

	<p>भारत सरकार/ Government of India वित्त मंत्रालय/ Ministry of Finance आयुक्त सीमा शुल्क एनएस-II का कार्यालय, केंद्रीकृत अधिनियम प्रकोष्ठ, जवाहरलाल नेहरू सीमा शुल्क भवन न्हावा शेवा, तालुका-उरण, जिला -रायगढ़, महाराष्ट्र- 400 707 OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-II CENTRALIZED ADJUDICATION CELL, JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA, DIST- RAIGAD, MAHARASHTRA-400707</p> 
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**F. No.:** S/10-155/2025-26/ADC/CEAC/NS-II/CAC/JNCH  
CUS/SIIB/MISC/331/2024-SIIB(E) JNCH  
CUS/ASS/MISC/700/2024-CEAC

**Date of order:** 28.11.2025  
**Date of Issue:** 28.11.2025

**DIN:** 20251178NT0000000B5B

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

**मूल आदेश संख्या/Order-In-Original No.:** 1234/2025-26/ADC/NS-II/CAC/JNCH  
**निर्यातकानाम/Exporter's Name:** M/s Shreyash Traders (IEC: ABJFS8829F)

### मूल आदेश

1. यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए नि: शुल्क दी जाती है।

2. इस आदेश के विरुद्ध अपील सीमा शुल्क अधिनियम 1962 की धारा 128 (1) के तहत इस आदेश की संसूचना की तारीख से साठ दिनों के भीतर सीमा शुल्क आयुक्त (अपील), जवाहरलाल नेहरू सीमा शुल्क भवन, शेवा, ता. उरण, जिला - रायगढ़ - 400 707, महाराष्ट्र को की जा सकती है। अपील दो प्रतियों में होनी चाहिए और सीमा शुल्क (अपील) नियमावली, 1982 के अनुसार फॉर्म सी.ए.-1 संलग्नक में की जानी चाहिए। अपील पर न्यायालय फीस के रूप में 2.00 रुपये मात्र का स्टांप लगाया जायेगा और साथ में यह आदेश या इसकी एक प्रति लगाई जायेगी। यदि इस आदेश की प्रति संलग्न की जाती है तो इस पर न्यायालय फीस के रूप में 2.00 रुपये का स्टांप भी लगाया जायेगा जैसा कि न्यायालय फीस अधिनियम 1870 की अनुसूची 1, मद 6 के अंतर्गत निर्धारित किया गया है।

3. इस निर्णय या आदेश के विरुद्ध अपील करने वाला व्यक्ति, अपील अनिर्णीत रहने तक शुल्क या शास्ति के संबंध में विवाद होने पर माँगे गये शुल्क के 7.5% का, अथवा केवल शास्ति के संबंध में विवाद होने पर शास्ति का भुगतान करेगा।

### ORDER-IN-ORIGINAL

- This copy is granted free of charge for the use of the person to whom it is issued.
- An appeal against this order lies with the Commissioner of Customs (Appeal), Jawaharlal Nehru Custom House, Nhava Sheva, Tal: Uran, Dist.: Raigad, Maharashtra - 400707 under section 128(1) of the Customs Act, 1962 within sixty days from the date of communication of this order. The appeal should be in duplicate and should be filed in Form CA-1 Annexure on the Customs (Appeal) Rules, 1982. The Appeal should bear a Court Fee stamp of Rs.1.50 only and should be accompanied by this order or a copy thereof. If a copy of this order is enclosed, it should also bear a Court Fee Stamp of Rs. 1.50 only as prescribed under Schedule 1, items 6 of the Court Fee Act, 1970.
- Any person desirous of appealing against this decision or order shall, pending the appeal, make payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

### BRIEF FACTS OF THE CASE

On the basis of specific intelligence from NCTC, it was suspected that the Exporter M/s. Shreyash Traders (IEC: ABJFS8829F) having principal place of business at Plot No.76, Market Yard, Gultekadi, Pune, Maharashtra-411037 (hereinafter referred to as "the Exporter") was attempting to export a consignment of Readymade Garments declared as "Men Jeans made of blended" (hereinafter called as "the goods") by over-invoicing its value to claim undue export benefits i.e. Drawback & RoSCTL vide Shipping Bill No. 9346857 dated 23.04.2024 filed through their Customs Broker M/s. Sai Siddhi Forwarders (CHA License No. 11/1111) (hereinafter referred to as the "CB") from Nhava Sheva port. Thereafter, the said consignment was put on hold by SIIB (X), JNCH vide Hold No. 11/2024-25 dated 29.04.2024. The details of the said Shipping Bill are tabulated below:

**TABLE-I**

<b>Shipping Bill No.</b>	<b>Item Description and RITC</b>	<b>Declared FOB (in Rs)</b>	<b>Declared Drawback (In Rs.)</b>	<b>Declared RoSCTL (In Rs.)</b>
9346857 dated 23.04.2024	Men Jeans made of blended - 62034290	47,39,900.88/-	1,65,897/-	2,56,429/-

**2.** On the basis of specific intelligence from NCTC, regarding export of suspicious consignment of M/s. Shreyash Traders (IEC: ABJFS8829F) covered under Shipping bill No. 9346857 dated 23.04.2024 (hereinafter referred to as "Shipping Bill") (**RUD-I**) filed by authorized Customs Broker M/s. Sai Siddhi Forwarders and the export goods were carted for export. The subject goods were kept on hold vide Hold No.11/2024-25 dated 29.04.2024 for examination of the same as the declared value of the goods appeared to be highly overvalued and mis-declared to avail illegitimate claim of drawback and other export incentives. Hence the case was taken up by SIIB(X) for detailed investigation.

**3. EXAMINATION OF THE GOODS:** Consequently, the subject goods pertaining to the above Shipping Bill were examined under panchanama dated 04.05.2024 (**RUD-II**) in the presence of two independent Panchas and authorized representatives of Exporter i.e. Shri Kunal Ghag, G-card holder of M/s. Sai Siddhi Forwarders. having Kardex No. G-3008. During the course of 100% examination, the quantity and marked description was found as declared as per Shipping Bill. However, Representative Sealed Samples (RSS) in triplicate were drawn randomly and were sealed for the purpose of testing of declared description and for valuation through market enquiry.

**4. INSERTION OF ALERT AND CORRESPONDENCE WITH CGST AUTHORITIES:**  
An alert dated 09.05.2024 was inserted against IEC to suspend IGST and other export incentives. Subsequently, a letter dated 09.05.2024 was also issued to DC/CGST, Division VII (Katrai), Sasoon Road, Pune-I, CGST Commissionerate, to verify genuineness of the Exporter and its supplier. In reply, CGST, Range-I, Division VII (Katrai), Pune-II, CGST Commissionerate, vide letter F.No-R-I/D-VII/Pune-II/CGST/Shreyash Traders/2024-25 dated 28.08.2024 informed that the taxpayer has filed GST returns up to June 2024. Further, they informed that the exporter has an ITC

balance of Rs. 3,43,788/- in their Electronic Credit Ledger as on 22.07.2024 as per said letter.

Further, a letter dated 14.10.2024 was also issued to the jurisdictional DC/SGST, Pune, South-West Zone, opposite Golf Club, Airport Road, Yerawada. In reply, jurisdictional Maharashtra Goods & Services Tax Services, vide F.No.ACST/Bajirao-Road\_607/Nodal-5/2024-25/B-Pune dated 29.10.2024, informed that the GSTIN holder was found existent at the principal place of business mentioned in GSTN and had stock of food grains, pulses, oil, etc. Further, they informed that the taxpayer is active and has filed returns regularly. Also, the taxpayer has not availed any refund. Further, vide above-mentioned letter, State GST informed that the taxpayer purchased the garments from M/s. Royal Enterprises (GSTIN: 27DQIPS6853N1ZT), Vasai, Virar, Palghar, and the same goods were shipped to M/s. Ashab Almadina Goods Wholesalers Co. LLC, Dubai, UAE through Nhava Sheva Port. Further, SGST Authority informed that as per the contention, the whole consignment purchased from M/s. Royal Enterprises was directly shipped to Dubai (UAE), hence, no additional POB/Godown was maintained for garment storage.

Hence, as per the verification of the Maharashtra Goods & Services Tax Services Office, they believe that M/s. Shreyash Traders (GSTIN: 27ABJFS8829F1ZO) is a genuine taxpayer.

**5. TESTING OF THE GOODS:** To ascertain the nature, composition and correct classification of the goods, the representative sealed samples pertaining to the shipping bill were forwarded to DYCC, JNCH for testing on 09.05.2024. The DYCC, JNCH forwarded the test report to SIIB(X), JNCH. The details of the DYCC report (**RUD-III**) inter alia, are given below: -

Shipping Bill No.	Item Description	Lab No.	Report
9346857 dated 23.04.2024	Men Jeans made of blended	356/SIIB(X) dated 17.05.2024	<p>The sample was received in the form of dyed woven Ready-made Garment (Men's Jeans) and it is composed of spun yarns of cotton and filament yarns of polyester along with spandex yarns.</p> <p>GSM=447.00</p> <p>Composition %-</p> <p>Cotton=64.7%</p> <p>Polyester=31.7%</p> <p>Spandex=Balance (4.2%)</p>

Subsequently, the DYCC test report confirmed that the goods conform to their declared description and composition.

#### **6. Rejection of declared value:**

During 100% examination of the goods, the goods appeared to be mis-declared in terms of value owing to the inferior quality of fabrics used in the unbranded garments. It appears that the declaration made by the exporter at the time of filing of the said

shipping bills did not show correct and true details of the goods entered for export and as such they did not appear to represent true transaction value of the impugned goods. Hence, the declared value i.e. Rs. 47,39,900.88/- appeared to be liable for rejection in terms of Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and the value needs to be re-determined as per the provisions of the said Rules. For the 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. Therefore, the said value is required to be re-determined by sequentially proceeding in terms of Rule 4 to 6 of the Customs Valuation Rules, 2007.

#### **7. Re-determination of Valuation:**

- a. 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 was 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.
- b. 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 cannot be determined under the said Rule 4 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.
- c. 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 absence of complete cost data details, value cannot be determined as per Rule 5 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.
- d. As the provisions of Rule 4 & 5 ibid, are not applicable in the instant case, the value of the goods is required to be determined under the provisions of Rule 6 of the CVR 2007. Rule 6 of the said Rules reads as under: -
- b. RULE 6. Residual Method – “Subject to the provisions of rule 3, where the value of the export goods cannot be determined under the provisions of rules 4 and 5, the value shall be determined using reasonable means consistent with the principles and the general provisions of these rules provided that local market price of the export goods may not be the only basis for determining the value of export goods”. As per the provisions of Rule 6 ibid, the assessable value of the

goods is proposed to be re-determined under Rule 6 ibid, i.e. as per the residual method.

8. To ascertain the prevailing market value of the goods, the market enquiry of the goods covered under the subject shipping bill was required to be conducted, therefore market enquiry was conducted on 31.05.2024 (**RUD-IV**) in the presence of authorized representative of exporter. Value of the goods was taken from three different shops/dealers and average of their prices was taken as market value of the same. Considering transportation costs, taxes paid, profit margin of seller and other miscellaneous expenditures, approx 130% of average value was taken as assessable value for the goods. As per the market enquiry, the value of the goods has been re-determined and accordingly the export incentives have also been re-determined. On the basis of Panchanama dated 04.05.2024 and Market Enquiry report dated 31.05.2024, it is observed that the subject goods have been mis-declared in terms of valuation. The re-determined FOB value of the goods and corresponding export incentives under the Shipping Bill no. 9346857 dated 23.04.2024 would be as below:

**TABLE- II**

S/B No.	Item Description (Annexure A)	Shop 1	Shop 2	Shop 3	Average wholesale price (Redetermined PMV in Rs)	PMV @ 130% of average Wholesale Price	Redetermined FOB Value= Declared FOB* (Re-determined PMV/Declared PMV)
	Mens Jeans made of Blended	M&M Garments Apple Plaza Shop No 2 Next to Dadar Manish Market, Dadar (W) Mumbai 400028	ENDEEA/ 05, Kastur chand Mill Compound, Dadar (W), Mumbai 400028	Leeza Garments 168, Samuel Street, Masjid Bunder Mumbai 400009			
9346857 dated 23.04.24	Average Wholesale Price	585	595	610	597.67	760	3729458

**ANNEXURE A**

Declared FOB (in Rs)	Redetermined FOB (in Rs)	Declared DBK (in Rs)	Redetermined DBK (in Rs)	Declared RoSCTL (in Rs)	Redetermined RoSCTL (in Rs)
47,39,901/-	37,29,458.34/-	1,65,896.53/-	1,30,531.04/-	2,56,428.64/-	2,01,764/-

Total Difference in export incentives= Rs. 90,030/- (Rs. 35,365/- as drawback and Rs. 54,665/- as RoSCTL)

As can be seen from the tables above, based on the report received by the DYCC, JNCH and market enquiry conducted on 31.05.2024, it appears that the goods declared by the exporter in the Shipping Bill No. 9346857 dated 23.04.24 have been mis-declared in terms of their value. The value of the goods has been re-determined based on the

market survey report dated 31.05.2024. The export incentive such as Drawback & RoSCTL are therefore to be re-determined with respect to the new re-determined FOB of the goods as mentioned in the table above. Hence the declared value i.e. Rs. 47,39,901/- appeared to be liable for rejection in terms of Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and the value needs to be re-determined as per the provisions of the said Rules. For the 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. Prima facie on examination of the subject consignment, the declared value of the goods appeared to be on the higher side; the declared transaction value appeared liable for rejection under Rule 8 of the CVR and the said value is required to be re-determined by sequentially proceeding in terms of Rule 4 to 6 of the Customs Valuation Rules, 2007. 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 be ascertained from the wholesale market.

**9.** From the above, it appears that the Exporter had knowingly declared higher price of the goods with malafide intention to claim undue/excess export benefits i.e. differential Drawback to the tune of Rs. 35,365.48/-, differential RoSCTL amounting to Rs 54,665.01/- which was not legitimately available to him, thereby attempted to cause loss to the Government Exchequer. This shows the guilty intention on the part of the Exporter. Thus, it appears that the goods under Shipping Bill No.- 9346857 dated 23.04.2024 are liable to be confiscated under the provisions of section 113(i), 113(ia) and 113(ja) of the Customs Act, 1962.

**10. PROVISIONAL RELEASE OF GOODS:** The exporter vide their letter dated 07.06.2024 requested for provisional release of the goods for Back to town purpose and the request of the exporter was accepted by the adjudicating authority on 26.06.2024 as per the provisions of Board Circular no.01/2011 dated 04.01.2011 and 30/2013 dated 05.08.2013 and the goods were released provisionally for export after execution of Bond to the full value of the goods (FOB value) and Cash Security of Rs. 1,00,000/- (One Lakh) paid vide challan no. HCM-1847 dt. 26.06.2024.

**11. Recording of the Statement:**

**11.1** The statement of Mr. Sachin Kantilal Bhandari, Partner of M/s. Shreyash Traders (IEC: ABJFS8829F), was recorded under Section 108 of the Customs Act, 1962 on 08.08.2024, wherein he inter-alia stated that he is the partner of M/s. Shreyash Traders (IEC: ABJFS8829F) and that he presented himself voluntarily before Customs to release his Bond and Bank Guarantee.

- On being asked whether they filed Shipping Bill No. 9346857 dated 23.04.2024, he replied that they had filed this shipping bill through their Customs Broker,

M/s. Sai Siddhi Forwarders, but were later informed that the shipping bill was put on hold by SIIB (X) and the goods would be subjected to 100% examination.

- On being asked whether he agreed with the 100% examination conducted under Panchanama, he stated that the goods were rightly declared in terms of quantity and description. He agreed with the examination done under Panchanama and informed that their authorized representative, Shri Kunal Ghag (G-Card holder), was present during the examination.
- On being asked about the reason for the misdeclaration in terms of the exact value in the said shipping bill, which was also verified in the Market Enquiry Report, he replied that it was an unintentional mistake. He accepted the Market Enquiry Report and agreed with the Department's view regarding the value and exact description of the goods.
- On being asked how he came to know about the CHA, M/s. Sai Siddhi Forwarders, he stated that he was introduced to them through his cousin and came in contact with Mr. Kunal Ji, G-Card employee of M/s. Sai Siddhi Forwarders, whose staff also visited their premises for KYC purposes.
- On being asked about the absence of a proper supply chain while buying and selling the impugned goods, he stated that the GST verification had already been done by the concerned officials who verified their premises. Regarding the supply chain, he mentioned that he would check with their suppliers and submit the supplier's GST details and E-way bills within two days.
- On being asked whether he was the actual owner of the goods covered under the said shipping bill or merely a frontman, he replied that he is the partner of M/s. Shreyash Traders and the owner of the said goods.
- On being asked about their terms and conditions for payment to the buyer and source of funds used for procurement, he stated that they generally purchase goods on credit and make payments after receiving the remittance from the overseas buyer, usually within 120 days.
- On being asked whether they had ever been penalized by Customs, GST, or any other Government agency, he replied in the negative and stated that they are genuine exporters, regularly filing GSTR and e-way bills. He further stated that during the examination, the goods were found as declared in terms of quantity and description, and requested that the case be closed and their Bond and Bank Guarantee be released, assuring that they were ready to pay any fine or penalty as decided by the Department, while requesting a lenient view.

**11.2** Further, the statement of Mr. Sachin Kantilal Bhandari, Partner of M/s. Shreyash Traders (IEC: ABJFS8829F), was again recorded on 09.10.2024, wherein he inter-alia stated that they obtained their IEC on 26.07.2023 for export/import purposes. He confirmed that he is a partner in M/s. Shreyash Traders (IEC: ABJFS8829F).

- On being asked whether the goods exported under Shipping Bill No. 9296323 dated 22.04.2024 were the same as those covered under Shipping Bill No. 9346857 dated 23.04.2024, which was held by SIIB (X), he replied that the goods in both shipping bills were identical and procured from the same supplier.
- He further stated that, as it is difficult to secure export orders in the competitive market, they try to procure orders that can be fulfilled through locally sourced goods. He clarified that the goods were neither misdeclared nor misclassified, as they were duly examined by the examining officer. He admitted that the goods were slightly overvalued to earn a marginal profit and remain competitive in the market.
- He stated that the goods purchased from the supplier were directly transported to JWR, JNCH, Nhava Sheva. However, during the investigation, they came to know that no e-way bill had been generated by the supplier, which, according to him, occurred due to an oversight by the supplier.
- He again requested the Department to close the case and release their Bond and Bank Guarantee, expressing willingness to pay the fine and penalty as decided by the Department and requested that a lenient view be taken in the matter.

## 12. Past Exports:

**12.1** In order to investigate past consignments, the data was retrieved from ICES from date of issuance of IEC 26.07.2023 (amended on 27.02.2024) till 31.10.2024 for Exporter M/s. Shreyash Traders (ABJFS8829F). However, the Exporter had filed a total No. of 20 Shipping Bills only from 01.04.2024 to 31.05.2024 including SB No 9346857 dt 23.04.2024.

**Table-III**

S. No.	SB No/Date	LEO date	Description	BRG Realisation
1	8799344/01.04.2024	02.04.2024	Indian Fresh Cavendish Bananas G-9	Yet to be realised
2	8918865/05.04.2024	08.04.2024	Indian Fresh Cavendish Bananas G-9	Yet to be realised
3	8938382/06.04.2024	08.04.2024	Indian Fresh Cavendish Bananas G-9	Yet to be realised
4	8980015/08.04.2024	12.04.2024	Misc RMG	Yet to be realised
5	8979741/08.04.2024	12.04.2024	Misc RMG	Yet to be realised
6	8976788/08.04.2024	12.04.2024	Misc RMG	Yet to be realised
7	9077258/12.04.2024	15.04.2024	Misc RMG	Yet to be realised
8	9077245/12.04.2024	15.04.2024	Indian Fresh Cavendish Bananas G-9	Yet to be realised
9	9183415/17.04.2024	20.04.2024	Indian Fresh Cavendish Bananas G-9	Yet to be realised
10	9183382/17.04.2024	20.04.2024	Indian Fresh Cavendish Bananas G-9	Yet to be realised
11	9296323/22.04.2024	22.04.2024	Mens Jeans Made of Blended	Yet to be realised
12	9292535/22.04.2024	22.04.2024	Indian Fresh Cavendish Bananas G-9	Yet to be realised
13	9346857/23.04.2024	25.04.2024	Mens Jeans made of blended	Yet to be realized
14	9361335/24.04.2024	25.04.2024	Misc RMG	Yet to be realised
15	9360529/24.04.2024	25.04.2024	Misc RMG	Yet to be realised
16	9359367/2404.2024	25.04.2024	Misc RMG	Yet to be realised

17	9391569/25.04.2024	26.04.2024	Indian Fresh Alphonso Mango	Yet to be realised
18	9939655/17.05.2024	17.05.2024	Indian Fresh Cavendish Bananas G-9	Yet to be realised
19	1003837/20.05.2024	20.05.2024	Indian Fresh Cavendish Bananas G-9	Yet to be realised
20	1470642/06.06.2024	Purged	Indian Fresh Cavendish Bananas G-9	Yet to be realised

**12.2** It is noticed that there is only one Shipping Bill having No. 9296323 dated 22.04.2024, wherein, exporter had exported the identical goods declared as "Men's Jeans made of blended" on the same value. The exporter had claimed Drawback of Rs. 156690.18/- & RoSCTL amounting to Rs. 287266-. Hence, the goods vide Shipping Bill No. 9296323 dated 22.04.2024 also needs to be re-determined taking Market Enquiry dated 31.05.2024 in consideration.

Therefore, the total export benefits availed by the Exporter in the past Shipping Bill No. 9296323 dated 22.04.2024 were re-determined in terms of goods covered under S/B No. 9346857 dated 23.04.2024 & is given below:

ANNEXURE B					
Declared FOB (in Rs)	Redetermined FOB (in Rs)	Declared DBK (in Rs)	Redetermined DBK (in Rs)	Declared RoSCTL (in Rs)	Redetermined RoSCTL (in Rs)
47,48,187.42	37,40,508.74	1,56,690.18	1,23,436.78	2,87,266.00	2,26,301.30

From the above, it also appears that the Exporter had knowingly declared a higher price of the goods in the previous shipping bill with a malafide intention to claim undue/excess export benefits, i.e., differential Drawback to the tune of Rs 33,253.40 and differential RoSCTL amounting to Rs 60,964.70, which were not legitimately available to him, thereby attempting to cause loss to the Government exchequer. Thus, it appears that the goods covered under Shipping Bill No. 9296323 dated 22.04.2024 are also liable to be confiscated under the provisions of Sections 113(i), 113(ia), and 113(ja) of the Customs Act, 1962.

**12.3** During further investigation, ICES data was scrutinized and it was found that no BRC/foreign remittance has been realized yet against this IEC. It is also pertinent to mention here that the prescribed timeline for realization of foreign remittance is nine months as per RBI Master Circular No. 14/2014-15 dated 01.07.2014, which states:

*"It has been decided in consultation with the Government of India that the period of realization and repatriation of export proceeds shall be nine months from the date of export for all exporters including Units in SEZs, Status Holder Exporters, EOUs, Units in EHTPs, STPs, and BTPs until further notice."*

### **13. RELEVANT LEGAL PROVISIONS:**

#### **A. Customs Act, 1962:**

**Section 2(30):** Market price in relation to any goods means the wholesale price of the goods in the ordinary course of trade in India.

**Section 50:** Entry of goods for Exportation. –

(1) The Exporter of any goods shall make entry thereof by presenting [electronically] [on the customs automated system] to the proper officer in the case of goods to be Exported in a vessel or aircraft, a Shipping Bill, and in the case of goods to be Exported by land, a bill of Export [in such form and manner as may be prescribed]:

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

(2) The Exporter of any goods, while presenting a Shipping Bill or bill of Export, shall make and subscribe to a declaration as to the truth of its contents.

(3) The Exporter who presents a Shipping Bill or bill of Export under this section shall ensure the following, namely:-

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

**SECTION 113(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;

**Section 113(ia):** Any goods entered for Exportation under claim for drawback which do not correspond in any material particular with any information furnished by the Exporter or manufacturer under this Act in relation to the fixation of the rate of drawback under Section 75, shall be liable to confiscation; **Section 113(ja):** any goods entered for Exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the Provisions of this Act or any other law for the time being in force;

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

**Section 114(iii):** Any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act, shall be liable, in the case of any other goods, to a penalty not exceeding the value of the goods as declared by the Exporter or the value as determined under this Act, whichever is the greater;

**Section 114AA:** Penalty for use of false and incorrect material. -

If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any

material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.

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

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

**Section 75A(2) of Customs Act, 1962:** Where any drawback has been paid to the claimant erroneously or it becomes otherwise recoverable under this Act or the rules made there under, the claimant shall, within a period of two months from the date of demand, pay in addition to the said amount of drawback, interest at the rate fixed under section 28AA and the amount of interest shall be calculated for the period beginning from the date of payment of such drawback to the claimant till the date of recovery of such drawback.

**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 there under, 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,—

- (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.]

**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 (1):** Where an amount of drawback has been paid to an exporter or a person utilized by him (hereinafter referred to as the claimant) but the sale proceeds in respect of such export goods have not been utilized 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

**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.

**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.

**14. Whereas, from the investigation, the following facts emerge that:**

**14.1** M/s. Shreyash Traders (IEC: ABJFS8829F) having its registered office at Plot No.76 Market Yard Gultekadi Pune,Maharashtra-411037 had filed a Shipping Bill No.- 9346857 dated 23.04.2024 through their authorised Customs Broker M/s. Sai Siddhi Forwarders for export of Readymade Garments declared as "Men Jeans made of blended" (hereinafter referred to as "the goods") under Scheme Code 60 with claim of Drawback & RoSCTL. From the facts, evidence and provisions discussed above, it appears that Exporter had mis declared the goods in terms of value to avail undue drawback, RoSCTL & IGST benefits. Therefore, the FOB value of said Shipping Bill No. 9346857 dated 23.04.2024 has been re-determined under Rule 6 of CVR, 2007 which comes to Rs. 37,29,458.34/- against declared FOB of Rs.47,39,900.88/-. Thus, by the act of over-valuation, the Exporter had intentionally attempted to claim undue/excess export benefit i.e. differential Drawback to the tune of Rs. 35,365.48/-, differential RoSCTL amounting to Rs. 54,665.01/- which was not legitimately available to the exporter in case of the said Shipping Bill.

**14.2** From the past records, it also appears that Exporter had exported the same goods by mis declaring the goods in terms of value to avail undue drawback & RoSCTL benefits

vide Shipping Bill No.- 9296323 dated 22.04.2024. Therefore, the FOB value of Shipping Bill No.- 9296323 dated 22.04.2024 has been re-determined under Rule 6 of CVR, 2007 which comes to Rs. 37,40,508.74/- against declared FOB of Rs. 47,48, 187.42/- with malafide intention to claim undue/excess export benefits i.e. differential Drawback to the tune of Rs. 33,253.40/-, differential RoSCTL amounting to Rs 60,964.70/- which was not legitimately available to the exporter in case of the said Shipping Bill. Hence, the past Shipping Bill No. 9296323 dated 22.04.2024 was re-assessed with re-determined drawback & RoSCTL to Rs. 1,23,436.78/- & Rs.2,26,301.30/- against declared drawback & RoSCTL of Rs. 1,56,690.18/- & Rs.2,87,266/- respectively.

**14.3** Whereas, the Exporter had intentionally mis-declared in terms of value of the goods to claim undue export benefits i.e. Drawback & RoSCTL etc. and in breach of provisions of Section 50(2) of the Customs Act, 1962 read with Rule 11 of Foreign Trade (Regulations) Rules, 1993. Thus, it appears that the goods under the Shipping Bill Nos 9346857 dated 23.04.2024 and 9296323 dated 22.04.2024 appears liable to be confiscated under the provisions of section 113(i), 113(ia) and 113(ja) of the Customs Act, 1962 and consequently rendered himself for penalty under Section 114(iii), 114AA and 114AC of the Customs Act, 1962.

**14.4** Based on the revised value, the excess export benefits pertained to the shipping bills as detailed in Table-I and in Annexure-A of the Investigation Report. The differential export incentive amounts are as under:

(i) Shipping Bill No. 9346857 dated 23.04.2024

- Excess Drawback: ₹35,365.48 • Excess RoSCTL: ₹54,665.01

(ii) Shipping Bill No. 9296323 dated 22.04.2024

- Excess Drawback: ₹33,253.40 • Excess RoSCTL: ₹60,964.70

The total excess export incentive of ₹1,84,248.59 (comprising Drawback and RoSCTL) is recoverable from the exporter under Rule 17 of the Customs and Central Excise Duties Drawback Rules, 2017 read with Section 75A of the Customs Act, 1962, along with interest calculated at the rate prescribed under Section 28AA of the Customs Act, 1962.

**14.5** Further, CGST letter vide F.No-R-I/D-VII/Pune-II/CGST/ Shreyash traders/2024-25 dated 28.08.2024 informed that exporter have ITC balance of 3,43,788/- in their electronic Credit Ledger as on 22.07.2024 and as per jurisdictional State GST letter vide F.No. ACST/BajiraoRoad\_607/Nodal-5/2024-25/B-Pune dated 29.10.2024 informed that the GSTIN Holder is found existent at principal place of business mentioned in GSTN and have stock of food Grains, Pulses, Oil etc. Also, the Taxpayer is active and filed returns regularly. Taxpayer didn't avail any refund. Further, they informed that the Taxpayer purchased the garments from M/s. Royal Enterprises (GSTIN- 27DQIPS6853N1ZT), Vasai, Virar, Palghar and the same goods were shipped to M/s. Ashabh Almadina Goods Wholesalers Co. LLC. Dubai, UAE through Nhava-Sheva Port. Taxpayer purchased the whole consignment from M/s. Royal Enterprises directly

shipped to Dubai (UAE). Hence, no additional POB/Godown maintained for garment storage. As per the verification of Maharashtra Goods & Services Tax Services Office, M/s. Shreyash Traders (GSTIN- 27ABJFS8829F1Z0) is a genuine Taxpayer.

**14.6** Further, there appears no violation of CBLR Regulations, 2018 on the part of CB in the instant case.

**15.** In this regard, the exporter, M/s Shreyash Traders (IEC: ABJFS8829F), vide mail dated 02.08.2025, has requested a **waiver of the Show Cause Notice** and requesting for grant of Personal Hearing.

**16. RECORD OF PERSONAL HEARING:**

Shri Sachin Kantilal Bhandari, partner in M/s Shreyash Traders presented himself for personal hearing on 25.09.2025 before the adjudicating authority, wherein he stated that GST authorities visited his premises and checked records and found everything in order. No discrepancy was noticed by them and the same is forwarded to SIIB(X), JNCH vide letter dated 29.10.2024. Further he stated that their company is filing GST returns timely and existent at declared address. He requested for speedy disposal of the case.

**DISCUSSION AND FINDINGS**

**17.** I have carefully gone through the facts of the case and evidences available on records. During the course of investigation 100% Examination conducted by the Investigating Agency and subsequent DyCC Test Reports and Market Enquiry conducted by the Investigating Agency which revealed the mis-declaration of the export goods in terms of valuation. The Exporter also voluntarily accepted the re-determined value of the goods on the basis of Market Inquiry and re-determined export incentives in form of Drawback/RoSCTL/IGST Refund thereof. I find that the Exporter has requested for waiver of the SCN and appeared for personal hearing. Therefore, I am constrained to proceed with the adjudication proceedings *ex-parte*, on the basis of available facts and evidences on record.

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

- i. Whether the total declared FOB value of the instant Shipping Bill No. **9346857 dated 23.04.2024** for Rs. 47,39,900.88/- as mentioned at Annexure-A should be rejected under Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and needs to be re-determined at Rs. 37,29,458.34/- under Rule 6 of said Rules?
- ii. Whether the total declared FOB value of the past Shipping Bill No. **9296323 dated 22.04.2024** for Rs. 47,48,187.42/- as mentioned at Annexure-B should be rejected under Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and needs to be re-determined at Rs. 37,40,508.74/- under Rule 6 of said Rules?
- iii. Whether the Shipping Bill No. 9346857 dated 23.04.2024 should be re-assessed with re-determined FOB value of Rs. 37,29,458.34/- with re-determined drawback & RoSCTL to Rs. 1,30,531.04/- and Rs. 2,01,763.98/- against declared drawback &

RoSCTL of Rs. 1,65,896.53/- and Rs. 2,56,428.64/- respectively as detailed at Annexure-A?

- iv. Whether the past Shipping Bill No. 9296323 dated 22.04.2024 should also be re-assessed with re-determined FOB value of Rs. 37,40,508.74/- with re-determined drawback & RoSCTL to Rs. 1,23,436.78/- and Rs. 2,26,301.30/- against declared drawback & RoSCTL of Rs. 1,56,690.18/- and Rs. 2,87,266/- respectively as detailed at Annexure-B?
- v. Whether the goods vide Shipping Bill No. 9346857 dated 23.04.2024 of FOB value Rs. 47,39,900.88/- and Shipping Bill No. 9296323 dated 22.04.2024 of FOB value Rs. 47,48,187.42/- should be confiscated under Section 113(i), 113(ia) and 113(ja) of the Customs Act, 1962 and whether the Bond & Bank Guarantee submitted at the time of provisional release (Back-to-Town) should be enforced?
- vi. Whether penalty should be imposed upon the exporter M/s. Shreyash Traders under Section 114(iii) of the Customs Act, 1962 for omission and commission on the part of the exporter for not entering the goods for exportation in respect of value?
- vii. Whether penalty should be imposed upon the exporter M/s. Shreyash Traders under Section 114AA of the Customs Act, 1962 for knowingly or intentionally making, signing or using, or causing to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular in the transaction of any business to claim undue/excess export benefit?
- viii. Whether penalty should be imposed upon the exporter M/s. Shreyash Traders under Section 114AC of the Customs Act, 1962 for obtaining invoice by fraud, collusion, willful misstatement or suppression of facts to utilize input tax credit for export under claim of refund?

**19.** I find that in the instant case, the Exporter, M/s. Shreyash Traders was attempting to export a consignment of Readymade Garments declared as "Men Jeans made of blended" (hereinafter called as "the goods") by over-invoicing its value to claim undue export benefits i.e. Drawback & RoSCTL vide Shipping Bill No. 9346857 dated 23.04.2024 filed through their Customs Broker M/s. Sai Siddhi Forwarders (CHA License No. 11/1111) (hereinafter referred to as the "CB") from Nhava Sheva port. The total declared FOB Value of the goods covered under subject S/Bill was Rs 47,39,901/- and the Exporter claimed Drawback amounting to Rs. 1,65,896.53/- and RoSCTL amounting to Rs. 2,56,428.64/-.

**20.** I find that on the basis of specific intelligence from NCTC, it was suspected that the Exporter was attempting to export a risky consignment of goods and suspected mis-declaration of value and availment of undue/excess export incentives thereof. Accordingly, the subject goods were kept on hold by the Officers of SIIB (X), JNCH for thorough examination of the same. I find that the goods were examined 100% under Panchanama dated 04.05.2024 in the presence of authorized representative of Exporter and 'G' Category Pass holder of the CB firm. During examination, it was noticed that number of packages & quantity were found as declared in the said S/Bills, however, *prima facie* on visual inspection of the goods it appeared that owing to nature of the goods the same are not in conformity with declared composition of goods, therefore appeared mis-classified and also appeared grossly overvalued. Therefore, RSS in duplicate were randomly drawn and sealed for the purpose of testing of declared

description and valuation angle as well as to conduct Market Inquiry to ascertain Present Market Value of the goods.

**21.** I find that the RSS drawn were forwarded to DyCC, JNCH for testing purpose, reported that there is no difference in composition of the goods (as detailed in Table-II above) and therefore the same are correctly classified.

**22.** I find that at the request of the Exporter, the Competent Authority has granted permission for provisional release of goods for taking the goods Back-to-Town after execution of Bond equivalent to the declared FOB Value of the subject export goods and deposit of Cash Security amounting to Rs. 1,00,000/- vide HCM-1847 dt. 26.06.2024. And accordingly, provisional release of goods was allowed for taking the goods Back-to-Town.

**23.** I find that during the course of investigation letter was forwarded to jurisdictional DC/CGST Commissionerate to verify genuineness of the Exporter and its suppliers. CGST letter vide F.No-R-I/D-VII/Pune-II/CGST/ Shreyash traders/2024-25 dated 28.08.2024 informed that exporter have ITC balance of 3,43,788/- in their electronic Credit Ledger as on 22.07.2024 and as per jurisdictional State GST letter vide F.No. ACST/BajiraoRoad\_607/Nodal-5/2024-25/B-Pune dated 29.10.2024 informed that the GSTIN Holder is found existent at principal place of business mentioned in GSTN and have stock of food Grains, Pulses, Oil etc. Also, the Taxpayer is active and filed returns regularly. Taxpayer didn't avail any refund. Further, they informed that the Taxpayer purchased the garments from M/s. Royal Enterprises (GSTIN- 27DQIPS6853N1ZT), Vasai, Virar, Palghar and the same goods were shipped to M/s. Ashabh Almadina Goods Wholesalers Co. LLC. Dubai, UAE through Nhava-Sheva Port. Taxpayer purchased the whole consignment from M/s. Royal Enterprises directly shipped to Dubai (UAE). Hence, no additional POB/Godown maintained for garment storage. As per the verification of Maharashtra Goods & Services Tax Services Office, M/s. Shreyash Traders (GSTIN- 27ABJFS8829F1Z0) is a genuine Taxpayer.

**24.** I find that being the goods are found to be not properly declared in the export documents as found to be mis-declared in term of valuation and availed undue & excess Drawback, RoSCTL, however, timely interception of consignments and insertion of Alert in EDI System, the export incentives against said S/Bill 9346857 dated 23.04.2024 are withheld/suspended. Therefore, the Investigating Agency proposed rejection of value of the impugned goods under the provisions of Rule 8 of CVR (X), 2007. I find that the Investigating Agency is right to re-determine the value of the goods conducted a Market Inquiry in presence of authorized representative of the Exporter. Accordingly, the Investigating Agency has obtained average wholesale price of the goods (as detailed in Table-III above). Accordingly, the Investigating Agency proposed re-determined value of the goods covered under subject S/Bill 9346857 dated 23.04.2024 at Rs. 37,29,458.34/- . I agree with the method adopted by the Investigating Agency to re-determine the value of the goods and subsequent proposal thereof. The valuation aspect has been discussed at length at Paras Nos. 6.1 to 6.5 *supra*. Further, the Investigating Agency found that identical export vide SB No 9296323 dated 22.04.2024 having

identical goods on the same value i.e. FOB of Rs 47,48,187.42/- had been done by the exporter. Accordingly, the Investigating Agency re-determined the FOB taking Market enquiry dated 31.05.2024 in consideration and re-determined value of the goods covered under subject S/Bill 9296323 dated 22.04.2024 at Rs.37,40,508.74/- as mentioned in Annexure-B above. I agree with the method adopted by the Investigating Agency to re-determine the value of the goods and subsequent proposal thereof.

**25.** I find that on the basis of re-determined value, the export incentives for SB No 9346857 dated 23.04.2024 were also proposed to be re-determined as Drawback at Rs.1,30,531.04/- and RoSCTL at Rs. 2,01,764/- and export incentives for SB No 9296323 dated 22.04.2024 were also proposed to be re-determined as Drawback at Rs.1,23,436.78/- and RoSCTL at Rs. 2,26,301.3/- . However, in the instant case, SB No 9346857 dated 23.04.2024, the goods have not been exported and cleared provisionally for Back-to-Town only, therefore, the Exporter is not entitled for any export incentives and the same is required to be rejected. I find that as an Alert has been inserted in EDI System against the IEC of the Exporter, the export incentives have not been disbursed yet. For, SB No 9296323 dated 22.04.2024, the goods have been exported, therefore, the differential export incentives need to be recovered from the exporter along with applicable interest.

**26.** I find that the exporter had not made declaration truthfully in the Shipping Bills No. 9346857 dated 23.04.2024 and thus, they have violated the conditions of Section 50(2) of the Customs Act, 1962 read with Section 11(1) of Foreign Trade (Development & Regulation) Act 1992 & Rules 11 of Foreign Trade Rules 1993, as exporter had furnished wrong declaration to the Custom Authorities. Hence, it appears that there is a deliberate mis-declaration, mis-statement and suppression of facts regarding the actual value of the impugned goods on the part of the exporter with mala-fide intention to avail undue export benefit not legitimately payable to them. Hence, the declared value i.e. Rs. 47,39,900.88/- appeared to be liable for rejection in terms of Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and the value needs to be re-determined to Rs. 37,29,458.34/- as per Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007, read with Section 14 of the Customs Act, 1962.

**27.** I find that IEC holder had intentionally mis-declared in terms of value of the goods to claim undue export benefits i.e. Drawback & RoSCTL etc. and in breach of provisions of Section 50(2) of the Customs Act, 1962 read with Rule 11 of Foreign Trade (Regulations) Rules, 1993.

**28.** I find that the exporter had inflated FOB value of the goods covered under shipping bills No. 9346857 dated 23.04.2024 and thereby illegally attempted to avail excess/undue export benefit and thereby acted in a manner which rendered the said goods is liable for confiscation in terms of the provisions of Section 113(i), 113(ia) & 113(ja) of the Customs Act, 1962 and consequently rendered himself for penalty under Section 114(iii) and 114AA of the Customs Act, 1962.

**29.** I find from the past records that the exporter had exported identical goods by misdeclaring their value with the intention to avail undue Drawback, RoSCTL benefits, vide Shipping Bill No. 9296323 dated 22.04.2024. Accordingly, the FOB value of the said shipping bill has been re-determined under Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007, at Rs 37,40,508.74, as against the declared FOB value of Rs 47,48,187.42 and the Drawback and RoSCTL amounts have been re-determined at Rs 1,23,436.78 and Rs 2,26,301.30, respectively, in place of the originally declared amounts of Rs 1,56,690.18 and Rs 2,87,266.00. It is, therefore, evident that the exporter had inflated the FOB value of the goods covered under the aforesaid shipping bill and thereby illegally attempted to avail excess/undue export benefits. Such acts render the said goods liable to confiscation under the provisions of Sections 113(i), 113(ia), and 113(ja) of the Customs Act, 1962, and consequently render the exporter liable for penal action under Sections 114(iii) and 114AA of the Customs Act, 1962.

**30.** I find that, based on the re-determined FOB value, the differential Drawback amount of **₹68,618.89/-** (₹35,365.48/- for Shipping Bill No. 9346857 dated 23.04.2024 and ₹33,253.40/- for Shipping Bill No. 9296323 dated 22.04.2024) is liable to be rejected and recovered from the exporter under Rule 18 of the Customs and Central Excise Duties Drawback Rules, 2017, read with Section 75 and Section 75A of the Customs Act, 1962 along with applicable interest. Further, the differential RoSCTL amount of **₹1,15,629.36/-** (₹54,665.01/- for Shipping Bill No. 9346857 and ₹60,964.70/- for Shipping Bill No. 9296323) is also liable to be rejected and recovered from the exporter, and the exporter shall also be liable to pay interest at the rate notified under Section 28AA of the Customs Act, 1962, in terms of Section 75A(2).

**31.** I find that, on the basis of the facts and circumstances mentioned herein above, it appears that the Exporter have knowingly and deliberately indulged themselves in wilful mis-statement and alleged suppression of facts with regard to Shipping Bills mentioned in SCN, with an intent to violate the provisions of Custom Act by their aforesaid acts of omission and commission appears to have rendered the impugned goods liable for confiscation under Section 113 (i) & 113 (ia) of the Customs Act, 1962. I rely upon the order of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.) wherein the Hon'ble Madras High Court held in para 23 of the judgment as below:

**32.1** "23. The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields. The fine under Section 125 is in lieu of confiscation of the goods. The payment of fine followed up by payment of duty and other charges leviable, as per sub-section (2) of Section 125, fetches relief for the goods from getting confiscated. By subjecting the goods to payment of duty and other charges, the improper and irregular importation is sought to be regularized, whereas, by subjecting the goods to payment of fine under sub-section (1) of Section 125, the goods are saved from getting confiscated. Hence, the availability of the goods is not necessary for imposing the redemption fine. The opening words of Section 125, "Whenever confiscation of

any goods is authorized by this Act....", brings out the point clearly. The power to impose redemption fine springs from the authorization of confiscation of goods provided for under Section 111 of the Act. When once power of authorization for confiscation of goods gets traced to the said Section III 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 the payment of the 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. We accordingly answer question No. (i)."

**32.2** I find that the above view of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited 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.) and the same have not been challenged by any of the parties in operation. Hence, I find that any goods improperly exported as provided in any sub-section of Section 113 of the Customs Act, 1962 are liable to confiscation and merely because the exporter was not caught at the time of clearance of the exported goods, can't be given differential treatment. In view of the above, I find that the decision of the Hon'ble Madras High Court in the case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.), which has been passed after observing the decision of Hon'ble Bombay High Court in case of M/s Finesse Creations Inc reported vide 2009 (248) ELT 122 (Bom)-upheld by Hon'ble Supreme Court in 2010(255) ELT A.120(SC), is squarely applicable in the present case. Accordingly, I observe that the present case also merits the imposition of a Redemption Fine.

**33.** I find that Section 114AC of the Customs Act, 1962 is invoked in the show cause notice on the ground that the exporter had obtained invoice by fraud, collusion, willful misstatement or suppression of facts to utilize input tax credit for export under claim of refund. However, during the course of investigation and based on verification reports received from CGST and State GST authorities, it is evident that the exporter has not claimed any IGST refund or utilized fraudulent or ineligible input tax credit for the purpose of export. The GST verification further confirms that the taxpayer is active, filing returns regularly and the ITC balance remains unutilized. Accordingly, I find that the ingredients required to attract penal consequences under Section 114AC are not satisfied in the present case. Therefore, no penalty under Section 114AC of the Customs Act, 1962 is warranted.

**34.** I find that the exporter has deposited security of Rs 1,00,000/- vide HCM-1847 dt. 26.06.2024 for shipping bill for provisional release of goods attempted to be exported vide Shipping Bills no. 9346857 dated 23.04.2024 and the same is liable to be appropriated against excess export incentives, applicable interest, redemption fine and penalty etc.

**ORDER**

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

- i. I reject the declared FOB value of the export goods covered under the **Instant Shipping Bill No. 9346857 dated 23.04.2024, i.e., ₹47,39,901/-**, under the provisions of Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and order to re-determine the same at ₹37,29,458.34/- under Rule 6 of the said Rules, based on the Market Inquiry Report.
- ii. I reject the declared FOB value of the export goods covered under the **Past Shipping Bill No. 9296323 dated 22.04.2024, i.e., ₹47,48,187.42/-**, under the provisions of Rule 8 of the Customs Valuation Rules, 2007 and order to re-determine the same at ₹37,40,508.74/- under Rule 6 of the said Rules.
- iii. I order confiscation of the export goods covered under the Instant Shipping Bill **No. 9346857 dated 23.04.2024** under the provisions of Section 113(i), 113(ia) and 113(ja) of the Customs Act, 1962. I impose a Redemption Fine of ₹1,50,000/- (Rupees One Lakh Fifty Thousand only) under Section 125 of the Customs Act, 1962 in lieu of confiscation.
- iv. I order confiscation of the export goods covered under the **Past Shipping Bill No. 9296323 dated 22.04.2024** under Section 113(i), 113(ia) and 113(ja) of the Customs Act, 1962. I impose a Redemption Fine of ₹1,50,000/- (Rupees One Lakh Fifty Thousand only) under Section 125 of the Customs Act, 1962 in lieu of confiscation.
- v. I deny and reject the originally claimed export benefits in respect of the **Past Shipping Bill No. 9296323 dated 22.04.2024**, i.e., Drawback of ₹1,56,690.18/- and RoSCTL of ₹2,87,266/-, and redetermine the admissible export benefit to the revised eligible amount i.e., Drawback of ₹1,23,436.78/- and RoSCTL of ₹2,26,301.30/-. Accordingly, I order recovery of the differential Drawback amount of ₹33,253.40/- and differential RoSCTL amount of ₹60,964.70/- from the exporter M/s. Shreyash Traders, along with applicable interest under Section 75A(2) read with Section 28AA of the Customs Act, 1962 and in terms of Rule 17 of the Customs and Central Excise Duties Drawback Rules, 2017 if the amounts are sanctioned to the exporter.
- vi. I deny and reject the export incentive originally claimed in respect of the instant Shipping Bill No. 9346857 dated 23.04.2024, namely Drawback of ₹1,65,896.53/- and RoSCTL of ₹2,56,428.64/- as the goods have been released for back to town. In the event any amount has been sanctioned or disbursed, the same shall be recoverable from the exporter M/s. Shreyash Traders, along with applicable interest under Section 75A(2) read with Section 28AA of the Customs Act, 1962 and in terms of Rule 17 of the Customs and Central Excise Duties Drawback Rules, 2017.
- vii. The Regional Authority, DGFT, Mumbai is hereby requested to initiate necessary action for restriction/denial of RoSCTL benefits claimed by M/s. Shreyash Traders against the above two shipping bills, based on the revised and re-determined values.

viii. I impose a penalty of ₹100,000/- (Rupees One Lakh only) on the exporter M/s. Shreyash Traders (IEC: ABJFS8829F) under Section 114(iii) of the Customs Act, 1962, in respect of Shipping Bill No. 9346857 dated 23.04.2024, as the said goods were attempted to be exported at an overvalued price with the intent to avail excess export incentives

ix. I further impose a penalty of ₹100,000/- (Rupees One Lakh only) on the exporter M/s. Shreyash Traders under Section 114AA of the Customs Act, 1962, in respect of Shipping Bill No. 9346857 dated 23.04.2024.

x. I impose a penalty of ₹75,000/- (Rupees Seventy-Five Thousand only) on the exporter M/s. Shreyash Traders under Section 114(iii) of the Customs Act, 1962, in respect of Shipping Bill No. 9296323 dated 22.04.2024, as the goods covered under this shipping bill had already been exported on the basis of overvaluation resulting in excess export benefits being availed.

xi. I impose a penalty of ₹75,000/- (Rupees Seventy-Five Thousand only) on M/s. Shreyash Traders under Section 114AA of the Customs Act, 1962, in respect of Shipping Bill No. 9296323 dated 22.04.2024.

xii. I find that the ingredients required to attract penal consequences under Section 114AC are not satisfied in the present case. Therefore, no penalty under Section 114AC of the Customs Act, 1962 is imposed.

xiii. The above referred Redemption Fine and Penalty should be deposited with Customs Treasury within 30 days of receipt of this Order, failing which I order to appropriate an amount of Rs. 1,00,000/- (Rupees One Lakhs only) deposited by the Exporter vide Challan No. HCM-1847 dt. 26.06.2024023 at the time of provisional release of the goods.

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

  
**(RAGHU KIRAN B.)**  
Additional Commissioner of Customs,  
CEAC, NS-II, JNCH

To,

i. Shreyash Traders (IEC: ABJFS8829F) having its registered office at Plot No.76  
Market Yard ,  
Gultekadi Pune,  
Maharashtra-411037

Copy to:

1. The Commissioner of Customs, NS II, JNCH, Nhava Sheva.

2. The Dy./Asstt. Commissioner of Customs, SIIB (X), JNCH, Nhava Sheva
3. The Dy./Asstt. Commissioner of Customs, CRAC (X), JNCH, Nhava Sheva.
4. The Dy./Asstt. Commissioner of Customs, CRRC Cell, JNCH, Nhava Sheva.
5. The Dy. Commissioner of Customs, EDI, JNCH, Nhava Sheva.
6. Supdt. (P), CHS, JNCH for display on Notice Board.
7. The Dy./Asstt. Commissioner of Customs, Drawback Section, JNCH, Nhava Sheva.
8. The Dy. Director, DGFT, 'C' Block, PMT Commercial Complex, Shankarseth Road, Swargate, Pune - 411 037,- for necessary action w.r.t. disbursal of export benefit under RoSCTL Scheme
9. Office copy.