

F. No. CUS/100/2026/Adjudication Section
SCN No. 1584/2025-26/Commr./CEAC/ NS-II/CAC/JNCH dated 11.12.2025

 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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F.No. CUS/100/2026/Adjudication Section

DIN	: 20260678NT0000169631
आदेश की तिथि Date of Order	: 09.06.2026
जारी किए जाने की तिथि Date of Issue	: 09.06.2026
आदेशसं. Order No.	: 57 /2026-27/आयुक्त/एनएस-II/ सीएसी/जेएनसीएच
पारितकर्ता Passed by	: गिरिधर जी. पई आयुक्त, सीमाशुल्क (एनएस-II), जे.एन.सी.एच, न्हावा शेवा
	SH. GIRIDHAR G. PAI Commissioner of Customs (NS-II), JNCH, Nhava Sheva
पक्षकार (पार्टी)/ नोटिसीकानाम Name of Party/Noticee	: मेसर्स नीलकंठ इम्पेक्स M/s. Neelkanth Impex

मूलआदेश

ORDER-IN-ORIGINAL

- इस आदेश की मूल प्रतिकी प्रतिलिपि जिस व्यक्तिको जारी की जाती है, उसके उपयोग के लिए निःशुल्क दी जाती है।
The copy of this order in original is granted free of charge for the use of the person to whom it is issued.
- इस आदेश से व्यथित कोई भी व्यक्ति सीमाशुल्क अधिनियम १९६२ की धारा १२९(ए) के तहत इस आदेश के विरुद्ध सी ई एस टी ए टी, पश्चिमी प्रादेशिक न्यायपीठ, वेस्ट रीजनल बेंच, ३४, पी. डी. मेलोरोड, मस्जिद (पूर्व), मुंबई- ४००००९ को अपील कर सकता है, जो उक्तअधिकरण के सहायकरजिस्ट्रार को संबोधित होगी।

Any Person aggrieved by this order can file an Appeal against this order to CESTAT, West Regional Bench, 34, P D Mello Road, Masjid (East), Mumbai - 400009 addressed to the Assistant Registrar of the said Tribunal under Section 129 A of the Customs Act, 1962.

- अपील दाखिल करने संबंधी मुख्य मुद्दे:-

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Main points in relation to filing an appeal:-

फार्म Form	: फार्मन. सीए३, चार प्रतियों में तथा उस आदेश की चार प्रतियाँ, जिसके खिलाफ अपील की गयी है (इन चार प्रतियों में से कमसे कम एक प्रति प्रमाणित होनी चाहिए) Form No. CA3 in quadruplicate and four copies of the order appealed against (at least one of which should be certified copy)
समय सीमा Time Limit	: इस आदेश की सूचना की तारीख से ३ महीने के भीतर Within 3 months from the date of communication of this order
फीस Fee	: (क) एक हजार रुपये—जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्तिकी रकम ५ लाख रुपये या उस से कम है (a) ₹ One Thousand - Where amount of duty & interest demanded & penalty imposed is ₹ 5 Lakh or less. (ख) पाँच हजार रुपये— जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्तिकी रकम ५ लाख रुपये से अधिक परंतु ५० लाख रुपये से कम है। (b) ₹ Five Thousand - Where amount of duty & interest demanded & penalty imposed is more than ₹ 5 Lakh but not exceeding ₹ 50 lakh (ग) दस हजार रुपये—जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्तिकी रकम ५० लाख रुपये से अधिक है। (c) ₹ Ten Thousand - Where amount of duty & interest demanded & penalty imposed is more than ₹ 50 Lakh.
भुगतान की रीति Mode of Payment	: क्रॉस बैंक ड्राफ्ट, जो राष्ट्रीयकृत बैंक द्वारा सहायक रजिस्ट्रार, सी ई एस टी ए टी, मुंबई के पक्षमें जारी किया गया हो तथा मुंबई में देय हो। A crossed Bank draft, in favour of the Asstt. Registrar, CESTAT, Mumbai payable at Mumbai from a nationalized Bank.
सामान्य General	: विधि के उपबंधों के लिए तथा ऊपर यथा संदर्भित एवं अन्य संबंधित मामलों के लिए, सीमाशुल्क अधिनियम, १९९२, सीमाशुल्क (अपील) नियम, १९८२ सीमाशुल्क, उत्पादन शुल्क एवं सेवा कर अपील अधिकरण (प्रक्रिया) नियम, १९८२ का संदर्भ लिया जाए। For the provision of law & from as referred to above & other related matters, Customs Act, 1962, Customs (Appeal) Rules, 1982, Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982 may be referred.

इस आदेश के विरुद्ध अपील करने के लिए इच्छुक व्यक्ति अपील अनिर्णीत रहने तक उस में माँगे गये शुल्क अथवा उद्धृति शास्ति का ७.५ % जमा करेगा और ऐसे भुगतान का प्रमाण प्रस्तुत करेगा, ऐसा न किये जाने पर अपील सीमाशुल्क अधिनियम, १९६२ की धारा १२९ के उपबंधों की अनुपालना न किये जाने के लिए नामंजूर किये जाने की दायी होगी।

Any person desirous of appealing against this order shall, pending the appeal, deposit 7.5% of duty demanded or penalty levied therein and produce proof of such payment along with the appeal, failing which the appeal is liable to be rejected for non-compliance with the provisions of Section 129 of the Customs Act 1962.

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Subject: Adjudication of Show Cause Notice No. 1584/2025-26/Commr./CEAC/ NS-II/CAC/JNCH dated 11.12.2025 issued to M/s Neelkanth Impex.- Reg.

Brief facts of the case

On the basis of specific intelligence received, it was suspected that the Exporter M/s. Vaibhav Creation (IEC-FGNPM3052A) having address at Plot no. 24, Ground floor, Block C/6 PKT -3, Sector-34, Rohini, New Delhi-110042 was attempting to export goods declared as 'Ready-Made garments' (hereinafter called as 'the goods') vide 03 (Three) Shipping Bills Nos.3470363, 3467888 & 3471550 all dated 25.08.2023, filed through Customs Broker M/s. Indo Foreign (Agents) Pvt. Ltd. (CHA License No.11/1484) (hereinafter referred to as the 'Customs Broker'), from Nhava Sheva port.

2. However, at the time of hold of the goods, it was informed by the Manager, JWR CFS that the Shipping Bills Nos.3470363, 3467888 & 3471550 all dated 25.08.2023, filed by M/s. Vaibhav Creation (IEC-FGNPM3052A) were amended as per request of the Customs Broker and NOC for the same was given by M/s. Vaibhav Creation (IEC-FGNPM3052A). It was observed that instead of the Exporter M/s. Vaibhav Creation (IEC-FGNPM3052A), the goods covered under Shipping Bills Nos.3470363, 3467888 & 3471550 all dated 25.08.2023, were being exported by another Exporter M/s. Neelkanth Impex (IEC- AZRPG7420L) having address at 9-1-1, Floor Grd, Mahatama Phule Marg, Khan Abdul Gaffar Khan, Madraswadi, Worli Seaface, Worli, Mumbai, Maharashtra-400018 (hereinafter referred to as the 'Exporter'), vide new Shipping Bills Nos.3494328, 3492655 & 3493443, all dated 26.08.2023, filed through the same Customs Broker.

3. The goods covered under Shipping Bills Nos.3494328, 3492655 & 3493443, all dated 26.08.2023, filed by M/s. Neelkanth Impex (IEC- AZRPG7420L) were exactly same vis-à-vis to the goods covered under Shipping Bills Nos.3470363, 3467888 & 3471550, all dated 25.08.2023 respectively, filed by M/s. Vaibhav Creation (IEC-FGNPM3052A). The details of the Shipping Bills, filed by M/s. Neelkanth Impex (IEC- AZRPG7420L), are tabulated below:

Table-I

SB No./ Date	Description of Goods	FOB (₹)	DBK (₹)	RoSCTL (₹)	IGS T
3494328/26.08.23	RMG (Chapters-61 & 62)	89,21,048/-	1,85,504/-	3,92,164/-	LUT
3492655/26.08.23		80,53,759/-	2,33,559/-	2,92,952/-	
3493443/26.08.23		68,53,446/-	1,95,151/-	2,59,200/-	
Total		2,38,28,253/-	6,14,214/-	9,44,316/-	

(i) Examination and insertion of Alert:

The goods covered under the Shipping Bills Nos.3494328, 3492655 & 3493443, all dated 26.08.2023, were put on hold by SIIB(X), JNCH, vide letter dated 08.09.2023 and examined 100% under Panchanama, on 14.09.2023, in the presence of authorized

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representative of the Customs Broker wherein **the goods were found to be declared correctly in terms of quantity and declared description**. Further, Representative Sealed Samples (RSS) of the goods, were drawn, in order to ascertain the nature, composition, correct classification and valuation of the goods. Also, an alert dated 27.09.2023 was inserted in ICES system against both the Exporters M/s. Vaibhav Creation (IEC-FGNPM3052A) & M/s Neelkanth Impex (IEC- AZRPG7420L), in order to withhold Export Incentives and IGST benefits.

(ii) DYCC Report:

In order to ascertain the nature, composition and correct classification of the subject goods, the Representative Sealed Samples, drawn during the Panchanama, were sent to the DYCC Lab, JNCH in response of which DYCC lab, JNCH forwarded its reports dated 17.10.2023, 25.10.2023, 25.10.2023 & 01.11.2023 wherein the goods were found as per declaration, in the Shipping Bills.

4. Valuation of the goods:

- 4.1. As there were sufficient reasons to doubt the truth or accuracy of the declared value of the subject goods, the same appeared liable to be rejected as per Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. Accordingly, as per Rule 3 (3) *ibid*, since the value of the impugned goods could not be determined under the provisions of Sub Rule (1), the value is to be re-determined by proceeding sequentially through Rule 4 to Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.
- 4.2. As the export goods were not standard goods, the export data in Export Commodity Data Base (ECDB) could not be used for comparing price of the goods of like kind and quality as required under Rule 4 of CVR, 2007. Further, the subject goods were not identified specifically with any brand, mark, style and other specifications, the goods of like kind and quality exported cannot be identified to compare their transaction value with the declared value of the subject goods. Hence, value of the subject goods could not be determined under the Rule 4 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.
- 4.3. The Exporter has neither produced any cost of production details, manufacturing or processing of export details and correct transport details nor produced cost design or brand or an amount towards profit etc. to derive computed value of the goods. In the absence of complete cost data details, value could not be determined as per Rule 5 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.
- 4.4. The value of the impugned goods was, therefore, to be re-determined under Rule 6 of CVR (Export) Rules, 2007, using reasonable means consistent with the principles and general provisions of these rules. Accordingly, for the purpose of valuation of the goods, under this rule, Market Enquiry in the matter, in the presence of authorized representative of the Exporter, was conducted on 30.09.2023 on the basis of the RSS, drawn during the Panchanama, the details of which are as under:

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Table- II: (All prices are in ₹)

SB No./ Date	Description of Goods	Declared Price (Per Pc.)	Market Enquiry Price (Per Pc.)
3494328/ 26.08.23	Boys shorts of Cotton	522	412
	Boys T-shirts of Cotton	575	415
	Girls leggings of Blended	640	307
	Girls 2Pcs suit Set of Blended	657	344
	Girls Gown of polyester	641	405
	Girls top of Blended	648	412
	Men's Sweatshirts of cotton	662	484
	Ladies hoodies of cotton	656	484
	Ladies Trouser of Polyester	655	407
	Men's shorts of cotton	534	484
	Men's T-shirts of cotton	580	496
	Men's singlets of Cotton	349	207
	Babies garments ramper suit of cotton	452	317
3492655/ 26.08.23	Ladies Gown with Dupatta of Polyester	666	470
3493443/ 26.08.23	Ladies Gown with Dupatta of Polyester	666	401
	Other made-up articles George of polyester	695	405
	Men's T-shirts of cotton	580	484

The Market Enquiry revealed that that the Exporter has inflated FOB value of the goods, in order to draw undue/excess export incentives.

5. Re-determination of Export incentives:

5.1. As the goods have been mis-declared in terms of value, FOB as well as export incentives of the goods are re-determined as below-

Table- III

SB No./ Date	FOB (₹)		Drawback (₹)		RoSCTL (₹)	
	Declared	Re-determined	Declared	Re-determined	Declared	Re-determined
3494328 /26.08.23	89,21,048/-	67,82,119/-	1,85,504/-	1,42,729/-	3,92,164/-	3,32,664/-
3492655 /26.08.23	80,53,759/-	51,71,130/-	2,33,559/-	1,49,963/-	2,92,952/-	1,96,503/-
3493443 /26.08.23	68,53,446/-	38,63,747/-	1,95,151/-	1,08,881/-	2,59,200/-	1,53,109/-

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Total	2,38,28,253/-	1,58,16,996/-	6,14,214/-	4,01,573/-	9,44,316	6,82,276/-

5.2. From the above, it can be clearly observed that the Exporter has attempted to avail undue export incentives i.e. Drawback to the tune of ₹2,12,641/- (Rupees Two Lakh Twelve Thousand Six Hundred Forty One only) and RoSCTL to the tune of ₹2,62,040/- (Rupees Two Lakh Sixty Two Thousand Forty only), by way of over-valuation of the goods.

6. Provisional Release:

6.1. As requested by the Exporter, an NOC dated 05.10.23 for provisional release of the subject goods for Back to Town (BTT), was given by SIIB(X), JNCH to CEAC, JNCH and accordingly, provisional release of the subject goods, in lines of re-determined FOB and export incentives (as mentioned in 'Table-III' above), was allowed by CEAC, JNCH vide letter dated 20.10.2023, after submission of Bond of 100% of FOB value of the goods covered under Shipping Bills Nos. 3494328, 3492655 & 3493443, all dated 26.08.2023 and Bank Guarantee of ₹2,00,000/- (Rupees Two Lakh only), by the Exporter.

7. GST Supply chain:

7.1. Letter dated 16.01.2024 and subsequent reminder letters dated 22.05.2024 (Reminder-I), 16.12.2024 (Reminder-II) & 03.01.2025 (Reminder-III) were forwarded to the jurisdictional GST office of the Exporter i.e. Charge- Worli_701, Division- Mazgaon, Zone-Mumbai North West, State- Maharashtra, to verify genuineness of the Exporter and its supply chain; however, no response has been received from the GST office till date. Further, neither the exporter nor the Customs Broker could submit Tax invoice(s), GSTR2A or E-way Bill(s) etc. to justify its proper supply chain pertaining to the subject goods. Therefore, supply chain of the goods could not be verified and the same appears dubious.

8. Summons and Statements:

8.1. Statement of Shri Avinash Gaikwad, the Proprietor of the Exporting firm M/s. Neelkanth Impex (IEC- AZRPG7420L), was recorded on 05.10.2023 wherein he inter-alia stated that he agrees with the Examination Panchanama dated 14.09.2023 and the Market Enquiry dated 30.09.2023, pertaining to the subject goods; on being asked about over-valuation of the goods, he stated that it happened mistakenly; that proprietor of M/s. Vaibhav Creation (IEC-FGNPM3052A) is his friend who sold the subject goods to M/s. Neelkanth Impex (IEC- AZRPG7420L) as they were unable to fulfill the order in view of lack of money with them; that there was no mala-fide intention behind this; that he will return the subject goods to M/s. Vaibhav Creation, in view of cancellation of the order by the overseas buyer; on being asked about supply chain of the subject goods and his financial status, he stated that he will submit copies of Tax invoices, E-way Bills, ITR, GST returns, Purchase Order, Payment-Terms Agreement, BRCs, pertaining to all the Shipping Bills and Bank-Account statement, within 07 days. However, none of the aforesaid documents has been submitted by the Exporter, till date.

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9. Past Exports:

9.1. Data of all Shipping Bills, filed by the Exporter M/s. Neelkanth Impex (IEC-AZRPG7420L), was retrieved from ICES 1.5 system and it was seen that the Exporter has filed 61 (Sixty One) Shipping Bills in the past, from Nhava Sheva Port (INNSA1), all under LUT, mostly having declared goods as Ready-Made Garments (RMG) (Chapters- 61 & 62), details of which are as follows-

Table-IV:

S. N.	SB No./ Date	FOB (INR)	DBK (INR)	RoSCTL (INR)	RoDTEP (INR)
1.	1257636/24.05.23	19,09,183	55,366	72,549	0
2.	1406890/30.05.23	35,91,645	80,593	1,76,006	395
3.	1544813/05.06.23	84,05,389	2,21,176	3,95,202	1,170
4.	1544829/05.06.23	85,58,306	2,26,140	3,99,173	2,713
5.	1544830/05.06.23	85,71,494	2,29,115	4,34,396	1,035
6.	1547289/05.06.23	82,79,517	2,21,813	3,87,772	4,778
7.	1692292/12.06.23	62,46,251	2,13,435	2,39,004	0
8.	1692614/12.06.23	63,42,774	2,13,455	2,47,578	0
9.	1694643/12.06.23	61,84,118	2,12,640	2,34,996	0
10.	1699583/12.06.23	63,67,910	1,89,672	2,87,633	0
11.	1699608/12.06.23	63,74,119	2,19,168	2,42,217	0
12.	1699622/12.06.23	64,25,497	2,17,967	2,48,616	0
13.	1916981/21.06.23	61,24,122	2,01,435	2,49,039	0
14.	1916982/21.06.23	59,31,586	2,04,672	2,25,400	0
15.	1925072/22.06.23	59,77,702	2,02,156	2,33,691	0
16.	1933852/22.06.23	65,69,411	1,94,122	2,87,426	0
17.	1933888/22.06.23	62,33,351	1,88,423	2,79,293	0
18.	2112863/30.06.23	48,80,560	98,252	1,88,823	0
19.	2616253/21.07.23	74,92,161	1,57,335	3,32,003	0
20.	2617326/21.07.23	75,60,272	1,58,766	3,35,021	0
21.	2618189/21.07.23	77,64,604	1,63,057	3,44,076	0
22.	2618611/21.07.23	78,32,714	1,64,487	3,47,094	0
23.	2814452/29.07.23	95,32,308	2,53,077	4,84,519	0
24.	2814953/29.07.23	87,79,209	2,33,548	4,19,239	0
25.	2817088/29.07.23	84,82,263	2,29,872	4,00,955	0
26.	2818497/29.07.23	82,22,567	2,26,995	3,84,605	0
27.	2979059/05.08.23	98,34,427	2,06,523	3,52,776	0
28.	2986864/05.08.23	97,65,140	2,06,307	3,52,471	0
29.	2987822/05.08.23	77,81,976	2,07,220	3,27,974	0

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30.	2990301/05.08.23	65,35,612	1,80,206	2,06,168	0
31.	3007807/07.08.23	71,85,980	1,06,509	71,779	1,08,542
32.	3153753/12.08.23	90,01,752	2,23,269	4,01,614	0
33.	3154466/12.08.23	82,06,604	2,20,199	4,00,206	0
34.	3156600/12.08.23	68,17,679	2,04,530	2,59,072	0
35.	3280428/18.08.23	70,01,792	1,96,226	3,34,405	0
36.	3282979/18.08.23	65,53,733	1,93,054	3,03,405	0
37.	3283942/18.08.23	55,58,088	1,93,536	2,11,207	0
38.	3300185/19.08.23	64,34,830	1,93,730	2,81,405	0
39.	3300402/19.08.23	58,88,334	1,84,506	2,52,051	0
40.	3300853/19.08.23	57,58,878	1,88,462	2,33,698	0
41.	4997031/26.10.23	56,35,464	1,45,919	2,22,544	8,238
42.	4951150/28.10.23	57,33,165	1,58,731	2,37,179	0
43.	4979590/30.10.23	61,12,245	1,75,531	2,99,806	0
44.	4979607/30.10.23	80,74,051	2,17,441	4,45,612	0
45.	4979688/30.10.23	56,39,154	2,16,487	2,94,566	0
46.	7082192/19.01.23	75,23,010	1,59,956	1,40,588	0
47.	7226407/24.01.23	1,15,02,540	2,51,248	6,90,933	0
48.	7503917/03.02.23	70,53,781	1,29,174	3,35,122	0
49.	7504163/03.02.23	55,48,488	1,34,443	2,34,790	0
50.	7685022/10.02.23	74,62,273	1,56,708	2,90,282	0
51.	8500393/15.03.23	70,36,124	2,25,156	3,34,216	0
52.	8500423/15.03.23	73,92,227	2,26,647	3,72,920	0
53.	8630331/21.03.23	41,75,461	1,21,088	1,58,668	0
54.	8630336/21.03.23	50,92,725	1,47,689	2,41,904	0
55.	8782948/27.03.23	76,54,786	2,44,953	3,63,603	0
56.	8784978/27.03.23	71,08,015	2,27,456	3,37,630	0
57.	9951995/11.05.23	62,48,561	1,34,362	3,12,611	0
58.	9959053/11.05.23	84,84,648	1,98,332	3,90,741	0
59.	9959054/11.05.23	79,71,278	2,04,172	3,35,858	0
60.	9966655/12.05.23	87,35,157	2,04,722	3,99,794	0
61.	9966666/12.05.23	98,15,811	2,07,397	4,60,101	0
	Total	43,09,62,822	1,15,68,626	1,87,64,027	1,26,871



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9.2. Further, it was observed that BRC has not been realized in any of the past shipments despite getting the period of 09 (Nine) months for receiving BRC elapsed. Thereby, all the export incentives, as mentioned in 'Table-IV' above, appears recoverable.

10. Financial status of the Exporter:

Financial status of the Exporter could not be examined as the Exporter has not submitted copies of either ITR or Bank-Account statement.

11. Relevant provisions of law applicable in this case:

11.1 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 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 per cent. 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-

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- (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.]

Section 28AAA: Recovery of duties in certain cases-

(1) Where an instrument issued to a person has been obtained by him by means of—

- (a) collusion; or
- (b) wilful mis-statement; or
- (c) suppression of facts,

for the purposes of this Act or the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), by such person or his agent or employee and such instrument is utilised under the provisions of this Act or the rules made or notifications issued thereunder, by a person other than the person to whom the instrument was issued, the duty relatable to such utilisation of instrument shall be deemed never to have been exempted or debited and such duty shall be recovered from the person to whom the said instrument was issued:

Provided that the action relating to recovery of duty under this section against the person to whom the instrument was issued shall be without prejudice to an action against the importer under section 28.

Section 75A: Interest on drawback-

(2) 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.

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

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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 114AB: Penalty for obtaining instrument by fraud, etc.-

Where any person has obtained any instrument by fraud, collusion, wilful misstatement or suppression of facts and such instrument has been utilised by such person or any other person for discharging duty, the person to whom the instrument was issued shall be liable for penalty not exceeding the face value of such instrument.

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.

11.2 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.*

Rule 18: *Where an amount of drawback has been paid to an exporter or a person authorised by him (hereinafter referred to as the claimant) but the sale proceeds in respect of such export goods have not been realised by or on behalf of the exporter in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), including any extension of such period, such drawback shall, except under circumstances or conditions specified in sub-rule (5), be recovered.*

11.3 Customs Brokers Licensing Regulations, 2018:

"10. Obligations of Customs Broker- A Customs Broker shall-

(d) advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;

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(e) exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage;

11.4 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.*

11.5 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.*

12. Findings of the investigation:

12.1 The Exporter M/s. Vaibhav Creation (IEC-FGNPM3052A) having address at Plot no. 24, Ground floor, Block C/6 PKT -3, Sector-34, Rohini, New Delhi-110042, filed 03 (Three) Shipping Bills Nos.3470363, 3467888 & 3471550 all dated 25.08.2023, having total declared FOB of ₹2,38,28,253/- (Rupees Two Crore Thirty Eight Lakh Twenty Eight Thousand Two Hundred Fifty three only), through Customs Broker M/s. Indo Foreign (Agents) Pvt. Ltd. (CHA License No.11/1484), for export of 'Ready-Made garments', claiming Drawback & RoSCTL.

However, during hold of the subject goods, it was observed that instead of the Exporter M/s. Vaibhav Creation (IEC-FGNPM3052A), the said goods were being exported by another Exporter M/s. Neelkanth Impex (IEC- AZRPG7420L), having address at 9-1-1, Floor Grd, Mahatama Phule Marg, Khan Abdul Gaffar Khan, Madraswadi, Worli Seaface, Worli, Mumbai, Maharashtra-400018, vide new Shipping Bills Nos.3494328, 3492655 & 3493443, all dated 26.08.2023, detailed in 'Table-I' above, filed through the same Customs Broker, in view of request & NOC of M/s. Vaibhav Creation (IEC-FGNPM3052A), for the same.

12.2 The goods covered under the Shipping Bills Nos.3494328, 3492655 & 3493443, all dated 26.08.2023, filed by M/s. Neelkanth Impex (IEC- AZRPG7420L), were examined 100%, under Panchanama dated 14.09.2023 wherein the goods were found to be declared correctly in terms of quantity and declared description. Further, as per the DYCC report, the goods were found to be declared correctly in terms of classification and subsequently both RoSCTL and Drawback were claimed correctly; however, the goods were found to be mis-declared in terms of value, in view of the Market Enquiry dated 30.09.2023. An alert was inserted in ICES system against both the Exporters M/s. Vaibhav Creation (IEC-



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FGNPM3052A) & M/s Neelkanth Impex (IEC- AZRPG7420L), in order to withhold Export Incentives and IGST benefits.

Thus, it appears that the goods were attempted to be exported in violation of Section 50(2) of the Customs Act, 1962 read with Section 11(1) of Foreign Trade (Development & Regulation) Act 1992 & Rule 11 of Foreign Trade (Regulation) Rules 1993, as Exporter had furnished wrong declaration to the Custom Authorities, in as much, as they did not make a correct declaration of the goods in terms of value, in order to avail undue export incentives, in the Shipping Bills, filed by them to the Customs authorities, thereby, rendering the goods liable for confiscation, under section 113(i), 113(ia) and 113(ja) of the Customs Act, 1962 and by this act and omission, the Exporter M/s. Neelkanth Impex (IEC- AZRPG7420L) has rendered himself liable for penalty under Section 114(iii), 114AA of the Customs Act, 1962.

12.3 Thereby, on the basis of the Market Enquiry Report dated 30.09.2023, FOB and accordingly, export incentives of the goods, pertaining to Shipping Bills Nos.3494328, 3492655 & 3493443, all dated 26.08.2023, were re-determined, as mentioned in 'Table-III' above.

12.4 Further, the goods were allowed for provisional release for Back-To-Town (BTT), by CEAC, JNCH vide letter dated 20.10.2023, after submission of Bond of 100% of FOB value of the goods covered under Shipping Bills Nos. 3494328, 3492655 & 3493443, all dated 26.08.2023 and Bank Guarantee of ₹2,00,000/- (Rupees Two Lakh only), by the Exporter.

12.5 Genuineness of the Exporter and the supply chain could not be verified as no reply was received from the jurisdictional GST office of the Exporter M/s. Neelkanth Impex i.e. Charge- Worli_701, Division- Mazgaon, Zone- Mumbai North West, State- Maharashtra, despite sending letters and its multiple reminders, in this regard. Further, neither the exporter nor the Customs Broker could submit Tax invoice(s), GSTR2A or E-way Bill(s) etc. to justify its proper supply chain pertaining to the subject goods. Hence, the supply chain, in the matter, appeared to be dubious & manipulated, rendering the Exporter liable for penalty under Section 114AC of the Customs act 1962. A letter in this regard, has been forwarded to the GST office for further investigation (if any), at their end.

Thereby, it appears that the Exporter has procured the goods without proper tax payment with a mala-fide intention to claim undue IGST/ITC refund, in collusion with the supplier(s), rendering himself liable for penalty under Section 114AC of the Customs act 1962. A letter in this regard, was forwarded to the GST Commissionerate for its recovery and/or investigation (if any) at their end.

12.6 Further, on retrieving data from EDI 1.5 system, it was found out that the Exporter M/s. Neelkanth Impex (IEC- AZRPG7420L) has filed total 61 Shipping Bills, till date, as mentioned in 'Table-IV' above, having total FOB of ₹43,09,62,822/- (Rupees Forty Three Crores Nine Lakhs Sixty Two Thousand Eight Hundred Twenty Two only). Though these goods are physically not available for confiscation, the same appears liable for confiscation under Section 113(ia) & 113(ja) of the Customs Act 1962 as the export benefits have been claimed and received on the Shipping Bills, however, the export proceeds were not received

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against any of these 61 Shipping Bills, despite getting the period of 09 (Nine) months for receiving BRC elapsed and by this act and omission, the Exporter has rendered himself liable to penalty under Section 114(iii), 114AA & 114AB of the Customs act 1962.

12.7 Therefore, export incentives i.e. Drawback of ₹1,15,68,626/- (Rupees One Crore Fifteen Lakh Sixty Eight Thousand Six Hundred Twenty Six only), availed by the Exporter M/s. Neelkanth Impex (IEC- AZRPG7420L), in the past 61 Shipping Bills, as mentioned in 'Table-IV' above, appears recoverable under Rule 17 & Rule 18 of Customs and Central Excise Duties Drawback Rules, 2017 read with section 28AAA, section 75 of the Customs Act, 1962 along with applicable interest under the second proviso of section 75A and section 28AA of the Customs Act, 1962 and RoDTEP of ₹1,26,871/- (Rupees One Lakh Twenty Six Thousand Eight Hundred Seventy One only) & RoSCTL of ₹1,87,64,027/- (Rupees One Crore Eighty Seven Lakh Sixty Four Thousand Twenty Seven only), as mentioned in 'Table-V' above, appears recoverable in terms of Notification no-77/2021-Cus(N.T) dated 23.09.2021 & 25/2023-Cus(N.T) dated 01.04.2023 read with Section 28AAA of the Customs Act, 1962 along with applicable interest under Section 28AA of Customs act 1962.

13. In view of the above, the Exporter M/s. Neelkanth Impex (IEC- AZRPG7420L) having registered address at 9-1-1, Floor Grd, Mahatama Phule Marg, Khan Abdul Gaffar Khan, Madraswadi, Worli Seaface, Worli, Mumbai, Maharashtra-400018, was called upon to show cause in writing to the Commissioner of Customs, CAC, NS-II, JNCH, Nhava-Sheva, as to why: -

- (i) The goods covered under Shipping Bill Nos. 3494328, 3492655 & 3493443, all dated 26.08.2023, having declared FOB value of ₹2,38,28,253/- (Two Crores Thirty Eight Lakh Twenty Eight Thousand Two Hundred Fifty Three only), should not be confiscated under Section 113(i), 113(ia) and 113(ja) of the Customs Act, 1962.
- (ii) In the Shipping Bills Nos.3494328, 3492655 & 3493443, all dated 26.08.2023, the total declared FOB of ₹2,38,28,253/- (Two Crores Thirty Eight Lakh Twenty Eight Thousand Two Hundred Fifty Three only) should not be rejected and re-determined as ₹1,58,16,996/- (Rupees One Crore Fifty Eight Lakh Sixteen Thousand Nine Hundred Ninety Six only), under Rule 6 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007, as mentioned in 'Table-III' above.
- (iii) The declared Drawback of ₹6,14,214/- (Rupees Six Lakh Fourteen Thousand Two Hundred Fourteen only) and the declared RoSCTL of ₹9,44,316/- (Rupees Nine Lakh Forty Four Thousand Three Hundred Sixteen only), in the Shipping Bills Nos.3494328, 3492655 & 3493443, all dated 26.08.2023, should not be rejected as the goods were released provisionally for Back-To-Town (BTT).
- (iv) Penalty should not be imposed under Section 114(iii) and 114AA of the Customs Act 1962, for omission on the part of the Exporter which have rendered the export goods liable for confiscation under the aforesaid provisions of the Customs Act, 1962, as detailed in (i) above.



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- (v) Penalty should not be imposed, under Section 114AC of the Customs Act 1962, for fraudulent utilization of Input Tax Credit for claiming refund which have rendered the goods liable for confiscation, under the aforesaid provisions of the Customs Act, 1962, as detailed in (i) above.
- (vi) The goods covered under the past 61 Shipping Bills, as mentioned in 'Table-IV' above, having total declared FOB value of ₹43,09,62,822/- (Rupees Forty Three Crores Nine Lakhs Sixty Two Thousand Eight Hundred Twenty Two only), should not be confiscated under Section 113(ia) and 113(ja) of the Customs Act, 1962.
- (vii) Export incentives i.e. Drawback of ₹1,15,68,626/- (Rupees One Crore Fifteen Lakh Sixty Eight Thousand Six Hundred Twenty Six only), availed in the past 61 Shipping Bills, should not be recovered under Rule 17 & Rule 18 of Customs and Central Excise Duties Drawback Rules, 2017 read with section 28AAA, section 75 of the Customs Act, 1962 along with applicable interest under the second proviso of section 75A and section 28AA of the Customs Act, 1962; RoDTEP of ₹1,26,871/- (Rupees One Lakh Twenty Six Thousand Eight Hundred Seventy One only) and RoSCTL of ₹1,87,64,027/- (Rupees One Crore Eighty Seven Lakh Sixty Four Thousand Twenty Seven only), as mentioned in 'Table-IV' above, should not recovered, in terms of Notification no-77/2021-Cus(N.T) dated 23.09.2021 & 25/2023-Cus(N.T) dated 01.04.2023 read with Section 28AAA of the Customs Act, 1962 along with applicable interest under Section 28AA of Customs act 1962.
- (viii) Penalty should not be imposed under Section 114(iii) and 114AA of the Customs Act 1962, for omission on the part of the Exporter which have rendered the export goods liable for confiscation under the aforesaid provisions of the Customs Act, 1962, as detailed in (vi) above.
- (ix) Penalty should not be imposed, under Section 114AB of the Customs Act 1962, as no BRC was received against the past 61 Shipping Bills, as mentioned in 'Table-IV' above, despite getting the period of 09 (Nine) months for receiving BRC elapsed which have rendered the export goods liable for confiscation under the aforesaid provisions of the Customs Act, 1962, as detailed in (vi) above.
- (x) Penalty should not be imposed, under Section 114AC of the Customs Act 1962, for fraudulent utilization of Input Tax Credit for claiming refund which have rendered the goods liable for confiscation, under the aforesaid provisions of the Customs Act, 1962, as detailed in (vi) above.
- (xi) The Bond amounting to 100% of FOB value of the goods covered under Shipping Bills Nos.3494328, 3492655 & 3493443, all dated 26.08.2023 i.e. ₹2,38,28,253/- (Two Crores Thirty Eight Lakh Twenty Eight Thousand Two Hundred Fifty Three only) and Bank Guarantee of ₹2,00,000 (Rupees Two Lakhs only), submitted at the time of provisional release, should not be appropriated towards recoverable dues, applicable fine and penalty.

RECORD OF PERSONAL HEARING:



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14. Personal hearing was granted by the undersigned on 14.05.2026, 25.05.2026, & 05.06.2026. However, despite granting three opportunities for personal hearing, Noticee failed to appear for the PH on the scheduled date and time.

DISCUSSION & FINDINGS

15. I find that Noticee, neither submitted any written reply to the SCN nor appeared for PH either before the undersigned. I also find that these acts on the part of the Noticee amounts to non-cooperation and tactic used for delaying adjudication proceedings. I find that ample opportunities were granted to the Noticee to file their written submission and appear for PH. Adjudication proceeding is time bound and cannot be kept pending indefinitely, hence, I take up the case for adjudication on merits on the basis of evidences available on record. The issue is being decided ex-parte on merits on the basis of facts and evidences available on record.

15.1 I find that the Noticee did not participate in the present adjudication proceedings in spite of the servicing of letters for Personal Hearings in terms of Section 153 of Customs Act, 1962. Section 153 of the Customs Act, 1962 reads as under:

Section 153. Modes for service of notice, order, etc. (1) An order, decision, summons, notice or any other communication under this Act or the rules made thereunder may be served in any of the following modes, namely: -

(b) by a registered post or speed post or courier with acknowledgement due, delivered to the person for whom it is issued or to his authorised representative, if any, at his last known place of business or residence;

(c) by sending it to the e-mail address as provided by the person to whom it is issued, or to the e-mail address available in any official correspondence of such person;

....

(e) by affixing it in some conspicuous place at the last known place of business or residence of the person to whom it is issued and if such mode is not practicable for any reason, then, by affixing a copy thereof on the notice board of the office or uploading on the official website, if any.

15.2 Therefore, in terms of Section 153 of the Customs Act, 1962, it is observed that PH letters were duly sent to the Noticee at their known addresses (as mentioned in the SCNs) through Registered Post, but these Noticees did not honour the same and **has not responded at all to the said PH notices issued**. From the aforesaid facts, it is observed that sufficient opportunities have been given to these Noticee to file written reply to the SCN and to appear for PH before the undersigned, but they chose not to join the adjudication proceedings. As the matter pertains to recovery of Government dues, so even in absence of the Noticee from adjudication proceedings, I am compelled to decide the matter in time bound and logical manner.



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15.3 In this regard, it is pertinent to refer to the case of *M/s. Sumit Wool Processors V/s. CC, Nhava Sheva [2014 (312) E.L.T. 401 (Tri.- Mumbai)]* wherein Hon'ble CESTAT, Mumbai has observed that natural justice not violated when opportunity of being heard given and notices sent to addresses given by the Noticee. If appellants fail to avail such opportunity, mistake lies on them - Principles of natural justice not violated.

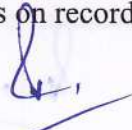
"8.3 We do not accept the plea of Mr. Sanjay Kumar Agarwal and Mr. Parmanand Joshi that they were not heard before passing of the impugned orders and principles of natural justice has been violated. The records show that notices were sent to the addresses given and sufficient opportunities were given. If they failed in not availing of the opportunity, the mistake lies on them. When all others who were party to the notices were heard, there is no reason why these two appellants would not have been heard by the adjudicating authority. Thus, the argument taken is only an alibi to escape the consequences of law. Accordingly, we reject the plea made by them in this regard" 2014 (312) E.L.T. 401 (Tri. - Mumbai)"

15.4 Considering the aforesaid scenario and the fact that the Notice has not participated in the present adjudication proceedings, I take up the subject SCN dated 11.12.2025 for discussion on the merit of the case. With regard to proceeding to decide the case following the Principle of Natural Justice, reliance is placed on the decision of the Hon'ble High Court of Allahabad in the case of *M/s. Modipon Ltd. V/s. CCE, Meerut [reported in 2002 (144) ELT 267 (All)]* effectively dealing with the issue of natural justice and personal hearing. The extract of the observations of Hon'ble Court is reproduced herein below for reference:

"Natural justice- Hearing- Adjournment- Adjudication- Principle of audi alteram partem does not make it imperative for the authorities to compel physical presence of the party for hearing and go on adjourning proceedings so long as party does not appear before them- What is imperative for the authorities to afford the opportunity- If the opportunity afforded is not availed of by the party concerned, there is no violation of the principles of natural justice. The fundamental principles of natural justice and fair play are safeguards for the flow of justice and not the instruments for delaying the proceedings and thereby obstructing the flow of justice.

Natural justice - Hearing - Adjudication - Requirement of natural justice complied with if person concerned afforded an opportunity to present his case before the authority - Any order passed after taking into consideration points raised in such application not invalid merely on ground that no personal hearing had been afforded, all the more important in context of taxation and revenue matters [1996 (2) SCC 98 relied on] [para 22]".

15.5. In view of the above, it is observed that sufficient opportunities have been given to the Noticee but they chose not to join the adjudication proceedings. Having complied with the requirement of the Principles of Natural Justice and having granted adequate opportunities for personal hearing, the adjudication proceeding is a time bound matter and cannot be kept pending indefinitely. I, therefore, proceed with the adjudication of the case *ex-parte*, on the basis of available evidences on record.



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16. The issues for consideration before me are to decide:
- (i) Whether the declared FOB value of ₹ 2,38,28,253/- (Rupees Two Crore Thirty Eight Lakh Twenty Eight Thousand Two Hundred and Fifty Three Only) in the Shipping Bill Nos. 3494328, 3492655 & 3493443, all dated 26.08.2023 is liable to be rejected and re-determined to ₹1,58,16,996/- (Rupees One Crore Fifty Eight Lakh Sixteen Thousand Nine Hundred Ninety Six only) under Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.
 - (ii) Whether the goods covered under live Shipping Bill Nos. 3494328, 3492655 & 3493443, all dated 26.08.2023 and past 61 Shipping Bills mentioned in Table-IV, are liable for confiscation under Sections 113(i), 113(ia) and 113(ja) of the Customs Act, 1962.
 - (iii) Whether the claimed drawback of ₹ 6,14,214/- and RoSCTL of ₹ 9,44,316/- under the Shipping Bill Nos. 3494328, 3492655 & 3493443 all dated 26.08.2023, are liable to be rejected.
 - (iv) Whether M/s. Neelkanth Impex is liable for penalty under Sections 114(iii) and 114AA of the Customs Act, 1962 for live shipment and past exports for acts of omissions rendering the export goods liable to confiscation.
 - (v) Whether penalty should be imposed under Section 114AC of the Customs Act, 1962 for fraudulent utilization of Input Tax Credit for claiming refund which have rendered the goods under live shipping bills and past export liable for confiscation under the Customs Act, 1962.
 - (vi) Whether M/s. Neelkanth Impex is liable for penalty under Sections 114AB of the Customs Act, 1962 in respect of the past 61 Shipping Bills.
 - (vii) Whether drawback of ₹ 1,15,68,626/- (Rupees One Crore Fifteen Lakh Sixty Eight Thousand Six Hundred Twenty Six only), RoDTEP of ₹ 1,26,871/- (Rupees One Lakh Twenty Six Thousand Eight Hundred Seventy One only) and RoSCTL of ₹1,87,64,027/- (Rupees One Crore Eighty Seven Lakh Sixty Four Thousand Twenty Seven only) availed in past 61 Shipping Bills should be recovered along with interest under Section 28AA of the Customs Act, 1962.
 - (viii) Whether the Bond and Bank Guarantee furnished at the time of provisional release of the goods are liable for appropriation towards duty, drawback, export incentives, redemption fine, penalty, interest or any other government dues adjudged payable in the present proceedings.

17. **Whether the declared FOB value of ₹ 2,38,28,253/- in the Shipping Bill Nos. 3494328, 3492655 & 3493443, all dated 26.08.2023 is liable to be rejected and re-determined to ₹1,58,16,996/- (Rupees One Crore Fifty Eight Lakh Sixteen Thousand Nine Hundred Ninety Six only) under Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.**

17.1 I find that though the goods were found correctly declared in terms of quantity, description and classification during 100% examination and as per DYCC test reports, however, the investigation revealed substantial overvaluation of the export goods. For the

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purpose of Customs Tariff Act, 1975, valuation of export goods is to be done in terms of Section 14 of the Customs Act, 1962 read with Customs Valuation (Determination of value of Export Goods) Rules, 2007 (CVR). As per the provisions of Act/Rules, transaction value of the goods is to be accepted, subject to Rule 8 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007. The investigation had reason to doubt the truth or accuracy of the declared value of the subject goods hence the declared transaction value was rightly rejected under Rule 8 of the CVR. Hence, the value could be re-determined by sequentially proceeding in terms of Rule 4 to 6 of the Customs Valuation Rules, 2007. As the export goods were not standard goods, the export data in Export Commodity Data Base (ECDB) could not be used for comparing price of the goods of like kind and quality as required under Rule 4 of CVR, 2007. Further, the subject goods were not identified specifically with any brand, mark, style and other specifications, the goods of like kind and quality exported cannot be identified to compare their transaction value with the declared value of the subject goods. Hence, value of the subject goods could not be determined under the Rule 4 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

17.2 I find that the Exporter has neither produced any cost of production details, manufacturing or processing of export details and correct transport details nor produced cost design or brand or an amount towards profit etc. to derive computed value of the goods. In the absence of complete cost data details, value could not be determined as per Rule 5 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. The value of the impugned goods was, therefore, re-determined under Rule 6 of CVR (Export) Rules, 2007, using reasonable means consistent with the principles and general provisions of these rules. In the instant case, the exporter is merchant exporter and hence, transaction value of the impugned goods under export could not be determined under Rule 4 & 5 of the Customs Valuation Rules, 2007. Hence the value of all the items could only be ascertained from the wholesale market. The department conducted market enquiry on 30.09.2023 in the presence of the authorized representative of the exporter on the basis of representative sealed samples drawn during Panchanama proceedings, for the purpose of valuation of the goods, under this rule. The market enquiry revealed that the prevailing market prices of the exported garments were substantially lower than the declared FOB values. Accordingly, I hold that the declared FOB value of ₹2,38,28,253/- is not acceptable and the same is liable to be re-determined to ₹1,58,16,996/- as worked out by the investigating authority in Table-III of the Show Cause Notice.

17.3 In this regard, the case of **Om Prakash Bhatia vs. Commissioner of Customs, Delhi, 2003** (155) E.L.T 423 (S.C) is squarely applicable in the present case inasmuch as the entire supply chain is evidently fabricated, thus putting in dispute the value of the goods being exported. Also, despite several opportunities during investigation and further opportunities during the instant adjudication proceedings the IEC has not led any evidence to claim that the value of export goods mentioned in the shipping bill was the true sale consideration for the goods sought to be exported. Relevant Paras of the Hon'ble Supreme Court judgement are reproduced below:



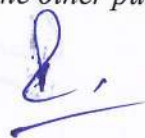
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"14. The aforesaid Section would be applicable for determining the value of goods for the purposes of assessment of tariff under the Act or any other law for the time being in force where under a duty of customs is chargeable on any goods by reference to their value. In the present case, on export of goods in question, no duty was payable under the Act. It was, therefore, contended that there is no scope of application of Section 14 for determining the value of goods by applying the criteria laid down in the said Section. In our view, this submission cannot be accepted. For determining the export value of the goods, we have to refer to the meaning of the word 'value' given in Section 2(41) of the Act, which specifically provides that value in relation to any goods means the value thereof determined in accordance with the provisions of sub-section (1) of Section 14. Therefore, if the export value of the goods is to be determined, then even if no duty is leviable, the method (mode) for determining the value of the goods provided under Section 14 is required to be followed. Section 14 specifically provides that in case of assessing the value for the purpose of export, value is to be determined at the price at which such or like goods are ordinarily sold or offered for sale at the place of exportation in the course of international trade, where the seller and the buyer have no interest in the business of each other and the price is the sole consideration for sale. No doubt, Section 14 would be applicable for determining the value of the goods for the purpose of tariff or duty of customs chargeable on the goods. In addition, by reference it is to be resorted to and applied for determining the export value of the goods as provided under sub-section (41) of Section 2. This is independent of any question of assessability of the goods sought to be exported to duty. Hence, for finding out whether the export value is truly stated in the shipping bill, even if no duty is leviable, it can be referred to for determining the true export value of the goods sought to be exported.

16. From the aforesaid provisions, mainly, Section 2(41) read with Section 14 of the Act and Section 18 of the Foreign Exchange Regulation Act, 1973, it is crystal clear that:-

- (a) Exporter has to declare full export value of the goods (sale consideration for the goods exported).
- (b) Exporter has to affirm that the full export value of the goods will be received in the prescribed manner.
- (c) If the full export value of the goods is not ascertainable, the value which the exporter expects to receive on the sale of the goods in the overseas market.
- (d) Exporter has to declare true or correct export value of the goods, that is to say, correct sale consideration of the goods. Criterion under Section 14 of the Act is the price at which such or other goods are ordinarily sold or offered for sale in the course of international trade where the seller and buyer have no interest in the business of each other and the price is the sole consideration for sale or offer for sale.

18. Hence, in cases where the export value is not correctly stated but there is international over-invoicing for some other purpose, that is to say not mentioning true



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sale consideration of the goods, then it would amount to violation of the conditions for import/export of the goods. The purpose may be money laundering or some other purpose, but it would certainly amount to illegal/unauthorized money transaction. In any case, over-invoicing of the export goods would result in illegal/irregular transactions in foreign currency.

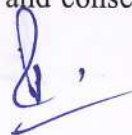
21. In the present case, as found by the authorities, 28,000 pieces of ladies skirts at the rate of \$10.25 per piece, export value of which was mentioned as ₹ 1,21,54,447/-, were sought to be exported. The market price of such skirts was ascertained to be ₹ 45/- per piece and on that basis total value of the goods came to be ₹ 9,53,280/-. The exporter claimed a drawback of ₹ 21,87,800/- on the consignment on the basis that value of each skirt was ₹ 78/- per piece. No doubt, during the enquiry exporter admitted that the market price of ₹ 45/- per piece was acceptable to him and the claim for drawback was withdrawn. Thereafter, the exporter has not led any evidence that export value mentioned in the shipping bill was the true sale consideration for the goods sought to be exported.

22. Considering the aforesaid facts and also the fact that this was the second case belonging to the same exporter, the authorities arrived at the conclusion that it was an organized racket to claim fraudulent drawback or an act of deliberate over-invoicing the readymade garments. Hence, the authority imposed redemption fine as well as levied penalty. In our view, this finding arrived at by the authorities below cannot be said to be, in any way, unreasonable which would call for interference by this Court in this appeal."

18. Whether the goods covered under live Shipping Bill Nos. 3494328, 3492655 & 3493443, all dated 26.08.2023 and past 61 Shipping Bills mentioned in Table-IV, are liable for confiscation under Sections 113(i), 113(ia) and 113(ja) of the Customs Act, 1962.

Live Shipping Bill

18.1 I find that the goods covered under Shipping Bill Nos. 3494328, 3492655 and 3493443 all dated 26.08.2023 were attempted to be exported by deliberately declaring inflated FOB values with an intention to avail undue export incentives in the form of Drawback and RoSCTL benefits. Though the goods were found correctly declared in terms of description, quantity and classification, the investigation and market enquiry conclusively established substantial overvaluation of the goods. The exporter failed to produce any cogent documentary evidence such as cost records, purchase documents, or financial records to justify the declared value. The act of declaring incorrect and inflated FOB value amounts to material misdeclaration in the Shipping Bills filed under Section 50 of the Customs Act, 1962 read with Rule 11 of the Foreign Trade (Regulation) Rules, 1993. Such overvaluation was clearly intended to obtain wrongful and excess export incentives from the Government exchequer. Therefore, I hold that the export goods do not correspond in respect of value with the declarations made in the Shipping Bills and consequently become liable for confiscation



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under Section 113(i) of the Customs Act, 1962. Further, since the goods were entered for export under claim of Drawback and RoSCTL on the basis of inflated value and wrongful declarations, the same are also liable for confiscation under Sections 113(ia) and 113(ja) of the Customs Act, 1962. However, as the goods were provisionally released for Back-to-Town (BTT) and are no longer physically available for confiscation. Accordingly, I hold that the goods are liable for confiscation under the aforesaid provisions, though not available for physical seizure/confiscation.

Past Export

18.2 I find that M/s. Neelkanth Impex had exported goods under the past 61 Shipping Bills claiming export incentives such as Drawback, RoSCTL and RoDTEP, which are in the nature of remission/refund of duties and taxes, subject to fulfillment of statutory conditions including realization of export proceeds within the period prescribed under FEMA provisions. However, the exporter failed to realize the export proceeds and also failed to furnish BRCs/e-BRCs even after expiry of the mandatory period prescribed for realization of foreign remittance. By claiming and retaining export incentives despite non-realization of export proceeds, the exporter contravened the conditions governing such export benefits. I therefore hold that the goods covered under the said 61 Shipping Bills were entered for export under claim of refund/remission of duties and taxes in contravention of the provisions of law and accordingly the same are liable for confiscation under Section 113(ja) of the Customs Act, 1962. However, since the goods have already been exported and are not physically available, the same are held liable for confiscation under Section 113(ja) of the Customs Act, 1962.

18.3 In this regard, I rely on case of **M/s. Visteon Automotive Systems India Limited V/s. CESTAT, Chennai reported in 2018 (9) G.S.T.L. 142 (Mad.)**. The Hon'ble High Court of Chennai has held that:

“availability of goods is not necessary for imposing redemption fine. The opening words of Section 125, “Whenever confiscation of any goods is authorised by this Act”, brings out the point clearly. The power to impose redemption fine springs from the authorisation of confiscation of goods provided for under Section 111 of the Act. When once power of authorisation for confiscation of goods gets traced to the said Section 111 of the Act, we are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing from Section 111 only. Hence, the payment of redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act.”

18.4. The above view of Hon'ble Madras High Court in case of M/s. Visteon Automotive Systems India Ltd. reported in 2018 (9) G.S.T.L. 142 (Mad.), has been cited by Hon'ble Gujarat High Court in case of **M/s. Synergy Fertichem Pvt. Ltd. reported in 2020 (33) G.S.T.L. 513 (Guj.)**.

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18.5. Further, neither the decision of Hon'ble Madras High Court in case of M/s. Visteon Automotive Systems India Ltd. reported in 2018 (9) G.S.T.L. 142 (Mad.) nor the decision of Hon'ble Gujarat High Court in case of M/s. Synergy Fertichem Pvt. Ltd. reported in 2020 (33) G.S.T.L. 513 (Guj.) has been challenged by any of the parties and are in operation. Accordingly, I observe that the present case also merits imposition of Redemption Fine on the goods already exported in the past.

18.6 In terms of Section 125 of the Customs Act, 1962 there is an option to pay fine in lieu of confiscation. Section 125 is reproduced below for the sake of brevity:

(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit:

Provided that, without prejudice to the provisions of the proviso to sub-section (2) of section 115, such fine shall not exceed the market price of the goods confiscated, less in the case of imported goods the duty chargeable thereon.

(2) Where any fine in lieu of confiscation of goods is imposed under sub-section (1), the owner of such goods or the person referred to in sub-section (1), shall, in addition, be liable to any duty and charges payable in respect of such goods.

18.7. As regards the objective of imposition of redemption fine, I would like to rely on the following observation of the Hon'ble Supreme Court in the case of **M/s. Navayuga Engineering Co. Ltd. versus Union of India & Anr:**

6. Section 125 of the Act: Alternatively, there is also the option of redemption of the confiscated goods under Section 125, the statute specifically empowers the owner of the goods to exercise an option of legitimising the importation by paying fine, duty and other charges. The procedure prescribed is simple; i) confiscation must be authorised, ii) those goods should not be prohibited goods, iii) the officer shall give an option to redeem the goods in lieu of fine, iv) the owner or the possessor must exercise the option and v) pay the fine vi) within 120 days. The purpose and object of Section 125 is to enable a transition from 'illegality' to 'compliance' of laws. It grants an opportunity to the owner or possessor of the confiscated goods to regularise the transaction by payment of fine. This provision is based on a public policy consideration that balances crime and punishment and achieves the twin objectives of enabling a citizen to remain on the right side of law by adopting a prescribed measure and amicable settlement of disputes through resolution.

19. Whether the claimed drawback of ₹ 6,14,214/- and RoSCTL of ₹ 9,44,316/- under the Shipping Bill Nos. 3494328, 3492655 & 3493443 all dated 26.08.2023, are liable to be rejected.

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19.1 I find that the declared FOB value of the goods covered under Shipping Bill Nos. 3494328, 3492655 and 3493443 all dated 26.08.2023 has rightly been rejected and re-determined on the basis of the market enquiry conducted by the department as detailed in above paras. Since the export incentives namely Drawback and RoSCTL were claimed on the basis of such inflated FOB value, the corresponding incentive amounts also become inadmissible to the extent of such overvaluation. Further, the goods were allowed provisional release for Back-To-Town (BTT) on execution of Bond and Bank Guarantee and such provisional release does not confer any vested right upon the exporter to claim export incentives. Since the export goods were not finally exported, the declared Drawback amount of ₹6,14,214/- and declared RoSCTL amount of ₹9,44,316/- are not admissible and are liable to be rejected.

20. Whether M/s. Neelkanth Impex is liable for penalty under Sections 114(iii) and 114AA of the Customs Act, 1962 for live shipment and past exports for acts of omissions rendering the export goods liable to confiscation.

Live Shipment

20.1 I find that M/s. Neelkanth Impex attempted to export the goods covered under Shipping Bill Nos. 3494328, 3492655 and 3493443 all dated 26.08.2023 by declaring substantially inflated FOB values with an intention to avail undue export incentives in the form of drawback and RoSCTL benefits. The investigation and market enquiry conducted by the department established that the declared export value was substantially higher than the prevailing market value of the goods. The exporter failed to substantiate the declared value through any reliable documentary evidence such as costing details, purchase invoices, financial records or contemporaneous export data. By misdeclaring the value of the goods in the Shipping Bills and attempting to avail excess export incentives, the exporter rendered the goods liable for confiscation under Sections 113(i), 113(ia) and 113(ja) of the Customs Act, 1962. Therefore, I hold that M/s. Neelkanth Impex has committed acts and omissions which rendered the goods liable to confiscation and accordingly, M/s. Neelkanth Impex is liable to penalty under Section 114(iii) of the Customs Act, 1962.

20.2 I further find that M/s. Neelkanth Impex knowingly and intentionally used false and incorrect declarations/documents in the course of export proceedings by declaring inflated FOB values in the Shipping Bills with the intention to claim inadmissible and excess export incentives. The exporter failed to furnish authentic supporting documents to justify the declared value and also failed to establish the genuineness of the supply chain despite repeated opportunities granted during investigation. In his statement dated 05.10.2023, the exporter stated that he will tax invoices, e-way bills, purchase order etc. however, he did not submit those documents. The deliberate declaration of inflated value in statutory export documents constitutes use of false and incorrect material particulars in connection with Customs transactions. Hence, I hold that M/s. Neelkanth Impex is liable for penalty under Section 114AA of the Customs Act, 1962 for knowingly making and using false declarations/documents in relation to the export of goods.



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Past export

20.3 I find that M/s. Neelkanth Impex had exported goods under the past 61 Shipping Bills claiming export incentives such as Drawback, RoSCTL and RoDTEP, which are in the nature of remission/refund of duties and taxes, subject to fulfillment of statutory conditions including realization of export proceeds within the period prescribed under FEMA provisions. However, the exporter failed to realize the export proceeds and also failed to furnish BRCs/e-BRCs even after expiry of the mandatory period prescribed for realization of foreign remittance. By claiming and retaining export incentives despite non-realization of export proceeds, the exporter contravened the conditions governing such export benefits. Thus, 61 Shipping Bills were entered for export under claim of refund/remission of duties and taxes in contravention of the provisions of law which rendered the goods liable for confiscation under Section 113(ja) of the Customs Act, 1962. Therefore, I hold that M/s. Neelkanth Impex has committed acts and omissions which rendered the goods liable to confiscation and accordingly, M/s. Neelkanth Impex is liable to penalty under Section 114(iii) of the Customs Act, 1962.

20.4 I find that M/s. Neelkanth Impex has failed to produce any evidence regarding realization of export proceeds in respect of the past 61 Shipping Bills despite lapse of the prescribed period under FEMA provisions and despite sufficient opportunities granted during investigation as well as adjudication proceedings. The exporter neither participated in the adjudication proceedings nor submitted supporting documents such as tax invoices, GSTR records, E-way Bills or other documents to establish the genuineness of the supply chain and the bona fide nature of the export transactions. The conduct of the exporter, coupled with absence of supporting commercial and GST documents, clearly indicates that the exports were undertaken with the primary intention of availing export incentives and associated benefits without fulfilling the statutory conditions prescribed under the Customs Act, 1962, FEMA provisions and allied laws. I therefore find that M/s. Neelkanth Impex knowingly used and relied upon incorrect and incomplete declarations/documents in relation to the export transactions for availing inadmissible export benefits. Accordingly, I hold that M/s. Neelkanth Impex is liable to penalty under Section 114AA of the Customs Act, 1962 for knowingly making and using false or incorrect material particulars in connection with export transactions under the Customs Act, 1962.

21. Whether penalty should be imposed under Section 114AC of the Customs Act, 1962 for fraudulent utilization of Input Tax Credit for claiming refund which have rendered the goods under live shipping bills and past export liable for confiscation under the Customs Act, 1962.

21.1 I find that the investigation has revealed that the exporter failed to establish the genuineness of the supply chain in respect of both the live Shipping Bills as well as the past 61 Shipping Bills. Despite repeated opportunities during investigation and adjudication proceedings, the exporter neither submitted tax invoices, GSTR records, E-way Bills and

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other supporting documents nor produced any evidence to establish lawful procurement of goods and admissibility of Input Tax Credit. Further, the exporter failed to participate effectively in the proceedings and also failed to furnish BRCs/e-BRCs evidencing realization of export proceeds in respect of past exports. The cumulative facts of inflated export valuation, non-verifiable supply chain, absence of GST documents and non-realization of export proceeds clearly indicate that the exporter had availed export benefits and associated refund-related incentives by suppressing material facts and by utilizing inadmissible Input Tax Credit in contravention of the statutory provisions governing export transactions. I therefore hold that M/s. Neelkanth Impex has rendered itself liable to penalty under Section 114AC of the Customs Act, 1962 for fraudulent utilization of Input Tax Credit for claiming export-related refund benefits, which consequently rendered the goods covered under the live Shipping Bills as well as the past export consignments liable to confiscation under the provisions of the Customs Act, 1962.

21.2 I find that all the Shipping Bills under consideration were filed under the Letter of Undertaking (LUT) mechanism without payment of IGST. Further, the unit price of the exported goods declared in the respective Shipping Bills is less than ₹1,000 per unit and, therefore, the applicable rate of IGST during the relevant period was 5%. Accordingly, for the purpose of determining the inadmissible export benefits/refund amount, the IGST component shall be computed at the rate of 5% of the FOB value declared in the respective Shipping Bills.

22. Whether M/s. Neelkanth Impex is liable for penalty under Sections 114AB of the Customs Act, 1962 in respect of the past 61 Shipping Bills.

22.1 I find that M/s. Neelkanth Impex had availed and utilized export incentive benefits such as Drawback, RoSCTL and RoDTEP in respect of the past 61 Shipping Bills without fulfilling the essential statutory condition of realization of export proceeds within the prescribed period under FEMA provisions. Despite lapse of substantial time and repeated opportunities granted during investigation and adjudication proceedings, the exporter failed to furnish BRCs/e-BRCs or any evidence showing realization of export proceeds. The exporter also failed to establish the genuineness of the export transactions and supply chain by not producing GST records, tax invoices, E-way Bills and other supporting documents. The conduct of the exporter clearly establishes that export incentive instruments/benefits were obtained and retained in contravention of the statutory provisions governing such schemes. Accordingly, I hold that M/s. Neelkanth Impex has rendered itself liable for penalty under Section 114AB of the Customs Act, 1962 for wrongful availment and utilization of export incentive instruments/benefits in respect of the past 61 Shipping Bills.

23. Whether drawback of ₹ 1,15,68,626/- (Rupees One Crore Fifteen Lakh Sixty Eight Thousand Six Hundred Twenty Six only), RoDTEP of ₹ 1,26,871/- (Rupees One Lakh Twenty Six Thousand Eight Hundred Seventy One only) and RoSCTL of ₹1,87,64,027/- (Rupees One Crore Eighty Seven Lakh Sixty Four Thousand Twenty Seven only) availed in past Shipping Bills should be recovered along with interest under Section 28AA of the Customs Act, 1962.



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23.1 I find that M/s. Neelkanth Impex has failed to produce any evidence regarding realization of export proceeds in respect of the past 61 Shipping Bills despite lapse of the prescribed period under FEMA provisions and despite opportunities granted during investigation. The exporter also failed to furnish BRCs/e-BRCs or any documentary evidence showing realization of export proceeds. Rule 18 of the Customs and Central Excise Duties Drawback Rules, 2017 specifically provides that where sale proceeds in respect of export goods are not realized within the period allowed under FEMA, the drawback paid in respect of such exports becomes recoverable. Further, the benefits availed under RoSCTL and RoDTEP schemes are conditional export incentives linked with realization of export proceeds in accordance with the provisions and notifications. Therefore, I hold that the Drawback amounting to ₹1,15,68,626/-, RoSCTL amounting to ₹1,87,64,027/- and RoDTEP amounting to ₹1,26,871/- availed in respect of the past 61 Shipping Bills are liable for recovery under Rule 17 and Rule 18 of the Customs and Central Excise Duties Drawback Rules, 2017 read with Sections 75 and 28AAA of the Customs Act, 1962 and the relevant notifications governing RoSCTL and RoDTEP schemes, along with applicable interest as per under Section 28AA/75A of the Customs Act, 1962.

24. Whether the Bond and Bank Guarantee furnished at the time of provisional release of the goods are liable for appropriation towards duty, drawback, export incentives, redemption fine, penalty, interest or any other government dues adjudged payable in the present proceedings.

24.1 I find that the goods covered under the live Shipping Bills were provisionally released for Back-To-Town (BTT) subject to execution of Bond and furnishing of Bank Guarantee by M/s. Neelkanth Impex as security towards safeguarding Government revenue and compliance with the outcome of adjudication proceedings. I have held the goods liable for confiscation under the relevant provisions of the Customs Act, 1962 and have also upheld recovery of inadmissible export incentives along with imposition of penalties and other statutory dues in the above paras. The Bond and Bank Guarantee furnished by the exporter are therefore liable to be enforced and appropriated towards payment of drawback, export incentives, redemption fine, penalties, interest and any other Government. Accordingly, I hold that the Bond executed and Bank Guarantee furnished by M/s. Neelkanth Impex at the time of provisional release of goods are liable for appropriation towards recoverable dues, fine and penalty.

25. In view of foregoing discussion above made in the light of the facts of investigation and relied upon documents, I pass following order:

ORDER

- (i) I hold that the goods covered under live Shipping Bill Nos. 3494328, 3492655 & 3493443, all dated 26.08.2023 having declared FOB of ₹2,38,28,253/- (Rupees Two Crore Thirty Eight Lakh Twenty Eight Thousand Two Hundred and Fifty three only)



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are liable for confiscation under Sections 113(i), 113(ia) and 113(ja) of the Customs Act, 1962.

- (ii) In respect of goods covered under live Shipping Bill Nos. 3494328, 3492655 & 3493443, all dated 26.08.2023 having declared FOB Value of **₹2,38,28,253/-** (Rupees Two Crore Thirty Eight Lakh Twenty Eight Thousand Two Hundred and Fifty three only) which are held liable for confiscation, I impose Redemption Fine of **₹23,80,000/- (Rupees Twenty Three Lakh Eighty Thousand only)** in lieu of confiscation, under section 125 (i) of the Customs Act, 1962, on M/s. Neelkanth Impex (IEC- AZRPG7420L).
- (iii) I reject the declared FOB value of **₹2,38,28,253/-** (Rupees Two Crore Thirty Eight Lakh Twenty Eight Thousand Two Hundred and Fifty three only) of export goods covered under Shipping Bill Nos. 3494328, 3492655 & 3493443, all dated 26.08.2023 under Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and re-determine the value to **₹1,58,16,996/-** (Rupees One Crore Fifty Eight Lakh Sixteen Thousand Nine Hundred Ninety Six only) as per Rule 6 of the said Rules *ibid*, read with Section 14 of the Customs Act, 1962.
- (iv) I reject the Drawback amount of **₹6,14,214/- (Rupees Six Lakh Fourteen Thousand Two Hundred and Fourteen only)** and RoSCTL of **₹9,44,316/- (Rupees Nine Lakh Forty Four Thousand Three Hundred Sixteen only)** claimed in Shipping Bill Nos. 3494328, 3492655 & 3493443 all dated 26.08.2023 as the goods were released provisionally for Back-to-Town (BTT).
- (v) I hold that the goods covered under past 61 Shipping Bills as mentioned in Table-IV having declared FOB of **₹43,09,62,822/- (Rupees Forty Three Crore Nine Lakh Sixty Two Thousand Eight Hundred Twenty Two only)** are liable for confiscation under Sections 113(ia) and 113(ja) of the Customs Act, 1962.
- (vi) In respect of goods covered under 61 Shipping Bills as mentioned in Table-IV having declared FOB Value of **₹43,09,62,822/- (Rupees Forty Three Crore Nine Lakh Sixty Two Thousand Eight Hundred Twenty Two only)** which are held liable for confiscation, I impose Redemption Fine of **₹4,30,00,000/- (Rupees Four Crore Thirty Lakh only)** in lieu of confiscation, under section 125 (i) of the Customs Act, 1962, on M/s. Neelkanth Impex (IEC- AZRPG7420L).
- (vii) I reject drawback amount of **₹1,15,68,626/- (Rupees One Crore Fifteen Lakh Sixty Eight Thousand Six Hundred Twenty Six only)** availed under past 61 shipping bills and order to recover the said drawback amount under Rule 17 & Rule 18 of Customs and Central Excise Duties Drawback Rules, 2017 read with section 75 of the Customs Act, 1962 along with applicable interest under section 75A (2) of the Customs Act, 1962.
- (viii) I reject the RoDTEP amount of **₹1,26,871/- (Rupees One Lakh Twenty Six Thousand Eight Hundred Seventy One only)** and RoSCTL amount of **₹1,87,64,027/- (Rupees One Crore Eighty Seven Lakh Sixty Four Thousand Twenty Seven only)** availed under past 61 shipping bills and order to recover the said RoDTEP and RoSCTL under Section 28AAA of the Customs Act, 1962 along with interest due thereon as per Section 28AA of the Customs Act, 1962.

F. No. CUS/100/2026/Adjudication Section
SCN No. 1584/2025-26/Commr./CEAC/ NS-II/CAC/JNCH dated 11.12.2025

- (ix) I impose penalty of **₹2,30,00,000/- (Rupees Two Crore Thirty Lakh only)** under Section 114 (iii) of the Customs Act, 1962, upon M/s. Neelkanth Impex for their acts of omission and commission which rendered the goods under the impugned shipping bills liable to confiscation.
- (x) I impose penalty of **₹3,20,00,000/- (Rupees Three Crore Twenty Lakh only)** upon M/s. Neelkanth Impex under Section 114AA of the Customs Act, 1962.
- (xi) I impose penalty of **₹1,90,00,000/- (Rupees One Crore Ninety Lakh only)** upon M/s. Neelkanth Impex under Section 114AB of Customs Act, 1962.
- (xii) I impose penalty of **₹2,30,00,000/- (Rupees Two Crore Thirty Lakh only)** upon M/s. Neelkanth Impex under Section 114AC of Customs Act, 1962.
- (xiii) I order to appropriate amount of **₹2,00,000/- (Rupees Two Lakh only)** submitted at the time of provisional release towards recoverable dues and penalty.

26. This order is passed without prejudice to any other action and / or further action on the aforesaid company and/or other individuals / persons under the provisions of the Customs Act. 1962 or any other law for the time being in force.



Digitally signed by
Giridhar Gopalkrishna Pai
Date: 09-06-2026
15:51:05

(Giridhar G. Pai)
Commissioner of Customs
Nhava Sheva-II, JNCH

To,

M/s. Neelkanth Impex
9-1-1 , Ground Floor, Mahatma Phule Marg,
Khan Abdul Gaffar Khan, Madraswadi
Worli Seaface, Worli, Mumbai – 400018.

Copy to:

1. The Chief Commissioner of Customs, Mumbai Customs Zone-II, JNCH, Nhava Sheva, Uran-400 707.
2. The Dy. Commissioner of Customs, SIIB (X), JNCH, Nhava Sheva.
3. The DC/AC, DRC/Drawback Section, JNCH
4. The Dy. Commissioner of Customs, CRRC, JNCH, Nhava Sheva.
5. The Superintendent, CHS, JNCH for display on Notice Board, JNCH.
6. The Superintendent, EDI, JNCH for uploading.
7. Office Copy.

