

 <p>सत्यमेव जयते</p>	<p>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</p>	
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फ़ा.सं. /F. No.: S/10-118/2025-26/ADC/CEAC/NS-II/CAC/JNCH Date of Order: 07.01.2026
द.प.सं./DIN: 20260178NT000000D9AB Date of Issue: 07.01.2026

SCN No. 24/2025-26/ADC/CEAC/NS-II/CAC/JNCH

Date of SCN:-01.04.2025

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

मूल आदेश सं./Order-In-Original No.: 1428/2025-26/ADC/CEAC/NS-II/CAC/JNCH
निर्यातक का नाम/Exporter's Name: M/s. ETCBIZ India Pvt. Ltd. (IEC-AAFCE4782K)

मूल आदेश

- 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 1.50 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 1.50 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

On the basis of specific intelligence received, it was suspected that the Exporter M/s. ETCBIZ India Pvt. Ltd. (IEC-AAFCE4782K) having principal place of business at D-36, Gali no. 8, Dashrathpuri, Dabri Palam main Road, New Delhi 110 045 (hereinafter referred to as the 'Exporter') was attempting to export a consignment of goods declared as 'RMG & Backpacks' (hereinafter called as 'the goods') vide Shipping Bill no:- 2908118 dated 02.08.2023, filed through their Customs Broker M/s Shivtej Cargo Pvt. Ltd. (CHA License No.11/2754)(hereinafter referred to as the 'Customs Broker') from Nhava Sheva port. Thereafter, the said consignment was put on hold by SIIB(X), JNCH. The details of the said Shipping Bills are tabulated below:-

Table- I

S/B No. & Date	Description of Goods	FOB (Rs.)	Drawback (Rs.)	RoDTEP	RoSCTL (Rs.)
2908118/ 02.08.2023	Multiple Items (RMG & Backpacks)	1,64,62,758/-	2,63,601/-	1,10,985/-	2,72,747/-

2. Examination and insertion of Alert:

The goods covered under the subject shipping bill were examined under Panchanama on 10.08.2023 in the presence of authorized representative of the Exporter Shri Ashok Vasant Kumar Joshi wherein the quantity and description of the goods were found as declared in the said Shipping Bill. Further, Representative Sealed Samples (RSS) of the goods, were also drawn in duplicate in order to ascertain the nature, composition, correct classification and valuation of the goods. Also, an alert dated 25.08.2023 was inserted in ICES system suspending IGST and other export incentives of the Exporter.

3. DYCC Reports:

In order to ascertain the nature, composition and correct classification of the subject goods, the Representative Sealed Samples, drawn at the time of Panchanama, were forwarded to DYCC, JNCH, in response of which DYCC, JNCH forwarded Test Reports dated 12.09.2023, 13.09.2023 & 12.10.2023 wherein it was found that the subject goods were declared correctly in terms of description and classification.

4. Provisional Release:

On the basis of request made by the Exporter, an NOC dated 31.08.23 for provisional release of the subject goods for export purpose, was given by SIIB(X), JNCH to CEAC, JNCH and accordingly, provisional release of the subject goods was allowed by CEAC, JNCH vide letter dtd.08.11.2023, after submission of Bond of Rs. 1,64,62,758/- (Rupees One Crore Sixty

Four Lakh Sixty Two Thousand Seven Hundred Fifty Eight only) and Bank Guarantee of Rs 4,00,000/- (Rupees Four Lakh only), by the Exporter.

5. Valuation of the goods:

In order to ascertain the fair value of the subject goods, Market Enquiry in the matter, in presence of an authorized representative of the Exporter was conducted on 28.08.2023, on the basis of the RSS, drawn during the Panchanama wherein, it was observed that the declared values of subject goods were fair and not disputed.

6. Summons & Statements:

Statement of Mr. Dhiraj Vats, an Authorized representative of the Exporting firm M/s ETCBIZ India Pvt. Ltd. (IEC- AAFCE4782K) was recorded under section 108 of the Customs Act, 1962 on 18.12.2024 wherein he inter-alia stated that he looks after International Marketing Network as well as domestic network of recommended suppliers, thus, help the company operate for the international export trade business. Though he does not have any financial stake in the company and do not draw any remuneration from the company; Earlier, the firm was registered as service provider and later on, they got engaged in the business of trading of lifestyle and home utility goods, however, they did not amend the GST registration accordingly though they amend it in their MOA; on being asked about the business and residence premises he stated that both the addresses are same and the property is owned by the Shri Ratneshwar Choudhary, father of the Director Shri Niraj Vats (Director) and they have submitted an NOC from the owner to the GST department; he further stated that they do not maintain any inventory thereby, they can run their business from the residential premises; he further stated that they have exported their first shipment from ICD Moradabad and thereafter they are doing their export from JNPT only as they have only one overseas buyer based in Philippines and frequency of vessels to Philippines is more from JNPT; Further, he stated that they do not know the consignee and do not have any financial transaction with the consignee, the consignee is nominated by their buyer and as per their knowledge consignee is a customs clearing agent based in Philippines; he agreed with both 'the Panchanama and the Market Enquiry'; on being asked about the past and current shipments he stated that they have exported 03 shipments before the live shipment and 03 shipments post the live shipment.

Further, he submitted the purchase tax invoices of the subject goods BRCs of 06 shipments out of 07 shipments exported till date (except the recent Shipping Bill dated 18.11.2024).

7. GST Supply Chain:

Letters and its subsequent reminders were sent to the jurisdictional GST Commissionerates to verify the genuineness of the Exporter and its suppliers, particularly the supply chain. However, no response has been received from the GST formations till date.

Hence, the purchase tax invoices in the matter, could not be verified and accordingly, the same appears to be manipulated & fraudulently obtained in collusion from the supplier with a mala-fide intention to utilize input tax credit. A letter in this regard, was forwarded to the concerned GST Commissionerates for its recovery and/or investigation (if any) at their end.

8. Past Exports:

The past data of the Exporter was retrieved from ICES, details of which are as follows-

Table-II

Sr. No.	SB No. & Date	CTH	Desc. of goods	Invoice Value (USD)	DBK (INR)	RoDtep (INR)	BRC Amount	BRC Date
1	8875163/ 28.03.2023	39239090	Plastic flower pot	64,401.75	64,116	49,457	59,065.75	03.01.2023
2	1492320/ 02.06.2023	64041990	Non-Leather Footwear	2,64,928.94	3,19,115	2,74,100	2,64,928.94	11.05.2023
Total				3,29,330.69	3,83,231	3,23,557	3,23,994.69	

9. Relevant provisions of law applicable in this case:

9.1 Customs Act, 1962:

Section 50: Entry of goods for exportation-

(1) *The Exporter of any goods shall make entry thereof by presenting [electronically] [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 [in such form and manner as may be prescribed]:*

Provided that the [Principal Commissioner of Customs or Commissioner of Customs] may, in cases where it is not feasible to make entry by presenting electronically [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 make and subscribe to a declaration as to the truth of its contents.*

(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.*

Section 113: Confiscation of goods attempted to be improperly exported, etc.-

(i) 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 or in the case of baggage with the declaration made under section 77, shall be liable to confiscation;

(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.

(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;

Section 114: Penalty for attempt to export goods improperly, etc.-

(iii) Any person 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 113, or abets the doing or omission of such an act, shall be liable, 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;

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 documents which is false or incorrect in any material particular, in the transaction of any business for the purpose of this Act, shall be liable to a penalty not exceeding five times of the value of goods.

Section 114AC: Penalty for fraudulent utilisation of input tax credit for claiming refund. -

Where any person has obtained any invoice by fraud, collusion, wilful misstatement or suppression of facts to utilise input tax credit on the basis of such invoice for discharging any duty or tax on goods that are entered for Exportation under claim of refund of such duty or tax, such person shall be liable for penalty not exceeding five times the refund claimed. For the purposes of this section, the expression "input tax credit" shall have the same meaning as assigned to it in clause (63) of section 2 of the Central Goods and Services Tax Act, 2017 (12 of 2017).

9.2 Foreign Trade (Development and Regulation) Act, 1992:

Section 11: (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 there under and the foreign trade policy for the time being in force.

9.3 Foreign Trade (Regulation) Rules, 1993:

Rule 11: *On the importation into, or exportation out of, any customs ports of any goods, whether liable to duty or not, the owner of such goods shall in the Bill of Entry or the Shipping Bill or any other documents prescribed under the Customs Act, 1962 (52 of 1962), state the value, quality and description of such goods to the best of his knowledge and belief and in case of exportation of goods, certify that the quality and specification of the goods as stated in those documents, are in accordance with the terms of the export contract entered into with the buyer or consignee in pursuance of which the goods are being exported and shall subscribe a declaration of the truth of such statement at the foot of such Bill of Entry or Shipping Bill or any other documents.*

10. FINDINGS OF THE INVESTIGATION:

10.1 The Exporter M/s. ETCBIZ India Pvt. Ltd. (IEC-AAFCE4782K) having principal place of business at D-36, Gali no. 8, Dashrathpuri, Dabri Palam main Road, New Delhi-110045 filed Shipping Bill no.- 2908118 dated 02.08.2023, through their Customs Broker M/s. Shivtej Cargo Pvt. Ltd. (CHA License No.11/2754)for export of goods declared as ‘ Ready Made Garments & Backpacks’, under various CTH, under Export Promotion Scheme Code 19 (Drawback & RoDTEP). On the basis of examination of the goods under Panchanama and report received from DYCC pertaining to the Representative sealed samples drawn from the subject goods during the Panchanama, It was observed that the goods were declared correctly in terms of description, classification and quantity and accordingly, both RoDTEP and Drawback had also been claimed correctly.

10.2 In order to ascertain the fair value of the subject goods, Market Enquiry in the matter, in presence of the Authorized representative of the Exporter, was conducted on 28.08.2023 on the basis of the RSS, drawn during the Panchanama wherein, it was observed that the values of subject goods were not disputed.

10.3 Genuineness of the Exporter, its Suppliers and the supply chain could not be verified as no response/reply was received from the concerned jurisdictional GST Commissionerates, even after sending letters and its multiple reminders, in this regard. Hence, the purchase tax invoices in the matter, could not be verified and accordingly, the same appears to be manipulated & fraudulently obtained in collusion from the supplier with a mala-fide intention to utilize input tax credit. A letter in this regard, was forwarded to the concerned GST Commissionerates for its recovery and/or investigation (if any) at their end.

10.4 Therefore, the supply chain, in the matter appeared to be manipulated and dubious, rendering the goods liable for confiscation, under section 113(ja) of the Customs Act, 1962 and by this act and omission, the Exporter has rendered himself liable for penalty under Section 114 and/or 114AA along with Section 114AC of the Customs act 1962.

10.5 The goods pertaining to the Shipping Bill No. 2908118 dated 02.08.2023, having FOB of Rs.1,64,62,758/-, were allowed to release provisionally for export purpose, in view of submission of Bond of Rs. 1,64,62,758/- (Rupees One Crore Sixty Four Lakh Sixty Two Thousand Seven Hundred Fifty Eight only) and Bank Guarantee of Rs 4,00,000/- (Rupees Four Lakh only), by the Exporter.

11. ISSUANCE OF SCN: On completion of investigation, the Investigating Agency, viz. SIIB (X) had forwarded an Investigation Report depicting the above fact for issuance of SCN to the Exporter. Accordingly on the basis of said Investigation Report a SCN No. 24/2025-26/ADC/CEAC/NS-II/CAC/JNCH dated 01.04.2025 was issued to the Exporter, M/s. ETCBIZ India Pvt. Ltd. (IEC-AAFCE4782K), whereby they were called upon to explain in writing to the Addl./Joint Commissioner of Customs, NS-II, JNCH, Nhava-Sheva, Tal.-Uran, Dist.-Raigad-400 707, Maharashtra (the Adjudicating Authority in this case), within 30 days of the issue of this notice as to why:

- (i) The goods pertaining to the subject Shipping Bill No. 2908118 dated 02.08.2023, having FOB of Rs. 1,64,62,758/ should not be confiscated under Section 113(ja) of the Customs Act, 1962.
- (ii) Penalty should not be imposed upon the Exporting firm M/s. ETCBIZ India Pvt. Ltd. (IEC-AAFCE4782K) having principal place of business at D-36, Gali no. 8, Dashrathpuri, Dabri Palam main Road, New Delhi-110045, under Section 114 and/or 114AA alongwith Section 114AC of the Customs Act 1962, for fraudulent utilization of Input Tax Credit for claiming refund.
- (iii) The Bond of Rs. 1,64,62,758/- (Rupees One Crore Sixty Four Lakh Sixty Two Thousand Seven Fifty Eight only) and Bank Guarantee of Rs.4,00,000/- (Rupees Four Lakh only), submitted by the Exporter M/s. ETCBIZ India Pvt. Ltd. (IEC-AAFCE4782K), at the time of provisional release of the subject goods, should not be appropriated towards recoverable dues, applicable fine and penalty.

WRITTEN SUBMISSIONS OF THE EXPORTER

12. Vide SCN dated 01.04.2025, the Exporter was asked to submit written reply to the SCN within 30 days of receipt of the subject SCN. The exporter submitted their written submission vide mail dated 08.05.2025 stating the following:-

1. It is hereby submitted that M/s ETCBIZ India Pvt Ltd is a private limited company incorporated on 07th May 2019 and is engaged in export of lifestyle and home utility goods. The firm is an honest taxpayer and complies with all the rules, regulations and laws of the constitution.
2. It is submitted that the show cause notice dated 07.04.2025 was received by via mail on 09th April 2025 and hard copy of the same was provided to on 14th April 2025.

3. Further, point no 7 on page 3 of the SCN is reproduced herewith for reference:

“Letters and subsequent reminder letters were sent to the jurisdictional GST Commissionerate to verify the genuineness of the exporter and its supplier, particularly the supply chain. However, no response has been received from the GST formation till date. Hence, the purchase tax invoice submitted by the Customs Broker from domestic Supplier could not be verified and accordingly, the same appears to be manipulated & fraudulently obtained in collusion from the supplier with a mala-fide intention to utilize input tax credit. A letter in this regard, was forwarded to the GST Commissionerate for its recovery and/or investigation (if any) at their end.”

- (i) In this regard, it is submitted that the presumption is clearly misguided and against natural justice.
 - (ii) Attention is diverted to the fact that just because no reply was received from the GST Commissionerate, it was presumed that the intentions of the firm were mala-fide ignoring the fact that they have already submitted all the invoices, export details, details of GST Chain and other required details.
 - (iii) It is submitted that inability of a government department to reply to another government department does not constitute any fraudulent intentions of the firm. Even if no reply was received from the GST department, they submitted all the relevant invoices and other documents.
 - (iv) Further, they also visited the concerned GST Department to request the above said communication but they were shown doors with the reasoning that since they do not have any official communication, the concerned GST officials will not entertain them in any matter.
 - (v) Furthermore, they would also like to submit that all the Input has been availed by them within the bounds of GST law and that no enquiry is pending against us from any GST authorities which clearly indicates that we do not have any mala-fide intentions to evade tax. We are hereby enclosing our GST Returns and ITC Comparison sheet which clearly showcases that the firm has been availing all input as per Section 16 of CGST Act and that there is no violation of any GST Law.
4. Furthermore, your honour would also appreciate the fact that when a market enquiry was conducted, the value of subject goods was not disputed by the concerned officer. This is another sign which indicates that the firm is a responsible and honest firm in terms of following the rules and regulations.
5. Furthermore, it also brings your attention to the fact that the firm and its authorised representative have been coordinating and submitting all the required details and documents as and when required by the officials.

6. It is whole heartedly requested to kindly drop the proceedings as they are still trying to establish our market presence in the export market and due to ongoing proceedings, we have been facing a lot of trouble.

RECORDING OF PERSONAL HEARING

13. Thereafter, the exporter was granted personal hearing which was attended by Shri Dhiraj Vats on 25.09.2025 wherein the exporter has reiterated his earlier submission sent vide email dated 08.05.2025 and requested for speedy disposal of the case. He additionally requested to drop all the charges against him in the subject case as they have not done any wrong in the said case.

DISCUSSION AND FINDINGS

14. I have carefully gone through the facts of the case, records available and submissions made by the Exporter during the course of investigation. Shri Dhiraj Vats, Authorized representative of M/s ETCBIZ India Pvt Ltd, attended the personal hearing on 25.09.2025 and has reiterated his earlier submission sent vide email dated 08.05.2025 and requested for speedy disposal of the case. He additionally requested to drop all the charges against him in the subject case as they have not done any wrong in the said case. Accordingly, I take up the case for adjudication on merits on the basis of evidences available on records.

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

- (i) Whether the goods pertaining to the subject Shipping Bill No. 2908118 dated 02.08.2023, having FOB of Rs. 1,64,62,758/ should be confiscated under Section 113(ja) of the Customs Act, 1962 or not.
- (ii) Whether the penalty should be imposed upon the Exporting firm M/s. ETCBIZ India Pvt. Ltd. (IEC-AAFCE4782K) having principal place of business at D-36, Gali no. 8, Dashrathpuri, Dabri Palam main Road, New Delhi-110045; under Section 114 and/or 114AA alongwith Section 114AC of the Customs Act 1962, for fraudulent utilization of Input Tax Credit for claiming refund or not.
- iii. Whether the Bond of Rs. 1,64,62,758/- (Rupees One Crore Sixty Four Lakh Sixty Two Thousand Seven Fifty Eight only) and Bank Guarantee of Rs.4,00,000/- (Rupees Four Lakh only), submitted by the Exporter M/s. ETCBIZ India Pvt. Ltd. (IEC-AAFCE4782K), at the time of provisional release of the subject goods, should be appropriated towards recoverable dues, applicable fine and penalty or not.

16. I find that in the instant case, on the basis of specific intelligence received, it was suspected that the Exporter M/s. ETCBIZ India Pvt. Ltd. (IEC-AAFCE4782K) having principal place of business at D-36, Gali no. 8, Dashrathpuri, Dabri Palam main Road, New Delhi 110

045 (hereinafter referred to as the 'Exporter') was attempting to export a consignment of goods declared as 'RMG & Backpacks'(hereinafter called as 'the goods') vide Shipping Bill no.- 2908118 dated 02.08.2023, filed through their Customs Broker M/s. Shivtej Cargo Pvt. Ltd. (CHA License No.11/2754)(hereinafter referred to as the 'Customs Broker') from Nhava Sheva port. Thereafter, the said consignment was put on hold by SIIB(X), JNCH.

17. I find that the goods covered under the subject shipping bill were examined under Panchanama on 10.08.2023 in the presence of authorized representative of the Exporter Shri Ashok Vasant Kumar Joshi wherein the quantity and description of the goods were found as declared in the said Shipping Bill. Further, Representative Sealed Samples (RSS) of the goods, were also drawn in duplicate in order to ascertain the nature, composition, correct classification and valuation of the goods. Also, an alert dated 25.08.2023 was inserted in ICES system suspending IGST and other export incentives of the Exporter.

18. I find that in order to ascertain the nature, composition and correct classification of the subject goods, the Representative Sealed Samples, drawn at the time of Panchanama, were forwarded to DYCC, JNCH, in response of which DYCC, JNCH forwarded Test Reports dated 12.09.2023, 13.09.2023 & 12.10.2023 wherein it was found that the subject goods were declared correctly in terms of description and classification.

19. I find that on the basis of request made by the Exporter, an NOC dated 31.08.23 for provisional release of the subject goods for export purpose, was given by SIIB(X), JNCH to CEAC, JNCH and accordingly, provisional release of the subject goods was allowed by CEAC, JNCH vide letter dtd.08.11.2023, after submission of Bond of Rs. 1,64,62,758/- (Rupees One Crore Sixty Four Lakh Sixty Two Thousand Seven Hundred Fifty Eight only) and Bank Guarantee of Rs 4,00,000/- (Rupees Four Lakh only), by the Exporter.

20. I find that in order to ascertain the fair value of the subject goods, Market Enquiry in the matter, in presence of an authorized representative of the Exporter was conducted on 28.08.2023, on the basis of the RSS, drawn during the Panchanama wherein, it was observed that the declared values of subject goods were fair and not disputed.

21. I find that the statement of Mr. Dhiraj Vats, an Authorized representative of the Exporting firm M/s ETCBIZ India Pvt. Ltd. (IEC- AAFCE4782K) was recorded under section 108 of the Customs Act, 1962 on 18.12.2024 wherein he inter-alia stated that he looks after International Marketing Network as well as domestic network of recommended suppliers, thus, help the company operate for the international export trade business. Though he does not have any financial stake in the company and do not draw any remuneration from the company; Earlier, the firm was registered as service provider and later on, they got engaged in the business of trading of lifestyle and home utility goods, however, they did not amend the GST registration

accordingly though they amend it in their MOA; on being asked about the business and residence premises he stated that both the addresses are same and the property is owned by the Shri Ratneshwar Choudhary, father of the Director Shri Niraj Vats (Director) and they have submitted an NOC from the owner to the GST department; he further stated that they do not maintain any inventory thereby, they can run their business from the residential premises; he further stated that they have exported their first shipment from ICD Moradabad and thereafter they are doing their export from JNPT only as they have only one overseas buyer based in Philippines and frequency of vessels to Philippines is more from JNPT; Further, he stated that they do not know the consignee and do not have any financial transaction with the consignee, the consignee is nominated by their buyer and as per their knowledge consignee is a customs clearing agent based in Philippines; he agreed with both 'the Panchanama and the Market Enquiry'; on being asked about the past and current shipments he stated that they have exported 03 shipments before the live shipment and 03 shipments post the live shipment.

22. I find that letters and subsequent reminders were sent to the jurisdictional GST Commissionerates to verify the genuineness of the Exporter and its suppliers, particularly with regard to the supply chain. However, no response has been received from the GST formations till date. Due to the absence of such verification from the GST authorities, the purchase tax invoices submitted in the matter could not be independently verified at this stage. In the absence of any concrete adverse report from the GST authorities and considering that the Exporter has produced purchase invoices, GST returns and other supporting documents on record, it cannot be conclusively established that the said invoices were fraudulently obtained or that there was deliberate collusion with the supplier with mala-fide intent. However, the Exporter, being responsible for ensuring the correctness and verifiability of documents relied upon for claiming export benefits, has failed to discharge this obligation to the extent of enabling effective verification by the department. Therefore, I find that the lapse on the part of the Exporter is procedural in nature and arises from insufficiency of verification rather than a proven case of fraud or wilful misstatement. Accordingly, the Exporter is liable for a penalty under Section 114AC of the Customs Act, 1962

23. In this regard, I find that GST Circular No. 31/05/2018-GST dated 09.02.2018 assigns the Central Tax officers (Principal Commissioner/Commissioner of Central Tax, Additional/Joint Commissioner of Central Tax, Deputy/Assistant Commissioner of Central Tax, Superintendent and Inspector of Central Tax) to function as the Proper Officers for issuance of show cause notices and passing of orders under Sections 73 and 74 of the CGST Act, 2017 and Section 20 of the IGST Act, 2017 (read with Sections 73 and 74 of the CGST Act), subject to the monetary limits prescribed therein. Accordingly, the Proper Officers as defined under Section 2(91) of the CGST Act, 2017 and assigned functions vide the said Circular are empowered to examine and take action, if any, under the CGST/IGST Acts.

In view of the above, and considering that verification of the purchase tax invoices and supply chain could not be independently carried out by the Customs authorities due to non-receipt of confirmation from the jurisdictional GST authorities, this Order is directed to be forwarded to the concerned Central GST authorities for verification of correctness and eligibility of input tax credit and/or IGST refund, if any, availed by M/s ETCBIZ India Pvt. Ltd. (IEC-AAFCE4782K) in respect of the subject exports.

The jurisdictional GST authorities are requested to conduct such examination as deemed fit in accordance with law and take appropriate action if any discrepancies or violations of the provisions of the CGST Act, 2017 and the Rules made thereunder are noticed.

24. I find that consequent upon amendment to the Section 17 of the Customs Act, 1962 vide Finance Act, 2011, 'Self-Assessment' has been introduced in Customs. Section 17 of the Customs Act, effective from 08.04.2011, provides for self-assessment of export incentives on exported goods by the exporter himself by filing a S/Bill, in the electronic form. Section 50 of the Customs Act, 1962 makes it mandatory for the exporter to make entry for the export goods by presenting a S/Bill electronically to the Proper Officer. Thus, under self-assessment, it is the exporter who has to ensure that he declares the correct RITC, applicable export incentives, value in respect of the export goods while presenting the S/Bill. Self-Assessment can result in assured facilitation for compliant exporters. However, delinquent exporters would face penal action on account of wrong self-assessment made with intent to evade duty or avoid compliance of conditions of Notifications, Foreign Trade Policy or any other provisions under the Customs Act, 1962 or the allied Acts.

25. I find that the goods covered under Shipping Bill No. 2908118 dated 02.08.2023, having declared FOB value of Rs. 1,64,62,758/- (Rupees One Crore Sixty Four Lakh Sixty Two Thousand Seven Hundred and Fifty Eight only), were attempted to be exported in terms of declarations made under Section 50(2) of the Customs Act, 1962, read with Section 11(1) of the Foreign Trade (Development & Regulation) Act, 1992 and Rule 11 of the Foreign Trade (Regulation) Rules, 1993. While the description, classification and valuation of the goods were found to be in order and not disputed during examination and market enquiry, the Exporter could not facilitate independent verification of the purchase tax invoices and the supply chain, as no confirmation was received from the jurisdictional GST authorities despite repeated references by the department. In the absence of any adverse or incriminating report from the GST authorities, and considering that the Exporter has placed on record purchase invoices, GST returns and other supporting documents, it cannot be conclusively established that the invoices were fraudulently obtained or that there was deliberate collusion or wilful misstatement on the part of the Exporter. However, the Exporter, being responsible for the accuracy, correctness and verifiability of declarations and documents relied upon for claiming export benefits, has failed to fully discharge this statutory obligation, resulting in a procedural

lapse arising from insufficiency of verification. Such lapse constitutes an act of omission under the Customs law, rendering the goods liable to confiscation under Section 113(ja) of the Customs Act, 1962.

By the said acts of omission, the Exporter has rendered itself liable for penalty under Section 114(iii) of the Customs Act, 1962. Further, as the goods had already been provisionally released for export against execution of a Bond equivalent to the FOB value and submission of a Bank Guarantee of Rs. 4,00,000/-, a Redemption Fine under Section 125 of the Customs Act, 1962 is imposable in lieu of confiscation.

26. I find that although no conclusive evidence has emerged to establish that the Exporter had knowingly or intentionally submitted false or fabricated documents, the purchase tax invoices relied upon by the Exporter could not be independently verified due to non-receipt of confirmation from the jurisdictional GST authorities. The Exporter is responsible for ensuring the correctness and verifiability of documents submitted to the Customs authorities. Failure to ensure such verifiability constitutes a procedural lapse. Accordingly, considering the facts and circumstances of the case, I hold penalty under Section 114AA of the Customs Act, 1962 is warranted.

ORDER

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

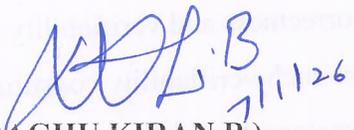
- (i) I order to confiscate goods covered under Shipping Bill No. 2908118 dated 02.08.2023, having declared FOB value of Rs. 1,64,62,758/- (Rupees One Crore Sixty Four Lakh Sixty Two Thousand Seven Hundred and Fifty Eight only) under section 113(ja) of the Customs Act, 1962.
- (ii) I impose Redemption Fine of Rs 2,00,000 /- (Rupees Two Lakh only) on the Exporter, M/s. ETCBIZ India Pvt. Ltd. (IEC AAFCE4782K), under the provisions of Section 125 of the Customs Act, 1962 in lieu of confiscation of the goods.
- (iii) The jurisdictional CGST Authorities, 3rd Floor , EIL Annexe Building, Plot No. 2B, Bhikaji Cama Place, New Delhi, Delhi, 110066 requested for suitable action for IGST/ITC recovery and take necessary action against , M/s. ETCBIZ India Pvt. Ltd. (IEC AAFCE4782K), in case any discrepancies or violations of CGST Act/Rules found.
- (iv) I impose penalty of Rs. 1,00,000/- (Rupees One Lakh only) on the Exporter, M/s. ETCBIZ India Pvt. Ltd. (IEC AAFCE4782K), u/s. 114 (iii) of the Customs Act 1962.
- (v) I impose penalty of Rs. 50,000/- (Rupees Fifty Thousand only) on the Exporter, M/s. ETCBIZ India Pvt. Ltd. (IEC AAFCE4782K), u/s. 114AA of the Customs Act 1962.

(vi) I impose penalty of Rs. 50,000/- (Rupees Fifty Thousand only) on the Exporter, M/s. ETCBIZ India Pvt. Ltd. (IEC AAFCE4782K), u/s. 114AC of the Customs Act 1962.

(vii) I order to enforce the Bond executed by the exporter towards provisional release of the goods and appropriate the same towards fine, penalties and other dues of the Exporter.

(viii) I order to appropriate an amount of Rs. 4,00,000/- deposited by the Exporter towards fine, penalty imposed on the Exporter, as above.

28. 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.)
Commissioner of Customs(In-situ),
CEAC, NS-II, JNCH

To,

1. M/s. ETCBIZ India Pvt. Ltd. (IEC-AAFCE4782K)
1st, D-36, Gali no. 8, Dashrathpuri,
Dabri Palam main Road, New Delhi 110 045

Copy to:-

1. The Commissioner of Customs, NS II, JNCH, Nhava Sheva.
2. The Jt. Commissioner Customs, SIIB(X), JNCH, Nhava Sheva.
3. The Dy. Commissioner of Customs, Drawback Section, JNCH, Nhava Sheva.
4. The Dy./Asstt. Commissioner of Customs, CRAC (X), JNCH, Nhava Sheva.
5. The Dy./Asstt. Commissioner of Customs, CRRC Cell, JNCH, Nhava Sheva.
6. The Supdt., CHS, JNCH, Nhava Sheva for display on Notice Board.
7. The Dy. Commissioner of Customs, EDI, JNCH, Nhava Sheva.
8. Office Copy.
9. The jurisdictional CGST Authorities, 3rd Floor, EIL Annexe Building, Plot No. 2B, Bhikaji Cama Place, New Delhi, Delhi, 110066