Customs Act, 1962 along with applicable interest under the second provision of section 75A of the Customs Act, 1962 and corresponding claimed RoDTeP duty scrips amounting to Rs. 9811/- should not be recovered in terms of Para 5 of Notification no-76/2021-Cus(N.T) dated 23.09.2021 & 25/2023-Cus(N.T) dated 01.04.2023 along with applicable interest under Section 28AA of Customs act 1962.
- (vi) Penalty should not be imposed upon the exporter M/s Pragati Pack (India) Pvt. Ltd under Section 114 (iii) of the Customs Act 1962 for omission on the part of the Exporter in respect of past exports valued at Rs.8,91,872.83/- which have rendered the export goods liable for confiscation under section 113 of the Customs Act, 1962.

#### **WRITTEN SUBMISSIONS OF THE EXPORTER**

9. During the Personal Hearing, Shri Deepak Kumar, inter alia, reiterated the written submissions earlier filed in response to the Show Cause Notice and requested that the same be treated as part of the submissions made during the Personal Hearing.

10 The submissions made during the Personal Hearing have been carefully considered and are discussed in the subsequent paragraphs while arriving at the findings.

#### **RECORD OF PERSONAL HEARING**

11. In adherence of the Principles of Natural Justice the Exporter was granted an opportunity to appear before the then Adjudicating Authority for Personal Hearing (PH) for giving oral submissions in their defence. Accordingly, PH Memos dated **12.09.2025, 29.09.2025** were issued by the Adjudicating Authority. Shri Deepak Kumar, Authorized Representative of M/s Pragati Pack (India) Pvt. Ltd., appeared for Personal Hearing on 08.10.2025 and gave submission dated 08.10.2025 in respect of PH Memo dated 29.09.2025 and submitted as under:

- i) He reiterated the contents of the written submissions already filed in response to the Show Cause Notice.
- ii) He submitted that the exporter had filed the Shipping Bill for export of “Multicolour Printed Cartons” in accordance with their understanding of the goods.
- iii) He requested that the proceedings initiated under the Show Cause Notice may be dropped.
- iv) He further requested for approval of Back-to-Town in respect of the consignment of 76 packages which is presently held by Customs under Shipping Bill No. 4228891 dated 27.09.2023.

12. The exporter submitted additional documentary evidence in support of their request, consisting of:

- (i) Invoice raised by M/s MobilizAR Technologies Pvt. Ltd., Invoice No. INV 23-24/2569 dated 03.02.2024, for goods procured by the exporter;
- (ii) Screenshot of the February GSTR-1 return of M/s MobilizAR Technologies Pvt. Ltd., reflecting the above invoice;
- (iii) Screenshot of the February GSTR-2 return of M/s Pragati Pack (India) Pvt. Ltd., reflecting receipt of the said invoice;
- (iv) Price Break-Up Sheet for the DABBLE SKU, demonstrating composition of the exported items.

### **DISCUSSION AND FINDINGS**

13. I have carefully gone through the facts of the case, the contents of the Show Cause Notice, the evidences available on record, the written submissions of the Exporter, and the oral submissions made during the Personal Hearing. In adherence to the Principles of Natural Justice, a Personal Hearing was granted to the Exporter, and Shri Deepak Kumar, Authorized Representative of M/s Pragati Pack (India) Pvt. Ltd., appeared for the hearing on 08.10.2025 and presented submissions on behalf of the Exporter.

14. During the Personal Hearing, the Authorized Representative reiterated the earlier written submissions filed by the Exporter and further submitted that the exporter has now furnished additional supporting documents which include the Invoice raised by M/s. MobilizAR Technologies Pvt. Ltd. bearing No. INV 23-24/2569 dated 03.02.2024 for goods procured by the exporter, a screenshot of the February GSTR-1 return of M/s. MobilizAR Technologies Pvt. Ltd. reflecting the said invoice, a screenshot of the corresponding February GSTR-2 return of M/s. Pragati Pack (India) Pvt. Ltd. evidencing receipt of the invoice, along with the Price Break-Up sheet for the DABBLE SKU demonstrating the composition and value structure of the exported items.

15. As the Exporter has been afforded adequate and effective opportunity to present both written and oral submissions, I find that the requirement of the Principles of Natural Justice stands fully satisfied. I therefore proceed to examine the matter on merits based on the evidence available on record.

16. I find that the following issues are required to be decided in the instant case:

- (i) Whether the goods covered under Shipping bill no- 4228891 dtd 27.09.2023 and pertaining to Inv No: PK2324010883 dtd 26.09.2023 (76 packages as per Table-1) having declared FOB value of Rs 2,74,750.32/- should be confiscated under Section 113 (i) of the Customs Act, 1962 or not.
- (ii) Whether the goods exported vide Shipping bill no- 4228891 dtd 27.09.2023 and pertaining to Inv No: PK2324010871 dtd 26.09.2023 (321 packages as per Table-1) having declared FOB value of Rs. 11,69,446.79/- should be confiscated under section 113(i) of the Customs Act, 1962 or not.
- (iii) Whether the Penalty should be imposed upon the exporter M/s Pragati Pack (India) Pvt. Ltd under Section 114 (iii) of the Customs Act 1962 for omission on the part of the Exporter for mis-classification as detailed above which have rendered the export goods liable for confiscation under section 113 of the Customs Act, 1962 or not.
- (iv) Whether the goods exported vide 02 past shipping bills (Shipping Bill No: 1815745 dtd 17.06.2023 and 3233728 dtd 16.08.2023) detailed in Table-4 wherein foreign remittance has not been received having FOB of Rs. 8,91,872.83/-, though not available for confiscation, should be held liable to be confiscated under Section 113(i), 113(ia) & 113(ja) of the Customs Act 1962 or not.
- (v) Whether Drawback amounting to Rs. 11,594/- (Rs Eleven Thousand Five Hundred Ninety Four rupees) claimed against above said 02 past shipping bills wherein foreign remittance has not been realized, for the goods covered under past shipments should be recovered under Rule 17 of Customs and Central Excise Duties Drawback Rules, 2017 read with section 75 of the Customs Act, 1962 along with applicable interest under the second provision of section 75A of the Customs Act, 1962 and corresponding claimed RoDTeP duty scrips amounting to Rs. 9811/- should be recovered in terms of Para 5 of Notification no-76/2021-Cus(N.T) dated 23.09.2021 & 25/2023-Cus(N.T) dated 01.04.2023 along with applicable interest under Section 28AA of Customs act 1962 or not.
- (vi) Whether Penalty should be imposed upon the exporter M/s Pragati Pack (India) Pvt. Ltd under Section 114 (iii) of the Customs Act 1962 for omission on the part of the Exporter in respect of past exports valued at Rs.8,91,872.83/- which have rendered the export goods liable for confiscation under section 113 of the Customs Act, 1962 or not.

17. I have carefully gone through the SCN No. 92(L)/2025-26/ADC/CEAC/NS-II/CAC/JNCH dated 21.03.2025 issued to M/s. Pragati Pack (India) Pvt. Ltd, submissions and arguments of the Noticees made during the Personal Hearing and other evidences on record in this case. Accordingly, I

am proceeding to adjudicate the SCN on the basis of available evidence on record brought forward by the Investigating Agency as well as written/ oral submissions of the Noticees.

18. I find that M/s Pragati Pack (India) Pvt. Ltd. (IEC: 0901008401) filed Shipping Bill No. 4228891 dated 27.09.2023 declaring 397 packages described as “Multi Colour Printed Cartons” classified under CTH 48192020 and claimed export incentives under Drawback and RoDTEP schemes. Out of these, 321 packages were exported while 76 packages were shut out and later presented for back-to-town examination. Upon 100% physical examination of the shut-out cargo, it was found that the goods were not merely printed cartons but complete game sets containing boards, printed inserts, dice, tokens, stands, spinners, UV pens, moustaches and other gaming accessories. The additional documents furnished by the exporter, namely the invoice raised by M/s MobilizAR Technologies Pvt. Ltd., the screenshots of the February GSTR-1 and GSTR-2 returns reflecting the said invoice, and the price break-up sheet for the DABBLE SKU. While these documents indicate procurement of certain bought-out components and demonstrate the value composition of the finished goods, they do not alter the factual position that the declaration made in the Shipping Bill was incorrect at the time of export filing. The obligation under Section 50(2) and 50(3) of the Customs Act, 1962 requires complete, correct and truthful declaration at the time of filing and cannot be rectified by subsequent submission of documents. Therefore, the submissions do not negate the mis-classification and mis-declaration observed during examination. Therefore, the declared description and classification were incorrect, incomplete and misleading, rendering the classification under CTH 48192020 legally untenable.

19. I find that the authorized representative of the exporter, Shri Deepak Kumar, admitted in his statement that approximately 98% of the value of the goods comprised of paper and paperboard manufactured in-house, while the remaining 2% consisted of bought-out gaming accessories. He initially justified classification under CTH 48192020 based on material predominance but later conceded that the correct classification is under CTH 9503, thereby accepting the assessment of the Docks Officer. Consequently, the 76 shut-out packages (FOB ₹2,74,750.32) were seized under Section 110 of the Customs Act vide seizure memo dated 26.12.2024 (DIN 20241278NT000000905), Thus these goods are liable to confiscation under Section 113(i) of the Customs Act, 1962.

20. I find that the 321 exported packages under Shipping Bill No. 4228891 dated 27.09.2023 were identical to the examined 76 packages in SKU, structure and contents. Thus, although physically exported, these goods are liable to confiscation under Section 113(i) of the Customs Act, 1962 for mis-declaration of description and classification.

21. I find that scrutiny of past export data retrieved from ICES (from 2020 onwards) revealed that export proceeds were realised in most cases except for Shipping Bill Nos. 1815745 dated 17.06.2023 and 3233728 dated 16.08.2023, totalling FOB ₹8,91,872.83. Since no Bank Realisation Certificates for these two consignments were furnished, the drawback amount of ₹11,594/- and RoDTEP benefits of ₹9,811/- received against these exports become recoverable under Rule 17 of the Drawback Rules, Section 75 and 75A of the Customs Act and Para 5 of Notification No. 76/2021-Cus (N.T.) along with applicable interest under Section 28AA.

22. I find that the correct classification of the exported products is under CTH 95030020, as the goods are complete game sets meant for entertainment purposes for ages 6 to 99 years and not empty printed cartons. The essential character is determined by end-use rather than material composition, and therefore classification cannot rely solely on value percentage. The declaration made under Section 50(2) and 50(3) of the Act was not truthful or complete.

23. I find that, on the basis of the facts and circumstances mentioned herein above, it appears that the Exporter have knowingly and deliberately indulged themselves in wilful mis-statement and alleged suppression of facts with regard to Shipping Bills mentioned in SCN, with an intent to violate the provisions of Custom Act by their aforesaid acts of omission and commission appears to have rendered the impugned goods liable for confiscation under Section 113 (i) & 113 (ia) of the Customs Act, 1962.

24. I find that the acts and omissions of the exporter, namely filing an incorrect classification, providing an incomplete description, and claiming export incentives on the basis of such declarations, constitute conduct rendering the goods liable for confiscation under Section 113 of the Customs Act, 1962. Accordingly, the exporter becomes liable for penalty under Section 114(iii) of the Customs Act, 1962.

25. I find that since the investigation establishes that the goods in the 321 exported packages were identical in nature, design, SKU, and end-use to the 76 examined packages, and since no evidence suggests any difference in the exported goods, the mis-declaration detected in the examined packages extends to the exported goods as well.

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26. I find that under Section 113(i) of the Customs Act, 1962, any export goods that do not correspond in material particulars with the entry made under the Act are liable for confiscation. The description and classification declared in the Shipping Bill were material particulars, and the exported goods did not correspond with those particulars.

27. I find that the exporter violated Section 50(2) and Section 50(3) of the Customs Act, 1962, which mandate accurate and truthful declaration at the time of filing the Shipping Bill. By declaring complete game sets as printed cartons, the exporter furnished false and misleading information, making the goods liable for confiscation under Section 113(i).

28. I find that Shipping Bill No. 4228891 dated 27.09.2023 was filed declaring the goods as "Multi Colour Printed Cartons" under CTH 48192020, whereas 100% examination of 76 shut-out packages revealed complete, fully-packed game sets classifiable under CTH 9503. The statement of the authorised representative under Section 108 confirms knowledge of actual product composition and acceptance of the correct classification, thereby proving deliberate mis-declaration.

29. I find that the mis-classification and mis-declaration were deliberate, substantive, and made with full knowledge of the product nature. Such conduct attracts penalty under Section 114(iii) of the Customs Act, 1962.

30. I find that the exporter exported goods under Shipping Bill Nos. 1815745 dated 17.06.2023 and 3233728 dated 16.08.2023 with total FOB value of Rs. 8,91,872.83/- and failed to realise export proceeds or furnish Bank Realisation Certificates (BRCs). Realisation of export proceeds is a mandatory statutory requirement under FEMA, 1999, and essential to establish genuineness of export and eligibility for incentives.

31. I find that non-realisation of foreign exchange materially affects the correctness of the declared export value. Such failure constitutes mis-statement and contravention of law, rendering the goods liable for confiscation under Sections 113(i), 113(ia), and 113(ja) of the Customs Act, 1962, even though the goods are no longer physically available.

32. I find that since the exporter received Drawback of Rs. 11,594/- against these shipments and failed to realise export proceeds, the Drawback becomes recoverable under Rule 17 of the Drawback Rules, 2017, read with Section 75 and Section 75A of the Customs Act, 1962, along with applicable interest.

33. I find that the RoDTEP benefits of Rs. 9,811/- claimed by the exporter are liable for recovery under Para 5 of Notification No. 76/2021-Cus (N.T.) as amended, read with Section 28AA of the Customs Act, 1962, due to failure to realise export proceeds.

34. I find that the exported goods valued at Rs. 8,91,872.83/- under Shipping Bill Nos. 1815745 and 3233728 were liable for confiscation under Section 113, and therefore the exporter is liable for penalty under Section 114(iii) of the Customs Act, 1962.

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

### **ORDER**

(i) The goods covered under Shipping Bill No. 4228891 dated 27.09.2023, pertaining to Invoice No. PK2324010883 dated 26.09.2023 (76 packages) having declared FOB value of ₹2,74,750.32 are ordered to be confiscated under Sections 113(i) of the Customs Act, 1962.

However, I impose a Redemption Fine of ₹25,000/- (Rupees Twenty Five Thousand only) on M/s Pragati Pack (India) Pvt. Ltd. under Section 125 of the Customs Act, 1962 in lieu of confiscation and allow Back to Town.

(ii) The remaining 321 packages under the same Shipping Bill No. 4228891 dated 27.09.2023, pertaining to Invoice No. PK2324010871 dated 26.09.2023, having declared FOB value of ₹11,69,446.79, and exported under mis-declaration of description and mis-classification, are held liable to confiscation under Section 113(i) of the Customs Act, 1962. I impose a Redemption Fine of ₹1,00,000/- (Rupees

One Lakh only) on M/s Pragati Pack (India) Pvt. Ltd. under Section 125 of the Customs Act, 1962 in lieu of confiscation.

- (iii) The export goods under past Shipping Bills: • SB No. 1815745 dated 17.06.2023 (FOB: ₹7,41,627.28) • SB No. 3233728 dated 16.08.2023 (FOB: ₹1,50,245.55) aggregating to ₹8,91,872.83, for which export proceeds have not been realised, are held liable for confiscation under Sections 113(i), 113(ia) & 113(ja) of the Customs Act, 1962. I impose a Redemption Fine of ₹50,000/- (Rupees Fifty Thousand only) on M/s Pragati Pack (India) Pvt. Ltd. under Section 125 of the Customs Act, 1962 in lieu of confiscation.
- (iv) The Drawback amount of ₹11,594/- (Rupees Eleven Thousand Five Hundred Ninety-Four only) sanctioned against the above two past Shipping Bills (where export proceeds were not realised) is ordered to be recovered under Rule 17 of the Customs and Central Excise Duties Drawback Rules, 2017 read with Section 75 of the Customs Act, 1962, along with interest under the second proviso to Section 75A read with Section 28AA of the Customs Act, 1962.
- (v) The RoDTEP duty scrips amounting to ₹9,811/- (Rupees Nine Thousand Eight Hundred Eleven only) claimed against the same two past Shipping Bills are rejected and ordered to be recovered in terms of Para 5 of Notification No. 76/2021-Cus(N.T.) dated 23.09.2021 and Notification No. 25/2023-Cus(N.T.) dated 01.04.2023, along with interest under Section 28AA of the Customs Act, 1962.
- (vi) A penalty of ₹1,00,000 /- (Rupees One Lakh only) is imposed upon M/s Pragati Pack (India) Pvt. Ltd. under Section 114(iii) of the Customs Act, 1962 for acts and omissions relating to mis-declaration and mis-classification which rendered the export goods liable to confiscation under Section 113.
- (vii) A further penalty of ₹10,000/- (Rupees Ten Thousand only) is imposed upon M/s Pragati Pack (India) Pvt. Ltd. under Section 114(iii) for omissions relating to the past exports valued at ₹8,91,872.83, in respect of which the export proceeds were not realised, thereby rendering the goods liable for confiscation under Sections 113(i), 113(ia) & 113(ja) of the Customs Act, 1962.

36. This order is issued without prejudice to any other action that may be taken in respect of the goods in question and/or against the persons concerned or any other person, if found involved, under the provisions of the Customs Act, 1962, and/or any other law for the time being in force in the Republic of India.



(Raghu Kiran B.)

Addl. Commissioner of Customs,  
CEAC (NS-II), JNCH

To,

1. M/s Pragati Pack (India) Pvt Ltd (IEC No. AZWPD6422C)  
Survey No.18, Non-SEZ Fab City,  
Raviryal Village, Maheswaram, Ranga Reddy,  
Telangana - 501510

Copy to:

1. The Commissioner of Customs, NS II, JNCH, Nhava Sheva.
2. The Dy./Asstt. Commissioner of Customs, SIIB (X), JNCH, Nhava Sheva

3. The Dy./Asstt. Commissioner of Customs, CRAC (X), JNCH, Nhava Sheva.
4. The Dy./Asstt. Commissioner of Customs, CRRC Cell, JNCH, Nhava Sheva.
5. The Dy. Commissioner of Customs, Centralized Adjudication Cell (CAC) NS-V, JNCH, Nhava Sheva.
6. The Dy. Commissioner of Customs, EDI, JNCH, Nhava Sheva.
7. Supdt. (P), CHS, JNCH for display on Notice Board.
8. The Dy./Asstt. Commissioner of Customs, Drawback Section, JNCH, Nhava Sheva.
9. Office copy.

