

 <p>सत्यमेव जयते</p>	<p>भारत सरकार/ Government of India वित्त मंत्रालय/ Ministry of Finance आयुक्त सीमा शुल्क एनएस-II का कार्यालय, केंद्रीकृत अधिनिर्णयन प्रकोष्ठ, जवाहरलाल नेहरू सीमा शुल्क भवन न्हावा शेवा, तालुका-उरण, जिला -रायगढ़, महाराष्ट्र- 400 707 OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-II CENTRALIZED ADJUDICATION CELL, JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA, DIST- RAIGAD, MAHARASHTRA-400707</p>	
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फा.सं./F. No.: S/10-230/2025-26/ADC/CEAC/NS-II/CAC/JNCH

Date of Order: 24 .12.2025

द.प.सं./DIN: 20251278NT000081864E

Date of Issue: 31.12.2025

SCN No. 1704/2024-25/ADC/CEAC/NS-II/CAC/JNCH

Date of SCN: 05.02.2025

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

मूल आदेश सं./Order-In-Original No.: 1365/2025-26/ADC/CEAC/NS-II/CAC/JNCH

निर्यातक का नाम/Exporter's Name: **M/s Hirotec India Private Limited (IEC No. 3205007387)**

### मूलआदेश

- यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निः शुल्क दी जाती है।
- इस आदेश के विरुद्ध अपील सीमाशुल्क अधिनियम 1962 की धारा 128 (1) के तहत इस आदेश की संसूचना की तारीख से साठ दिनों के भीतर सीमाशुल्क आयुक्त (अपील), जवाहरलाल नेहरू सीमाशुल्क भवन, शेवा, ता. उरण, जिला – रायगढ़ – ४०० ७०७, महाराष्ट्र को की जा सकती है। अपील दो प्रतियों में होनी चाहिए और सीमाशुल्क (अपील) नियमावली, 1982 के अनुसार फॉर्म सी.ए.-1 संलग्नक में की जानी चाहिए। अपील पर न्यायालय फीस के रूप में 1.50 रुपये मात्र का स्टॉप लगाया जायेगा और साथ में यह आदेश या इसकी एक प्रति लगायी जायेगी। यदि इस आदेश की प्रति संलग्न की जाती है तो इस पर न्यायालय फीस के रूप में 1.50 रुपये का स्टॉप भी लगाया जायेगा जैसा कि न्यायालय फीस अधिनियम 1870 की अनुसूची 1, मद 6 के अंतर्गत निर्धारित किया गया है।
- इस निर्णय या आदेश के विरुद्ध अपील करने वाला व्यक्ति अपील अनिर्णीत रहने तक, शुल्क या शास्ति के संबंध में विवाद होने पर माँगे गये शुल्क के 7.5% का, अथवा केवल शास्ति के संबंध में विवाद होने पर शास्ति का भुगतान करेगा।

### ORDER-IN-ORIGINAL

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

**BRIEF FACTS OF THE CASE**

A case of attempted export of mix goods, originally imported goods and domestic goods, filed under Shipping Bill No. 9853111 dated 08.05.2023 by M/s Hirotec India Private Limited (IEC No. 3205007387) (hereinafter referred to as 'the exporter') through Custom Broker M/s Yusen Logistics (India) Pvt. Ltd. was forwarded to SIIB (X), JNCH as the exporter was claiming undue export benefit i.e. Drawback under Section 75 of the Customs Act, 1962 and RoDTEP on the goods being re-exported. The details of the Shipping Bill are tabulated below:

**TABLE-I**

<b>S/B No. and date :</b>	9853111 dated 08.05.2023
<b>Invoice No./ Packing list No.</b>	TN/23-24/EXP/06R dated 03.05.2023
<b>Declared description:</b>	Spare parts for Tooling, Fixtures, Machines
<b>FOB:</b>	Rs.4,41,74,646.75/-
<b>Drawback Claimed:</b>	Rs.7,09,186/-
<b>RoDTEP Claimed:</b>	Rs.4,71,470.50/-

2. Since prima facie there was evidence that export incentive had been claimed on imported goods which were presented for export, Hence the case was taken up by SIIB(X) for detailed investigation.

3. Consequently, the subject goods pertained to Shipping Bill No. 9853111 dated 08.05.2023 were examined under Panchanama dated 18.05.2023 (**RUD-II**) in presence of Ms. Priya Jain, the authorized representative of the exporter and Shri. Piyush Bhanusali, G-Card holder of CB M/s Yusen Logistics India Pvt. Ltd. (CHA License No. 11/1556) had ID Kardex No. 5635/2022. During 100% examination, the marks and numbers were verified with the invoice and were found to be in order. However, some of the items were found to have been assembled in USA with Marking. During examination, the authorized representative of the exporter submitted that the list of items under the subject Shipping Bill which were imported goods and were being re-exported. The same has been appended as Annexure-I to the panchnama dated 18.05.2023. Thereafter, the goods covered under the subject Shipping Bill were handed over to the Custodian for safe custody.

3.1 The detail of all the goods under Shipping Bill No. 9853111 dated 08.05.2023 which were imported (foreign origin) are detailed below:

**Table-II**

Sr. No.	Part No.	Description	Quantity	Total Value in INR	Supplier Name	Country of Origin	Bill of Entry details
1.	1014404660	FILTER: 3 IN	10	7353676/-	OMNI CON	USA	4172429/ 13.01

		LINE BAG FILTER: OMNI CONTROLS INC. #2040303 0BSPP			TROLS INC		.2023
2.	1014082282	PIN: MASTER MANIFOLD DIAMOND PIN: HIROTEC AMERICA #P003194001	2	9116.80/-	HIROTEC AMERICA	USA	CBEXII_BLR_2022-2023_2909_11757 dtd 29.09.2022
3.	1013689892	BOX: 70ZF-20013145: MAINTENANCE CALL BOX: INDICON CORPORATION #70ZF20013145	2	2272525.20/-	INDICON CORPORATION	USA	4503163 dtd 05.02.2023
4.	1013518506	FILTER: 1 1/2" SEPARATOR W/DIFF. PRESS. IND. 1M-300- M12-PS1-DP1: READING TECHNOLOGIES INC #1M300M12PS1DP1	2	5742281.60/-	DUNCAN ROGERS (ENGINEERING) LTD	United Kingdom	3688492 dtd 10.12.2022
5.	1012357495	FILTER: 2" SEPARATOR W/DIFF. PRESS.IND, 1M-700-M16-PS1*-DP1: READING TECHNOLOGIES INC #1M700M16PS1DP1	2	6077486.80/-	DUNCAN ROGERS (ENGINEERING) LTD	United Kingdom	3688492 dtd 10.12.2022
6.	1014123765	FITTING: 3/8	6	5372.40/-	HIROTEC	USA	CBEXII_BLR_

		MJIC 3/8 MN PT ADP: HY DRA-FLEX I NC-DIV AIR- WAY MANU FACTURING #24040606			AMERICA		2022-2023_24 dtd 25.10.2022
7.	1013702756	FITTING: ST RAIGHT MJ- MP 2404-08-0 6: BRENNAN #24040806	5	5291/-	HIROTEC AMERICA	USA	CBEXII_BLR_ 2022-2023_24 dtd 25.10.2022
8.	1014282527	FITTING: TU BE FITTING, 90 DEGREE, MALE, ELBO W, 3/8, 3/8, S TEEL, FORG ED. BRENNAN #25010606F G	10	6512/-	HIROTEC AMERICA	USA	CBEXII_BLR_ 2022-2023_24 dtd 25.10.2022
9.	1014282529	FITTING: 1/2 BULKHEAD UNION 37 D EGREE W/NU T: BRENNAN #27000808LN	10	10582/-	HIROTEC AMERICA	USA	CBEXII_BLR_ 2022-2023_24 dtd 25.10.2022
10.	1012794356	VALVE: POP PET, 2WAY,A RI PILOT,NO 1"NPT, CV-12 ,0500PSI, 3:1 PILOT RATIO : LEXAIR #3 25116	1	2544564/-	J E MYLES INC	USA	CBEXIV_BLR _ 2022-2023_1 312_10338 dtd 14.12.2022
11.	1012794258	VALVE: POP PET, 2WAY ARI PILOT, NO 1"NPT,CV =12,0-500 PSI,	2	3096618.80/-	J E MYLES	USA	CBEXIV_BLR _ 2022-2023_1 312_10338 dtd 14.12.2022

		NC 1 1/2" NP T 10:1RATI O: LEXAIR # 334524					
12.	1012972782	VALVE, BAL L: APOLLO VALVES #38 411: 1/4", 3/8" (GREEN)	5	13024/-	HIROTEC AMERICA	USA	CBEXII_BLR_ 2022-2023_24 dtd 25.10.2022
13.	1012972780	VALVE, BAL L: APOLLO VALVES #38 413: 1/2", 3/4" (GREEN) SL EEVE	4	20838.40/-	HIROTEC AMERICA	USA	CBEXII_BLR_ 2022-2023_24 dtd 25.10.2022
14.	1012972778	VALVE, BAL L: APOLLO VALVES #38 416: 1-1/2"-2- 1/2" (RED SL EEVE)	3	15873/-	HIROTEC AMERICA	USA	CBEXII_BLR_ 2022-2023_24 dtd 25.10.2022
15.	1012972777	VALVE, BAL L: APOLLO VALVES #38 417; 1-1/2"-2- 1/2", (GREEN SLEEVE)	6	15628.80/-	HIROTEC AMERICA	USA	CBEXII_BLR_ 2022-2023_24 dtd 25.10.2022
16.	1012354075	HANDLE: 1/2 " & 3/4" BAL L VALVE GR EEN SLEEVE : APOLLO V ALVES #W83 70GREEN	5	14652/-	HIROTEC AMERICA	USA	CBEXII_BLR_ 2022-2023_24 dtd 25.10.2022
17.	1014065241	PUMP: LUBE PUMP, 24VD C, BRAVO, W/GAUGE, S KG, DIN TO M12 POWER	1	2737726.20/-	DROPSA N ORTH AM ERICA INC	USA	CBEXIV_BLR _2022- 2023_1 402_10661 dtd 15.02.2023

		CONNECTOR: DROPSA #X 000745					
18.	1014065637	BLOCK MAS TER BLOCK WITH HIGH P RESSURE IN DICATORS, X000746 DRO PSA #X00074 6	2	1302562.80/-	DROPS NO RTH AMER ICA INC	USA	CBEXIV_BLR _2022- 2023_1 402_10661 dtd 15.02.2023
19.	1014065638	BLOCK: SEC ONDARY BL OCK WITH 3 00 MICRON FILTER, X000 747: DROPSA #X000747	2	1803335.60/-	DROPS NO RTH AMER ICA INC	USA	CBEXIV_BLR _2022- 2023_1 402_10661 dtd 15.02.2023
20.	1014413774	FITTING: ST RAIGHT TUB E FITTING (1 /4 NPT) (HAI ORDER): AIR WAY AUTO MATION INC #24040804	10	3256/-	HYDRA FL EX INC	USA	CBEXIII_BLR _2022- 2023_0 911_16492 dtd 09.11.2022
21.	1014413775	JOINT: UNIO N TEE: AIR WAY AUTO MATION INC #2603060606 FG	12	8791.20/-	HYDRA FL EX INC	USA	CBEXIII_BLR _2022- 2023_0 911_16492 dtd 09.11.2022
22.	1014413777	FITTING: MA LE RUN TEE : AIR WAY AUTOMATIO N INC #5602 060606	20	21164/-	HYDRA FL EX INC	USA	CBEXIII_BLR _2022- 2023_0 911_16492 dtd 09.11.2022
23.	1014413778	SEAL: W51S SPLIT WIPER	20	460724/-	AMERICAN HIGH PER	USA	CBEXIV_BLR _2022- 2023_1

		SEAL 6"ID X 6.500"OD X 0.312"L: HI ROTEC AME RICA # FSP1 7551051			FORMANC E SEALS I NC		912_10550 dtd 20.12.2022
24.	1014082014	ASSEMBLY: PUSH/PULL CHAIN SYST EM LESS M OTOR: SERA PID 60PSC200 085123	1	7172968/-	SERAPID U SA INC	USA	3362933 dtd 1 8.11.2022
			Total	4,07,14,570.6 0/-			

4. During examination of the goods under Shipping Bill No. 9853111 dated 08.05.2023, it was noticed that imported goods were being re-exported claiming export incentive i.e. Drawback under section 75 of the Customs Act, 1962 and RoDTEP incentive as well, the goods under the said Shipping Bill were Seized under Section 110 of the Customs Act, 1962 vide Seizure Memo CBIC DIN: 20230578NT00000530AD dated 18.05.2023 **(RUD-III)**.

5. During the course of investigation, statement of Shri. Jagdish Narayan Kamble, the authorized representative of the exporter was recorded under Section 108 of the Customs Act, 1962 on 19.05.2023 **(RUD-IV)**, wherein he had inter-alia stated that:

(i) M/s Hirotec India Private Limited is involved in manufacturing, import and supply of Jigen fixtures which are used for fixing parts of vehicles, M/s Hirotec India Private Limited supply the fixtures in India well as overseas;

(ii) They had filed shipping bill no. 9853111 dated 08.05.2023 for supply of spares for tooling, fixtures, machines to M/s Ford Motors of Southern Africa; the consignment covered 68 items which contained imported as well as locally purchased items; out of 68 items, 24 items valued at Rs.4,07,14,571 were imported into India and other items were procured locally; Copies of Bills of Entry for the import of said items was submitted by Shri. Jagdish Narayan Kamble;

(iii) No processing or manufacturing was done on the above 24 items after import and were re-exported in the same condition; re-export of imported goods (without any manufacturing/ processing in India) is not eligible for drawback under Section 75 of the Customs Act, 1962 and RoDTEP;

(iv) They had inadvertently declared & claimed drawback on the export shipment; they didn't had any intention of fraud and the drawback & RoDTEP was claimed due to error on their part.

6. Statement of Shri. Piyush Babulal Bhanushali, authorised representative (G-Card holder (5636/2022) of Custom Broker M/s Yusen Logistics (India) Pvt. Ltd. was recorded under Section 108 of the Customs Act, 1962 on 22.03.2024 (RUD-V), wherein he has inter-alia stated that:

(i) the Shipping Bill No. 9853111 dated 08.05.2023 has been filed by us on behalf of M/s Hirotec India Pvt. Ltd. The goods under the said Shipping Bill are spares for Tooling, Fixtures, machines, wherein the details were as per invoice.

(ii) They were aware that the export of goods which are imported and are being exported within two years from payment of duty are eligible for ninety-eight per cent of such duty as duty drawback. However, the claim of drawback under Shipping Bill No. 9853111 dated 08.05.2023 has been done under section 75 of the Customs Act, 1962.

(iii) before filing the Shipping Bill No. 9853 111 dated 08.05.2023, they had email communication with the exporter wherein they had asked whether the exporter are manufacturer or merchant exporter for which the checklist was approved by them as being manufacturer exporter. Further, they had asked the exporter about the claim of drawback and RoDTEP as per the export invoice which they had forwarded. The description of goods may vary since the firm Hirotec India Pvt. Ltd. is a MNC.

(iv) As Custom Brokers they file Shipping Bill on the basis of documents viz. Invoice and packing List forwarded by the exporter. The export invoice submitted by the exporter clearly mentioned Country of Origin as India and based on their declaration they also claimed rewards under RoDTEP. This was sufficient reason enough to not ask for further details of the origin of goods, since the exporter themselves declared it in the export invoice.

7 On the request of the exporter, the goods under Shipping Bill No. 9853111 dated 08.05.2023 were provisionally released on execution of Bond of full FOB value of Rs. 4,41,74,647/- (Rupees Four Crore Forty One Lakh Seventy Four Thousand Six Hundred Forty Seven only) and Bank Guarantee of Rs. 18,00,000/- (Eighteen Lakhs only ) with auto renewal clause .

8. From the above, it appeared that, the exporter had illegally claimed Drawback & RoDTEP by exporting goods which were imported and then re-exported without any processing or manufacturing whatsoever.

9. **Past Exports:** On perusal of the export data from the ICES 1.5 system, it was seen that in respect of 05 Shipping Bills no export proceeds had been realized even after the mandated time period of 9 months under FEMA regulation. The details of such Shipping Bills are as under:

**Table-III**

Sr. No.	SB. No.	Item Description	FOB (in Rs.)	Drawback	RoDTEP
1.	1015467/13.09.2016	Hydraulic Cylinder DH21TK185E	2,64,800/-	-	-
2.	5192936/09.10.2021	Stamping Die-Hood Outer Stamping Die	1,91,41,716,16/-	3,44,551/-	2,29,701/-
3.	5288740/07.11.2022	Tow Hook Assembly	3,07,088,48/-	-	-
4.	6435893/26.12.2022	Spares for tooling, Fixtures, Machine	2,98,08,509,78/-	4,60,743/-	2,53,787/-
		Total	4,95,21,314/-	8,05,294/-	4,83,488/-

It was further seen that the foreign remittance for the Shipping Bill No. 9853111 dated 08.05.2023 which was under investigation, had also not been received by the exporter.

In view of the above, the export incentive viz, Drawback and RoDTEP in all the shipping Bills above stand liable to be recovered from the exporter under Rule 18 of Customs and Central Excise Duties Drawback Rules, 2017 .

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

**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 (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.

**Section 113 (i)(a):** 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 (j) (a):** 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):** 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 75:** Drawback on imported materials used in the manufacture of goods which are exported:

Where it appears to the Central Government that in respect of goods of any class or description [manufactured, processed or on which any operation has been carried out in India) being goods which have been entered for export and in respect of which an order permitting the clearance and loading thereof for exportation has been made under section 51 by the proper officer] or being goods entered

for export by post under [clause (a) of section 84] and in respect of which an order permitting clearance for exportation has been made by the proper officer], a drawback should be allowed of duties of customs chargeable under this Act on any imported materials of a class or description used in the [manufacture or processing of such goods or carrying out any operation on such goods], the Central Government may, by notification in the Official Gazette, direct that drawback shall be allowed in respect of such goods in accordance with, and subject to, the rules made under sub-section (2):

#### **B. Customs and Central Excise Duties Drawback Rules, 2017**

**Rule 18:** Recovery of amount of Drawback where export proceeds not realised:- (1) Where an amount of drawback has been paid to an exporter or a person authorized 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 in the manner specified below: Provided that the time-limit referred to in this sub-rule shall not be applicable to the goods exported from the Domestic Tariff Area to a special economic zone.

#### **CBIC Notification No. 76/2021-Cstoms (N.T.) New Delhi, the 23<sup>rd</sup> September, 2021:**

**5. Recovery of amount of duty credit where export proceeds are not realized:** (I) Where an amount of duty credit has been allowed to an exporter but the sale proceeds in respect of such export goods have not been realized by the exporter in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), the exporter shall, himself or on demand by the proper officer, repay the amount of duty credit, along with interest, at the rate as fixed under section 28AA of the said act for the purposes of that section, within fifteen days of expiry of the said period.

#### **C. 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.

#### **D. Foreign Trade (Regulation) Rules, 1993**

**Rule 11:** Stipulates that on exportation out of any customs port of any goods, whether liable to duty or not, the owner of the such goods shall in the S/bill or any other documents prescribed under the Customs Act, 1962, state the value, quantity and description of such goods to the best of his knowledge and belief and certify that the quality and specifications 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 truthful declaration of such statement at the foot of such Shipping bill or any other documents.

#### **E. Foreign Trade Policy (FTP)**

**Para 4.55:** The following categories of exports/ exporters shall not be eligible for rebate under

RoDTEP Scheme: Export of imported goods covered under paragraph 2.46 of FTP.

## 11. FINDINGS OF THE INVESTIGATION

**11.1** M/s Hirotec India Private Limited (IEC No. 3205007387) having its registered office at 7/147, Power House Road, Keeranatham Post, Saravanampatti, Coimbatore- 641 035 had filed Shipping Bill No. 9853111 dated 08.05.2023, through Customs Broker M/s Yusen Logistics India Pvt. Ltd. for export of Spare for Tooling, Fixtures, Machines under Export Promotion Scheme Code 19 (Drawback) and RoDTEP. 24 out of total 68 items under the said Shipping Bill were found to be of Foreign Origin, which had been imported under several Bills of Entry by the exporter. The details of all such items had been provided in **Table-II** above. The exporter had claimed Drawback in all such goods under Section 75 of the Customs Act, 1962 and RoDTEP, which they were not eligible for.

**11.2** During the course of investigation, the exporter had produced records of importation of all the 24 items which were attempted to be exported vide Shipping Bill No. 9853111 dated 08.05.2023. During the statement recorded under section 108 of the Customs Act, 192, Shri. Jagdish Narayan Kamble, authorized representative of the exporter submitted that no processing or manufacturing was done on the 24 items after import and were attempted to be exported in the same condition. The exporter had agreed that re-export of imported goods (without any manufacturing/processing in India) was not eligible for drawback under Section 75 of the Customs Act, 1962 and also not eligible for RoDTEP. Therefore, it appeared that the exporter had prior knowledge that the goods for export were imported and the claim of drawback under section 75 of the Customs Act, 1962 and RoDTEP was not proper.

**11.3** The Exporter had thus violated the provisions of Rule 11 of the Foreign Trade (Regulations), 1993 in as much, as they did not make a correct declaration of in the Shipping Bills submitted by them to the Customs authorities.

**11.4** As the Exporter had not made declaration truthfully in the said Shipping Bill, they had violated the conditions of Section 50(2) of the Customs Act, 1962. Para 4.55 of the Foreign Trade Policy categorically excludes goods which are imported under para 2.46 of the FTP to be not eligible for claim of RoDTEP. Further, drawback is allowable on re-export of duty-paid goods under Section 74 of the Customs Act, 1962. The exporter did not truthfully declare the identity of the goods under the Shipping Bill No. 9853111 dated 08.05.2023. Had they declared the nature of such goods in the description of the Shipping Bill it would had been easily identifiable that the subject goods would not had been eligible for drawback under Section 75 of the Customs Act, 1962. Further, the invoice cum packing list accompanying the Shipping Bill filed by the exporter mentions the country of Origin of goods as "India". Hence, it appeared that said 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 & Rules 11 of Foreign Trade Rules 1993, as exporter had furnished wrong declaration to the

Custom Authorities.

**11.5** The statement of the exporter wherein they had admitted to their attempt to claim wrong drawback and RoDTEP is a clear afterthought as they did not declare the true nature in the Shipping Bill itself.

**11.6** The exporter had submitted the copies of Bills of Entries under which the goods attempted to be exported under Shipping Bill No. 9853111 dated 08.05.2023, were imported. The exporter had also intended that they are eligible for refund of drawback under section 74 of the Customs Act. For the sake of brevity, relevant part of the section 74 is reproduced here:

“When any goods capable of being easily identified which have been imported into India and upon which any duty has been paid on importation, -

- (i) are entered for export and the proper officer makes an order permitting clearance and loading of the goods for exportation under section 51; or ninety-eight per cent of such duty shall, except as otherwise hereinafter provided, be re-paid as drawback, if -
  - (a) the goods are identified to the satisfaction of the Assistant Commissioner of Customs or Deputy Commissioner of Customs as the goods which were imported; and
  - (b) the goods are entered for export within two years from the date of payment of duty on the importation thereof.”

The language of the section is unequivocal about establishing the identity of the goods easily. The goods under which drawback under section 74 are to be claimed should be easily identifiable. Further, the goods should be identified to the satisfaction of the Assistant Commissioner of Customs or Deputy Commissioner of Customs as the goods which were imported. The identity of the goods cannot be established at this stage as to whether they are the same goods imported as per declaration by the exporter or not.

**11.7** From the above, it could be seen that the exporter though eligible for claim of Drawback under Section 75 of the Customs Act, 1962 on 44 items of the Shipping Bill No. 9853111 dated 08.05.2023 had claimed drawback on all goods (including 24 imported goods). The total drawback claimed was Rs. 7,09,186/- however, the exporter was eligible to claim drawback of Rs. 59,271/-. Further, the exporter had also claimed RODTEP to the tune of Rs.4,71,470.50/-, whereas, they were eligible for RoDTEP amount of Rs. 34,169/-.

However, as stated at para 9 above, the foreign remittance for the Shipping Bill No. 9853111 dated 08.05.2023 had not been realized by the exporter even after the mandated time period of 9 months under FEMA regulation. Moreover, the export incentives viz. Drawback and RoDTEP in case of past exports (Table-III) was also liable to be recovered from the exporter since no foreign remittance had been received by the exporter.

**11.8** The Customs Broker in the subject case M/s Yusen Logistics India Pvt. Ltd. had filed the

Shipping Bill No. 9853111 dated 08.05.2023 on behalf of the exporter. In their statement under section 108 of the Customs Act, 1962 dated 22.03.2024, the CB had stated that the export invoice submitted by the exporter mentions Country of Origin as "India". However, the description of several items in the Shipping Bill as well as the annexure to the export invoice had mention of Hirotec America and Misumi USA Inc. Had the CB sought an explanation for such a description from the exporter, they would have certainly known that the goods under export are of foreign origin. Therefore, the CB had failed to ascertain the origin of the goods and hence rendered themselves liable for penalty under section 114 (iii) of the Customs Act, 1962.

**11.9** It was cogent and clear that the Exporter M/s Hirotec India Private Limited (IEC No. 3205007387) had mis-declared the impugned goods in terms of their nature and description and attempted to defraud the Government by claiming undue higher amount of Drawback and RoDTEP and other export benefits and thereby acted in a manner which rendered the said goods liable for confiscation in terms of the provisions of Section 113(ia) and 113(ja) of the Customs Act, 1962.

**11.10** It appeared that the exporter M/s Hirotec India Private Limited (IEC No. 3205007387) has rendered themselves liable to penalty in terms of Section 114(iii) of the Customs Act, 1962 on account of mis-declaration of nature and description of the impugned goods and attempting to export improperly as their omission and commission has rendered the goods liable for confiscation u/s 113 of the Customs Act, 1962.

**11.11** It further appeared that Mr. Tetsuya Kan, Director of M/s Hirotec India Private Limited (IEC No. 3205007387), had knowingly or intentionally made, signed or used, declaration, statement or document which was false or incorrect in any material particular and had been presented for clearance of goods under Shipping Bill No. 9853111 dated 08.05.2023 and thereby rendered himself liable for penalty u/s 114 AA of Customs Act, 1962.

**12.** Now, therefore, M/s Hirotec India Private Limited (IEC No. 3205007387) having its registered office at 7/147, Power House Road, Keeranatham Post, Saravanampatti, Coimbatore- 641 035, is hereby called upon to explain in writing to the Addl./Joint Commissioner of Customs, CEAC, NS-II, JNCH, Nhava-Sheva, Tal.-Uran, Dist-Raigad, Maharashtra 400707 (the Adjudicating Authority in this case), within 30 days of the issue of this notice as to why: -

(i) The said impugned export goods covered under the Shipping Bill No 9853111 dated 08.05.2023 having total declared FOB value of Rs. 4,41,74,647/- (Rupees Four Crore Forty One Lakh Seventy Four Thousand Six Hundred Forty Seven only) should not be confiscated under the provisions of Section 113(ia) and 113(ja) of the Customs Act, 1962.

(ii) The claimed Drawback of Rs. 7,09,186/- and RoDTEP of Rs. 4,71,471/- covered under the Shipping Bill No 9853111 dated 08.05.2023 should not be rejected and re-determined to Rs. 59,271/- and Rs. 34,169/- on eligible goods.

- (iii) The claimed Drawback of Rs. 8,05,294/- covered under the Shipping Bills mentioned at Table-III above should not be recovered along with applicable interest under Rule 18 of Customs and Central Excise Duties Drawback Rules, 2017 read with sec.75 & 28 AA of the Customs Act,1962 .
- (iv) The claimed RoDTEP of Rs. 4,83,488/- covered under the Shipping Bills mentioned at Table-III above should not be recovered along with applicable interest under Customs Notification No . 76/2021-cus.(N.T.), dated 23.09.2021.
- (v) The amount of Rs. 7,18,222/- paid vide Challan No. HCM 2322/2323 dated 24.07.2023 should not be appropriated towards recovery of drawback and RoDTEP alongwith applicable interest as demanded above.
- (vi) The Bank Guarantee of Rs. 18,00,000/- furnished should not be appropriated towards recovery of drawback and RoDTEP along with applicable interest as demanded above.
- (vii) Penalty should not be imposed upon the exporter M/s Hirotec India Private Limited (IEC No. 3205007387) under Section 114(iii) of the Customs Act, 1962 for omission and commission on the part of the Exporter for attempting to claim undue/excess export benefit in current export consignment which have rendered the export goods liable for confiscation under section 113 of the Customs Act, 1962.
- (viii) Penalty should not be imposed upon the exporter M/s Hirotec India Private Limited (IEC No. 3205007387) under Section 114(iii) of the Customs Act, 1962 for non-realisation of BRC in past 5 shipments(4 past and one live shipment).
- (ix) Penalty should not be imposed on Mr. Tetsuya Kan, Director of M/s Hirotec India Private Limited (IEC No. 3205007387) under Section 114AA of the Customs Act, 1962 for omission and commission on the part of the Exporter for attempting to claim undue benefits.
- (x) Penalty should not be imposed on the CB M/s Yusen Logistics India Pvt. Ltd. under Section 114(iii) of the Customs Act, 1962.

### **13. WRITTEN SUBMISSIONS OF THE NOTICEES**

#### **13.1 Submissions of Noticee No.1 (Exporter)**

Vide SCN No. 1704/2024-25/ADC/CEAC/NS-II/CAC/JNCH dated 05.02.2025, Noticee No. 1 i.e. M/s Hirotec India Private Limited (hereinafter referred to as “the Exporter”) has filed written reply dated 02.05.2025.

The Exporter has submitted, inter alia, that:

- (a) the exports under Shipping Bill No. 9853111 dated 08.05.2023 pertained to “spares” required to be supplied as part of contractual obligations;

- but the Shipping Bill was inadvertently filed under **Section 75** due to a bona fide procedural lapse;
- (d) upon a query during examination, the Exporter promptly sought amendment of the Shipping Bill to rectify the drawback section;
- (e) notwithstanding the above, the Exporter has voluntarily repaid the entire drawback claimed along with applicable interest, and subsequently also repaid the RoDTEP along with interest, to demonstrate bona fides and to avoid protracted litigation; and
- (f) no confiscation and penalties are warranted as there was no fraudulent intent or mens rea.

The Exporter has additionally submitted E-pay order details of RoDTEP and interest via ICEGATE and reiterated its prayer to set aside SCN proposals and to release the bank guarantee.

### **13.2 Submissions of Noticee No.2 (Director)**

He has submitted that Section 114AA is attracted only when a person knowingly or intentionally makes, signs or uses false declarations/documents; that he had no direct involvement in the operational preparation/filing of the Shipping Bill; and that there is no evidence to establish conscious knowledge or intention on his part. He has prayed for dropping of the proposed penalty.

### **13.3 Submissions of Noticee No.3 (Customs Broker / CHA)**

Noticee No. 3 i.e. M/s Yusen Logistics (India) Pvt. Ltd., Customs Broker, has filed its reply dated 13.03.2025 through its authorized representative.

The Customs Broker has submitted that it filed the Shipping Bill on the basis of documents provided by the Exporter (invoice/packing list), that the invoice declared Country of Origin as "India", that a checklist was prepared and approved by the Exporter, and that it had no personal knowledge of any alleged mis-declaration. It has further submitted that mention of "Hirotec America" / "Misumi USA" was bona fide considered as trade/brand references of a multinational group and does not, by itself, establish knowledge or abetment. The Customs Broker has prayed that proceedings for penalty under Section 114(iii) be dropped.

## **14. RECORD OF PERSONAL HEARING**

In adherence to the Principles of Natural Justice, the Exporter was granted an opportunity to appear before the then Adjudicating Authority for a Personal Hearing (PH) to present oral submissions in their defence. Accordingly, PH Memos dated 11.11.2025 and 24.11.2025 were issued by the Adjudicating Authority, intimating the date and time of the hearing. In response to the said PH Memos, Shri PS Krishnan, Consultant of M/s Hirotec India Pvt. Ltd., and Ms Annaporna Meenakshi S, Vice President (Finance) appeared before the Adjudicating Authority on behalf of the Noticee No.1 and 2 and Shri Vijay Kumar Singh appeared for M/s Yusen Logistics (India) Pvt Ltd.(Noticee No. 3)

**15. DISCUSSION AND FINDINGS**

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

(i) Whether the said impugned export goods covered under the Shipping Bill No 9853111 dated 08.05.2023 having total declared FOB value of Rs. 4,41,74,647/- (Rupees Four Crore Forty One Lakh Seventy Four Thousand Six Hundred Forty Seven only) should be confiscated under the provisions of Section 113(ia) and 113(ja) of the Customs Act, 1962 or not.

(ii) Whether the claimed Drawback of Rs. 7,09,186/- and RoDTEP of Rs. 4,71,471/- covered under the Shipping Bill No 9853111 dated 08.05.2023 should be rejected and re-determined to Rs. 59,271/- and Rs. 34,169/- on eligible goods or not.

(iii) Whether the claimed Drawback of Rs. 8,05,294/- covered under the Shipping Bills mentioned at Table-III above should be recovered along with applicable interest under Rule 18 of Customs and Central Excise Duties Drawback Rules, 2017 read with sec.75 & 28 AA of the Customs Act,1962 or not .

(iv) Whether the claimed RoDTEP of Rs. 4,83,488/- covered under the Shipping Bills mentioned at Table-III above should be recovered along with applicable interest under Customs Notification No. 76/2021-cus.(N.T.), dated 23.09.2021 or not.

(v) Whether the amount of Rs. 7,18,222/- paid vide Challan No. HCM 2322/2323 dated 24.07.2023 should be appropriated towards recovery of drawback and RoDTEP alongwith applicable interest as demanded above or not.

(vi) Whether the Bank Guarantee of Rs. 18,00,000/- furnished should be appropriated towards recovery of drawback and RoDTEP along with applicable interest as demanded above or not.

(vii) Whether the Penalty should be imposed upon the exporter M/s Hirotec India Private Limited (IEC No. 3205007387) under Section 114(iii) of the Customs Act, 1962 for omission and commission on the part of the Exporter for attempting to claim undue/excess export benefit in current export consignment which have rendered the export goods liable for confiscation under section 113 of the Customs Act, 1962 or not.

(viii) Whether the Penalty should be imposed upon the exporter M/s Hirotec India Private Limited (IEC No. 3205007387) under Section 114(iii) of the Customs Act, 1962 for non-realisation of BRC in 4 past and 1 Live shipment or not.

(ix) Whether the Penalty should be imposed on Mr. Tetsuya Kan, Director of M/s Hirotec India Private Limited (IEC No. 3205007387) under Section 114AA of the Customs Act, 1962 for omission and commission on the part of the Exporter for attempting to claim undue benefits or not.

(x) Whether the Penalty should be imposed on the CB M/s Yusen Logistics India Pvt. Ltd. under Section

and commission on the part of the Exporter for attempting to claim undue benefits or not.

(x) Whether the Penalty should be imposed on the CB M/s Yusen Logistics India Pvt. Ltd. under Section 114(iii) of the Customs Act, 1962 or not.

**16. Issue (i): Whether the goods covered under Shipping Bill No. 9853111 dated 08.05.2023 are liable to confiscation**

I find that the goods covered under Shipping Bill No. 9853111 dated 08.05.2023 were declared as "Spares for Tooling, Fixtures, Machines" with a declared FOB value of ₹4,41,74,647/- and were exported under claim of Drawback under Section 75 of the Customs Act, 1962 and RoDTEP benefits. Investigation, including 100% examination under Panchanama dated 18.05.2023 and verification of import documents, has conclusively established that 24 out of 68 items, constituting a substantial portion of the export consignment, were imported goods of foreign origin, which were re-exported without undergoing any manufacturing, processing or operation in India. The authorised representative of the exporter has categorically admitted, in the statement recorded under Section 108 of the Customs Act, 1962, that no processing or manufacturing activity was carried out on these imported items prior to export. Despite such knowledge, the exporter declared the country of origin of the goods as "India" in the export invoice and Shipping Bill and claimed export incentives which are legally inadmissible on such goods. Such incorrect declaration directly violates the statutory obligation under Section 50(2) of the Customs Act, 1962, read with Rule 11 of the Foreign Trade (Regulation) Rules, 1993, which mandates truthful declaration of the nature, description and origin of goods.

Further, export of imported goods without processing is specifically excluded from RoDTEP eligibility under Para 4.55 of the Foreign Trade Policy, and drawback on such goods, if at all admissible, can only be claimed under Section 74 of the Customs Act, 1962 subject to strict conditions, which were admittedly not complied with in the present case. Therefore, by entering the goods for export under a wrongful claim of Drawback and RoDTEP through mis-declaration, the exporter has rendered the goods liable for confiscation under Sections 113(ia) and 113(ja) of the Customs Act, 1962.

**16.1 Issue (ii): Whether the claimed Drawback and RoDTEP on the current Shipping Bill are liable to rejection and re-determination**

I find that in the subject Shipping Bill, the exporter claimed Drawback amounting to ₹7,09,186/- and RoDTEP amounting to ₹4,71,471/-. However, as discussed above, Drawback under Section 75 of the Customs Act, 1962 and RoDTEP benefits are not admissible on imported goods re-exported without processing. Upon segregation of eligible indigenous goods from ineligible imported goods, it has been worked out during investigation that the exporter was eligible for Drawback of only ₹59,271/- and RoDTEP of only ₹34,169/-.

The excess amounts claimed by the exporter are thus clearly inadmissible and arise solely due to incorrect declaration and wrongful inclusion of imported goods in the incentive claim. The fact that the

exporter later admitted the error does not cure the illegality committed at the time of filing of the Shipping Bill. Therefore, the claimed Drawback and RoDTEP on the current Shipping Bill are liable to be rejected to the extent of excess claim and re-determined to the admissible amounts.

### **16.2 Issue (iii): Whether Drawback claimed on past Shipping Bills is recoverable**

It is evident from records that export proceeds in respect of the Shipping Bills mentioned at Table-III of the Show Cause Notice have not been realised within the time period prescribed under FEMA regulations. In terms of Rule 18 of the Customs and Central Excise Duties Drawback Rules, 2017, read with Sections 75 and 28AA of the Customs Act, 1962, drawback paid or payable becomes recoverable where export proceeds are not realised within the stipulated period.

In the present case, the total Drawback involved in respect of such past Shipping Bills amounts to ₹8,05,294/-. Non-realisation of export proceeds defeats the very basis on which export incentives are granted and results in unjust enrichment of the exporter. Therefore, the said Drawback amount is legally liable to be recovered along with applicable interest.

### **16.3 Issue (iv): Whether RoDTEP claimed on past Shipping Bills is recoverable**

Similarly, RoDTEP benefits amounting to ₹4,83,488/- have been claimed by the exporter in respect of past Shipping Bills where export proceeds have not been realised. Para 5 of Notification No. 76/2021-Cus (N.T.) dated 23.09.2021 clearly mandates recovery of RoDTEP benefits along with interest where export proceeds are not realised within the prescribed period.

Since the exporter has failed to realise export proceeds in respect of the said Shipping Bills, the RoDTEP benefits availed become inadmissible and recoverable in law. Accordingly, recovery of the said RoDTEP amount along with applicable interest is justified.

### **16.4 Issue (v): Appropriation of amount paid by Challan**

During the course of investigation, the exporter voluntarily deposited an amount of ₹7,18,222/- towards inadmissible Drawback along with applicable interest vide Challan dated 24.07.2023. The said payment has been made prior to adjudication and is directly relatable to the liabilities confirmed in the present proceedings. Therefore, the said amount is required to be appropriated against the confirmed Drawback dues and interest.

### **16.5 Issue (vi): Appropriation of Bank Guarantee**

The exporter had furnished a Bank Guarantee of ₹18,00,000/- at the time of provisional release of the goods. In view of the confirmed recoveries of inadmissible Drawback and RoDTEP along with interest, the Bank Guarantee constitutes valid security towards government dues. Accordingly, the Bank Guarantee is liable to be appropriated, to the extent necessary, towards recovery of confirmed amounts.

#### **16.6 Issue (vii): Penalty on exporter for current export consignment**

By mis-declaring the nature and origin of goods and attempting to claim inadmissible export incentives, the exporter has rendered the goods liable for confiscation under Section 113 of the Customs Act, 1962. Such acts of omission and commission attract penal consequences under Section 114(iii) of the Customs Act, 1962. Although the act of misdeclaration has rendered the goods liable for confiscation U/s 113 of the Customs Act, 1962 leading to imposition of penalty U/s 114(iii) of the Customs Act, 1962. There is no malafide intent, which is infact strengthen by the suo motu payment of drawback/RodTeP amount(Rs 7,18,222/- & Rs 6,54,570/-). In view of this and lack of demonstrable motive brought out in investigation, I hold that the offence is procedural mistake which requires imposition of nominal penalty.

#### **16.7 Issue (viii): Penalty on exporter for non-realisation of export proceeds**

The exporter has failed to realise export proceeds in respect of four past shipments and one live shipment, resulting in wrongful retention of export incentives. Such conduct demonstrates disregard for statutory obligations and attracts penal liability under Section 114(iii) of the Customs Act, 1962. Accordingly, penalty is imposable on the exporter for such non-compliance.

#### **16.8 Issue (ix): Penalty on Director**

With regard to the proposal for imposition of penalty on Mr. Tetsuya Kan, Director of M/s Hirotec India Private Limited, under Section 114AA of the Customs Act, 1962, I find that the said provision requires clear evidence to establish that the person concerned has knowingly or intentionally made, signed, or used any declaration, statement or document which is false or incorrect in any material particular. In the present case, although the exporter has been found to have wrongly claimed export incentives, no material evidence has been brought on record to establish that Mr. Tetsuya Kan had conscious knowledge or intent to make or use any false or incorrect declaration in relation to the export in question. Mere holding of the position of Director, without specific evidence of deliberate involvement or mens rea, is not sufficient to attract penal liability under Section 114AA. Accordingly, I hold that the proposal for imposition of penalty on Mr. Tetsuya Kan under Section 114AA of the Customs Act, 1962 is not sustainable and is therefore dropped.

#### **16.9 Issue (x): Penalty on Customs Broker**

As regards the proposal for imposition of penalty on M/s Yusen Logistics (India) Private Limited, Customs Broker, under Section 114(iii) of the Customs Act, 1962, I find that the Shipping Bill in the present case was filed by the Customs Broker on the basis of documents and declarations furnished by the exporter. No evidence has been adduced to establish that the Customs Broker had any active role, collusion, or conscious knowledge in the alleged mis-declaration of the nature or origin of the goods. In the absence of any material indicating deliberate facilitation or intentional abetment of the offence, penal liability under Section 114(iii) cannot be fastened upon the Customs Broker. Accordingly, I hold

that the proposal for imposition of penalty on M/s Yusen Logistics (India) Private Limited under Section 114(iii) of the Customs Act, 1962 is not sustainable and is therefore dropped.

**17. ORDER**

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

- i. I order that the goods covered under Shipping Bill No. 9853111 dated 08.05.2023, having declared FOB value of ₹4,41,74,647/- (Rupees Four Crore Forty One Lakh Seventy Four Thousand Six Hundred Forty Seven only), are liable to confiscation under Sections 113(ia) and 113(ja) of the Customs Act, 1962. Since the goods have already been provisionally released and exported, Considering the nature of violation and the fact that the exporter has already repaid the inadmissible incentives along with interest, I impose a nominal redemption fine of **Rs 1,00,000/- (One Lakh Only)** in lieu of confiscation is imposed under Section 125 of the Customs Act, 1962.
- ii. I order that the Drawback claimed at ₹7,09,186/- and RoDTEP claimed at ₹4,71,471/- against Shipping Bill No. 9853111 dated 08.05.2023 are rejected to the extent of inadmissible claim and are re-determined as:- Admissible Drawback: ₹59,271/- Admissible RoDTEP: ₹34,169/-
- iii. I order recovery of Drawback amounting to ₹8,05,294/- (Rupees Eight Lakh Five Thousand Two Hundred Ninety-Four only) in respect of the Shipping Bills mentioned at Table-III of the Show Cause Notice, along with applicable interest, under Rule 18 of the Customs and Central Excise Duties Drawback Rules, 2017, read with Sections 75 and 28AA of the Customs Act, 1962.
- iv. I order recovery of RoDTEP amounting to ₹4,83,488/- (Rupees Four Lakh Eighty Three Thousand Four Hundred Eighty Eight only) in respect of the Shipping Bills mentioned at Table-III of the Show Cause Notice, along with applicable interest, under Notification No. 76/2021-Cus (N.T.) dated 23.09.2021.
- v. I appropriate the amount of ₹7,18,222/- (Rupees Seven Lakh Eighteen Thousand Two Hundred Twenty Two only) paid by the exporter in respect of Shipping Bill No. 9853111 dated 08.05.2023. towards recovery of inadmissible Drawback along with applicable interest, vide Challan dated 24.07.2023.
- vi. I appropriate the amount of ₹6,54,570/- (Rupees Six Lakh Fifty Four Thousand Five Hundred Seventy only) paid by the exporter in respect of Shipping Bill No. 9853111 dated 08.05.2023 towards recovery of inadmissible RoDTEP along with applicable interest, paid through ICEGATE e-payment dated 05.12.2025.
- vii. The Joint Director General of Foreign Trade, India Life Building (Annex. 1st Floor), Trichy Road, Coimbatore-641018, Tamil Nadu is requested to take necessary action for recovery of RoDTEP amounting to ₹4,83,488/- (Rupees Four Lakh Eighty-Three Thousand Four Hundred Eighty-Eight only) from the exporter M/s Hirotec India Private Limited (IEC No. 3205007387) in respect of the past exports covered under the Shipping Bills mentioned at Table-III of the Show Cause Notice, wherein foreign remittance has not been realised within the prescribed period.

- viii. I order that the Bank Guarantee of ₹18,00,000/- (Rupees Eighteen Lakh only) furnished by the exporter at the time of provisional release of the goods shall be appropriated, to the extent required, towards discharge of the confirmed government dues, if any balance remains after adjustment of amounts already paid.
- ix. I impose a nominal penalty of Rs 50,000 (Fifty Thousand only) on M/s Hirotec India Private Limited (IEC No. 3205007387) under Section 114(iii) of the Customs Act, 1962, for mis-declaration and attempt to claim undue export incentives in respect of the current export consignment.
- x. I further impose a penalty of Rs 50,000 (Fifty Thousand only) on M/s Hirotec India Private Limited under Section 114(iii) of the Customs Act, 1962, for failure to realise export proceeds in respect of four past shipments and one live shipment.
- xi. I drop the proposal for imposition of penalty on Mr. Tetsuya Kan, Director of M/s Hirotec India Private Limited, under Section 114AA of the Customs Act, 1962, as there is no evidence on record to prove that he knowingly or intentionally made, signed or used any false or incorrect declaration or document in relation to the export in question.
- xii. I drop the proposal for imposition of penalty on M/s Yusen Logistics (India) Private Limited, Customs Broker, under Section 114(iii) of the Customs Act, 1962, as no active role, collusion, or conscious knowledge in the alleged mis-declaration has been established against them, and the Shipping Bill was filed based on documents furnished by the exporter.

18. 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,

1. M/s Hirotec India Private Limited (IEC No. 3205007387),  
7/147, Power House Road, Keeranatham Post,  
Saravanampatti, Coimbatore- 641 035
2. Mr. Tetsuya Kan, Director,  
M/s Hirotec India Private Limited (IEC No. 3205007387),  
7/147, Power House Road, Keeranatham Post,  
Saravanampatti, Coimbatore- 641 035
3. M/s Yusen Logistics (India) Pvt. Ltd.

**Copy to:**

1. The Commissioner of Customs, NS II, JNCH, Nhava Sheva.
2. The Dy./Asstt. Commissioner of Customs, SIIB (X), JNCH, Nhava Sheva
3. The Dy./Asstt. Commissioner of Customs, CRAC (X), JNCH, Nhava Sheva.
4. The Dy./Asstt. Commissioner of Customs, CRRC Cell, JNCH, Nhava Sheva.
5. The Dy. Commissioner of Customs, Centralized Adjudication Cell (CAC) NS-V, JNCH, Nhava Sheva.
6. The Dy. Commissioner of Customs, EDI, JNCH, Nhava Sheva.
7. Supdt. (P), CHS, JNCH for display on Notice Board.
8. The Dy./Asstt. Commissioner of Customs, Drawback Section, JNCH, Nhava Sheva.
9. Office Copy.
10. The Joint Director General of Foreign Trade, India Life Building (Annex. 1st Floor), Trichy Road, Coimbatore-641018, Tamil Nadu for **for** necessary action w.r.t. disbursal of export benefit under RoSCTL & RoDTEP Scheme

  
RACHHU KIRAN B.  
Assistant Commissioner of Customs  
CEAC, NS-II, JNCH