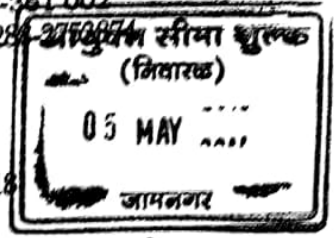


कार्यालय, आयुक्त, सीमा शुल्क (निवारक), जामनगर
 सारडा हाऊस, पंचवटी के सामने, बेदी बंदर मार्ग, जामनगर 361 002 (गुजरात)
Office of the Commissioner of Customs (Preventive)
 'Barda House', Opp. Panchwati, Bedi Bunder Road, Jamnagar-361 002
 फोन/Phone No. 0288-2755546, 2755173, 2756772 फैक्स/Fax: 0288-2752077



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| 1 | फाइल संख्या / File Number | VIII/10-135/JC/O&A/2017 |
| 2 | मूल आदेश संख्या | 04/ संयुक्त आयुक्त/2017-18 |
| | Order-in-Original No.: | 04/ Joint Commissioner/2017-18 |
| 3 | द्वारा पारित : | श्री प्रभात कमल रामेश्वरम, संयुक्त आयुक्त, सीमा शुल्क (नि), जामनगर |
| | Passed by: | Shree Prabhat Kamal Rameshwaram, Joint Commissioner, Customs (Preventive), Jamnagar. |
| 4 | आदेश दिनांक / आदेश जारी करने की दिनांक | |
| | Date of Order / Date of Issue: | 27.04.2017 / 27.04.2017 |
| 5 | कारण बताओ नोटिस संख्या और तिथि : | |
| | Show Cause Notice No. & date | SCN Waived |
| 6 | नोटिसी का नाम / Name of Noticee: | M/s Kaushik Granite Pvt. Ltd. |

- 01 इस आदेश की मूल प्रति संबंधित व्यक्ति को निःशुल्क प्रदान की जाती है
 This Order-in-Original is granted to the concerned free of charge.
- 02 Any person being aggrieved by this order may file an appeal against this order before the Commissioner of Customs (Appeals), 7th floor, Mrudul Tower, Behind Time of India, Ashram Road, Ahmedabad-380 009 within 60 days from the date of receipt of this order.
- 03 उक्त अपील पर भारतीय स्टाम्प अधिनियम, 1989 (जिसमें राज्य की विधायिका द्वारा सुधार किया गया हो)के अंतर्गत रुपये .50/- का टिकट न्यायालय की फीस के रूप में लगा होना चाहिए जबकि इस अपील के साथ संलग्न की गई प्रति पर न्यायालय फीस अधिनियम, 1870 के अनुच्छेद-1 मद 6 के अनुसार 50 पैसे का टिकट न्यायालय फीस के रूप में लगा होना चाहिए
 The appeal should bear Court Fee Stamp of Rs.50/- as provided under Indian Stamp Act, 1989, modified as may be by the State Legislation, whereas the copy of the order attached with this appeal should bear a Court Fee Stamp of Rs. 0.50 (Fifty Paise only) as prescribed under Schedule - I, Item 6 of the Court Fees Act, 1870.
- 04 अपीलीय ज्ञापन के साथ शुल्क भुगतान/ जुर्माना/ अर्थदंड का सबूत भी संलग्न करें अन्यथा सीमा शुल्क अधिनियम, 1962 की धारा 129 के प्रावधानों का अनुपालन न होने के कारण अपील को खारिज किया जा सकता है
 Proof of payment of duty / fine / penalty should also be attached with the appeal memo, failing to which appeal is liable for rejection for non compliance of the provisions of Section 129 of the Customs Act, 1962.
- 05 अपील प्रस्तुत करते समय यह सुनिश्चित करें कि सीमा शुल्क (अपील) नियम, 1982 और सीस्टेट प्रक्रिया (प्रोसीजर) नियम, 1982 के सभी नियमों का पूरी तरह पालन हुआ है
 While submitting the Appeal, the Customs (Appeals) Rules, 1982 and the CESTAT (Procedure) Rules, 1982 should be adhered to in all respects.
- 06 इस आदेश के खिलाफ (अपील) अपील (के समक्ष अपील करते समय, शुल्क या शुल्क और जुर्माना विवाद या दंड में हैं, जहां अकेले दंड विवाद में है, जहां विवाद या दंड, में भाग लेते हैं उस विवाद की रकम के 7.5% के भुगतान करना होगा।
- 06 An appeal against this order shall lie before the Commissioner (Appeal) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute or penalty, are in dispute or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE :

1. M/s.Kaushik Granites P. Ltd.,4,5,7, Meldi Estate, Nr. Railway Crossing, Gota, Ahmedabad (IEC No.0895000423) (herein after referred to as the importer) imported "Crystallized Glass Panel white in colour" from China and filed Bill of Entry No.9156982 dated 04.04.2017 with the Customs House, Pipavav. However, during the course of examination of the goods, the officers have noticed that the goods have been mis-declared as far as quantity and value is concerned. The offending goods have been seized vide Panchnama dated 10.04.2017.

2. The Deputy Commissioner, Customs House, Pipavav, under their investigation has stated that the importer has paid Customs duty of Rs.3,11,011/- on the declared quantity of 57,400 kg valued at Rs.10,56,388.34; that the total quantity and value of the imported goods comes to Rs.16,97,561/- (93160 Kg.) on which the total duty leviable comes to Rs.4,99,793/-; that the importer has short paid the Customs duty to the tune of Rs.1,88,782/- which is recoverable alongwith interest under Section 28 of the Customs Act,1962 (herein after referred to as the Act). Further, the Deputy Commissioner, Customs House, Pipavav, under their investigation has stated that the importer has contravened the provisions of Act by way of mis-declaration of the subject imported goods and therefore the subject imported goods are liable for confiscation under the provisions of Section-111(m) of the Act and the importer is liable to penalty under Section 114A of the Act.

3. The importer vide their letter dated 12.04.2017 has waived for issuance of SCN and Personal Hearing and expressed their readiness to pay up all the dues arising out of the aforesaid mis-declaration.

DISCUSSION AND FINDING :


4. I have carefully gone through the case records. The documents produced before me reveals that the importer has mis-declared the quantity and value of the imported goods covered under the Bill of Entry No.9156982 dated 04.04.2017. Hence, they have violated the provisions of the Act and the subject imported goods are liable for confiscation and the importer is also liable for the penalty as mentioned above in the facts of the case. The importer has accepted the facts about the mis-declaration of the imported goods as far as quantity and weight is concerned and has also accepted that they will pay the differential duty or fine or penalty/interest in this case. Considering the facts and circumstances of the case, I find that the importer has attempted to evade the payment of the correct Customs duty attributable on the subject consignment by way of suppressing the correct quantity and value of the imported consignment and thus, the subject imported goods are liable for confiscation under the provisions of Section-111(m) of the Act and the importer is also liable for penalty under the provisions of Section-114A of the Act. Accordingly, I pass the following Order :

ORDER

- (i) The seized goods weighing 93160 kgs. valued at Rs.16,97,561/- are confiscated under the provisions of Section-111(m) of the Customs Act,1962. However, I give an option to the importer to redeem the same on payment of redemption fine of Rs.2,00,000/- (Rs. Two Lakhs only) in lieu of confiscation under Section 125 of the Customs Act, 1962. Upon payment of the redemption fine, the seized goods stands released.
- (ii) I order to recover the differential Customs duty of Rs.1,88,782/- from the importer under the provisions of Section 28 of the Act;

(iii) I order to recover interest at the applicable rates under the provisions of Section 28AA of the Customs Act, 1962.

(iv) I impose a penalty equal to the duty and interest amount as shown at Sr.No.(ii) & (iii) above under Section 114A of the Customs Act, 1962. If the amount of duty alongwith interest is paid within 30 days of receipt of this order, the penalty shall stand reduced to 25%, provided the reduced penalty amount is also paid within 30 days of receipt of this order.


(Prabhat K. Rameshwaram)
Joint Commissioner

F. No. VIII/10-135/JC/O&A/2017
By Register Post A.D.

Date:27.04.2017

To
M/s.Kaushik Granites Pvt. Ltd.,
4,5,7. Meldi Estate, Near Railway Crossing,
Gota, Ahmedabad-382481.

Copy to:

1. Commissioner, Customs (Prev), Jamnagar.(Through RRA Section)
2. Dy. Commissioner of Customs House, Pipavav Port.
3. Guard File.