

	<p>सीमाशुल्कआयुक्तकाकार्यालय, एनएस-II OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-II केंद्रीकृतनिर्यातमूल्यांकनप्रकोष्ठ, जवाहरलालनेहरूसीमाशुल्कभवन CENTRALIZED EXPORT ASSESSMENT CELL, JAWAHARLAL NEHRU CUSTOM HOUSE, न्हावाशेवा, तालुका- उरण, जिला- रायगढ़, महाराष्ट्र -400 707 NHAVA SHEVA, TALUKA-URAN, DIST- RAIGAD, MAHARASHTRA-400707</p>
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फ़ा. सं./F. No.: CUS/DOCKS/176/2025-Exp.(Docks)

Date of Order: 02.09.2025

फ़ा. सं./F.No. CUS/ESHD/MISC/4745/2024

Date of Issue: 03.09.2025

द.प.सं. /DIN: - 20250978NT000000C105

जारीकर्ता /Passed By: Shri Dr.Chittaranjan P. Wagh., Additional Commissioner of Customs, CEAC, NS-II, JNCH, NhavaSheva.

मूलआदेश संख्या/Order-In-Original No.:- 759(L)/2025-26/ADC/CEAC/NS-II/CAC/JNCH

निर्यातककानाम/Exporter's Name:M/s. Sri Kirpa Empire Exim Private Limited (IEC- 2106001517)

मूल-आदेश

ORDER-IN-ORIGINAL

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

This copy is granted free of charge for the use of the person to whom it is issued.

2. इस आदेश के विरुद्ध अपील सीमाशुल्क अधिनियम 1962 कीधारा 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, महाराष्ट्र -400707 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 2.00 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 2.00 रुपये का स्टॉप भी लगाया जायेगा जैसा कि न्यायालय फीस अधिनियम 1870 की अनुसूची 1, मद 6 के अंतर्गत निर्धारित किया गया है ॥

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.

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 संबंधमें विवाद होने पर शास्ति का भुगतान करेगा |

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

M/s. Sri Kirpa Empire Exim Private Limited (IEC: 2106001517) (hereinafter also referred to as "the exporter") having its office situated at 436/2, Baldi Village, Libaspur, North-East, Delhi- 110042 filed the following Shipping Bill no. 6316853 dated 10.12.2024 (hereinafter also referred to as "the said Shipping Bill") filed through their Customs Broker M/s. Perfect Cargo and Logistics (CHA No 11/1363) for Export of following items destined to UAE through Nhava Sheva Port. The details are as under:

TABLE-I

Sr. No.	Shipping Bill No. & date	Item Description	RITC	Net weight (kgs)	Declared FOBvalue(INR)	DBK(INR)	RODTEP (INR)	IGST(INR)
1.	6316853 dated 10.12.2024	Kitchen and Tableware- SS Spatula 23"	82159900	3101	4,66,819.60	NIL	3,267.74	LUT
		Kitchen and Tableware- SS Spatula 18"	82159900	1560	3,20,946.86		2,246.63	
		Kitchen and Tableware- SS Spatula 16"	82159900	1874	3,81,786.95		2,672.51	
		Kitchenware parts of Gas Stove- SS Channel	73211110	150111	24,10,384.08		7,231.15	
		Kitchenware parts of Gas Stove- SSDrip tray	73211110	1560	3,91,395.18		1,174.19	
		Kitchenware parts of Gas Stove-SS Panel 34/40 mm	73211110	2556	4,36,078.64		1,308.24	
TOTAL					44,07,411.31	NIL	17,900.46	

2. On the basis of Specific Intelligence, regarding export of suspicious consignment by the exporter of the goods covered under Shipping Bill No. 6316853 dated 10.12.2024 filed at MSWC CFS. The goods covered under Shipping Bill were declared as "Kitchen & Tableware and Kitchenware Parts of Gas Stove." The goods were then, put on hold for examination and further investigation.

3. It was observed that the said goods are being exported as a Merchant Exporter and were covered under Advance Authorization Scheme (Scheme Code - 03). The Advance Authorisation License No 0511023254 dated 15.01.2024 was perused and it was found that the Advance Authorisation License Holder is M/s. Pristine Stainless (IEC - BLAPJ4514N) having address at B-41, Ground Floor, Wazirpur Industrial Area, Road, Delhi - 110052. In terms of the said Advance Authorisation License, the license holder is supposed to import duty free "Cold Rolled Stainless Steel Coils Grade -J2" and is supposed to export goods namely "Table, Kitchen and other household articles of

Stainless Steel and Stainless-Steel Cutlery". The details of the said Advance Authorisation License are tabulated as under:

Advance Authorisation License Details	License Holder	Duty Free Import Goods	Export Goods	Port of Registration
License No 0511023254 dated 15.01.2024	M/s. Pristine Stainless (IEC BLAPJ4514N)	Cold Rolled Stainless Steel Coils Grade -J2	Table, Kitchen and other household articles of Stainless Steel and Stainless Steel Cutlery	INTKD6 - ICD Tughlakabad, New Delhi - 110020

Accordingly, it is evident that the License Holder M/s. Pristine Stainless (IEC-BLAPJ4514N) is not the exporter in this case, as the exporter is M/s. Sri Kirpa Empire Exim Private Limited (IEC: 2106001517). Thus, the goods were attempted to be exported as a Third-Party Export under the Advance Authorisation Scheme.

4. Consequently, the subject goods pertaining to Shipping Bill No. 6316853 dated 10.12.2024 were examined 100% under Panchanama dated 30.12.2024 in the presence of two independent Panchas, representatives of Customs Broker and Exporter. During the Examination, the subject goods were found absolutely mis-declared in terms of description. It was observed that goods found during the examination were not same as declared in the shipping bill. The goods were not finished product. Goods were packed haphazardly in gunny bags without any markings on the goods. Further, it was also observed that bags of items "Kitchen and Tableware -SS Spatula 16" were missing. Goods were declared as Kitchenware, however, unfinished strips and discs of metal were found. Further, all the strips/discs found during the examination were composed of metals of different thickness. Accordingly, the goods were found grossly mis-declared in terms of description. Subsequently, the goods were Seized under 110 of the Customs Act, 1962 vide letter dated 16.01.2025.

4.1 Further, the goods were examined by an empanelled Chartered Engineer who submitted the report vide letter no. VE/CEC /119 dated 25.08.2025. The report of the Chartered Engineer has affirmed the findings of the Panchnama as to the fact that the goods have been found mis-declared. Further, the Chartered Engineer has provided the correct realizable value of goods in light of the findings of the examination. The Chartered Engineer has provided Correct Realizable Value of the goods to be around Rs. 23,58,000/- instead of the declared Rs. 44,07,411.31/-.

5. Accordingly, further investigation into the Third-Party Exports made by the exporter were initiated. It was found that the goods were supplied by the license holder M/s. Pristine Stainless to the exporter M/s. Sri Kirpa Empire Exim Pvt Ltd (IEC - 2106001517) vide Invoice No 2024-25/0139/142/147/143/146 of various dates and shipped vide various E-way Bills. The exporter then shipped the goods afterwards to Nhava Sheva port. The details are as under:

SR. No.	ADVANCE AUTHORISATION HOLDER	EXPORTER	REMARKS
	M/s. Pristine Stainless (IEC - BLAPJ4514N)	M/s. Sri Krupa Exim Pvt Ltd (IEC - 2106001517)	3 rd Party Export
Invoice No.	InvoiceNo 0139/0142/147/143/146/2024-25 of various dates	SKEEPL-119/24-25 dated 09.12.2024	
E-way Bill	E-way Bill No for movement of goods from 1. Ground Floor, B-41, Wazirpur	E-way Bill for movement of goods from Point No 2 to Nhava Sheva has not been submitted so far.	

	Industrial Area Road, Block-B, North West Delhi - 110052 To 2. Flat No 170, 1 st Floor, Paradise Apartment, Block-E, Pkt-3, Rohini Sector-18, Delhi - 110085		
License Details	Advance Authorisation License - 0511022171 dated 21.11.2023 has been issued to M/s. Pristine Stainless (IEC - BLAPJ4514N). The license has been registered at INTKD6- ICD Tughlakabad, New Delhi - 110020.		
Import Details	As per the details generated from ICES, there were no imports made by the license holder from this port.		
Factory Address	As per the License, Factory Unit of the license holder is located in Delhi at: Ground Floor, B-41, Wazirpur Industrial Area Road, Block-B, North West Delhi - 110052		

6. Accordingly, Prima-facie it appeared that the goods were mis-declared were attempted to be exported to fulfil the export obligations, and the duty-free imported goods have been diverted elsewhere. The license holder and the exporter have thus violated the conditions stipulated under the Advance Authorisation as stipulated vide Para 4 of the Foreign Trade Policy.

7. Since the License Holder M/s. Pristine Stainless (IEC BLAPJ4514N) having address at Ground Floor, B-41, Wazirpur Industrial Area Road, Block-B, North West Delhi - 110052 has registered the Advance Authorisation License No 0511023254 dated 15.01.2024 at INTKD6- ICD Tughlakabad, New Delhi - 110020, therefore, investigation w.r.t. to the License Holder M/s. Pristine Stainless (IEC-BLAPJ4514N) was transferred to INTKD-6 vide letter dated 28.01.2025 wherein all the facts of the case along with the relevant documents were sent to the authority for further necessary action as per law. Further, the investigation agency was in receipt of letter dated 10.07.2025 wherein it was informed that the Importer M/s. Pristine Stainless has voluntarily paid the differential duty along with applicable interest against the goods found mis-declared at the time of export for which raw material was originally imported under Advance Authorization License No. 0511023254 dated 15.01.2024. It was also informed that the Importer has also paid penalty @15% of the duty and competent authority has concluded the case against the Importer M/s. Pristine Stainless under section 28(6) of the Customs Act, 1962. Further, as requested by you in your email dated 20.06.2025, Challans have been verified by the concerned bank branch which confirmed the authenticity of the Challan Nos TR6-105013, 105014 dated 31.01.2025 amounting to Rs. 2,57,080/- and Rs. 6,92,690/-.

8. Further, an alert to withhold the Export incentives against the Exporter M/s. Sri Kirpa Empire Exim Private Limited (IEC: 2106001517) was inserted during the investigation.

9. The Exporter vide their letter dated 05.02.2025 requested to Provisional Release of the goods for **Back to Town**. In this regard, NOC dated 05.03.2025 was issued by SIIB(X) for the Provisional Release of the goods for Back to Town. The request of the Exporter was accepted by the Adjudicating Authority 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 allowed to be released provisionally for **Back to Town** under section 110A of the Customs Act, 1962.

10. Further, investigation with respect to the exporter M/s. Sri Kirpa Empire Exim Private Limited (IEC: 2106001517) was undertaken by investigation agency. Accordingly, Summons dated 24.02.2025 was issued to the exporter for recording their statement under the Customs Act, 1962.

11. SUMMONS & STATEMENT

The statement of Mr. Alok Dinkar, General Manager of M/s Sri Kirpa Empire Exim Private Limited (IEC: 2106001517), was recorded under Section 108 of the Customs Act, 1962, on 27.02.2025 wherein he interalia stated that;

- he had been working at Shri Kirpa Empire Exim Private Limited for the past ten years and was currently working in the capacity of General Manager of the firm and that he was authorised by the firm to submit documents and submit a response in this case and that for that purpose, the firm had given me an authorization letter dated February 24, 2025,
- On being asked as to whether, their firm regularly files GST returns, the representative replied in affirmative. Further, on being asked to provide copies of the latest GSTR1, 2A, and 3B filings and the shipping bill 6316853 dated 10.12.2024, the representative replied that he had not brought them at present, but we will have them submitted through our CHA at your office within the next three to four days.
- On being asked whether they had filed Shipping Bill 6316853 dated 10.12.2024, the CHA replied in positive. On being asked as to how they came in contact with the CHA and whether they knew anyone from M/s Perfect Cargo & Logistics, the representative replied that since this entire business belongs to their firm, the firm contacted Mr. Uday Sharma through certain confidential sources and that they knew them well.
- On being asked as to whether anyone from CHA M/s Perfect Cargo & Logistics visited their business premises before filing the shipping bill, the representative replied in the affirmative that Mr. Uday Sharma had visited their office and completed the entire KYC process.
- On being asked as to how they came in contact with the Advance Authorization holder and the supplier M/s Pristine Stainless, the representative replied that their firm contacted the Advance Authorization holder through known sources since they needed to purchase goods, for which they reached out to several people.
- On being asked as to what were the payment terms with the supplier, the supplier replied in the affirmative that they had made the payment through the bank and that the payment terms were that the payment would be made a few days after receiving the goods, however, no payment has been made in this case.
- On being asked as to whether they could provide evidence regarding the movement of goods from M/s Pristine Stainless to your premises, the

representative submitted that the goods never arrived at our premises as we purchased them for export and that the goods were directly sent from M/s Pristine Stainless's warehouse to Nhava Sheva.

- On being asked that upon reviewing the tax invoice and submitted e-way bills issued by M/s Pristine Stainless, it was found that the goods were sent to a residential address in Rohini, the representative replied that it was a clerical mistake since they were the buyers and the goods were dispatched directly from M/s Pristine Stainless's warehouse to Nhava Sheva, M/s Pristine Stainless mistakenly issued the e-way bill to their residential address in Rohini due to which, they were compelled to generate an e-way bill from our residence to Nhava Sheva, although the goods never actually reached our residence.
- On being asked as to whether the e-way bills filed only to show the movement of goods on paper and whether the goods were actually transferred to the residential address: Flat No. 170, First Floor, Paradise Apartment, Block-E, PKT-3, Rohini Sector-18, Delhi-110085,
- the representative replied that the response to this question has already been given in the previous response and that the goods were not transferred to the mentioned residential address, as explained earlier.
- On being told that according to the Customs Act, the responsibility of verifying the accuracy of the declarations made under the shipping bill lies with the exporter and whether they verified the goods before dispatching them to Nhava Sheva, the representative replied that since the goods were prepared by M/s Pristine Stainless as per the buyers' conditions, they were directly dispatched to Nhava Sheva and as such an error had never occurred before, they did not verify the goods this time.
- On being asked as to whether they were aware that the shipping bill was filed under the Advance Authorization Scheme, the representative replied that they were aware that the shipping bill was filed under the Advance Authorization Scheme.
- On being asked as to whether they had knowledge about the Advance Authorization Scheme, the representative replied in the negative.
- On being asked as to whether they were aware that the goods exported under shipping bill 6316853 dated 10.12.2024 were kitchenware and tableware, the representative replied that this is what they knew, however, M/s Pristine Stainless later informed them that by mistake, instead of kitchenware and tableware, scrap was sent to Nhava Sheva for export and that they acknowledged this mistake and confirmed that M/s Pristine Stainless also admitted their mistake by paying the relevant taxes at ICD Tughlakabad.
- On being asked as to whether they agreed with the examination conducted under the Panchnama and whether they were present at the time of examination, the representative replied that they agreed with the examination, and that their authorized representative was present at the time of Panchnama, however, a few days before the Panchnama, the representative personally checked the goods in the CFS and found that instead of kitchenware and tableware, scrap was sent to Nhava Sheva by M/s Pristine Stainless.
- On being asked as to whether the goods found during the examination under the Panchnama dated 30.12.2024 completely falsely declared, the representative replied that they agreed that all goods were falsely declared, One item, the deep tray, was correctly declared, however, the rest of the goods were wrongly sent as scrap by M/s Pristine Stainless, and that they fully acknowledged that.

- On being told that now he would be shown the pictures of the goods seized during the Panchnama and whether they are kitchenware and tableware, the representative replied that the goods shown in the pictures during the Panchnama are not kitchenware or tableware and that they are just leftover scrap from their manufacturing process, and they fully acknowledged that.
- On being asked as to whether they deliberately sent these goods, the representative replied that it was a clerical mistake and that M/s Pristine Stainless mistakenly sent the wrong goods to Nhava Sheva, which led to an incorrect declaration on our part and that it was an unintentional error for which they sought forgiveness.
- On being asked as to why it should not be assumed that they colluded with the license holder to commit fraud under the Advance Authorization Scheme, the representative submitted that it was a clerical mistake and as mentioned earlier, M/s Pristine Stainless mistakenly sent the wrong goods from their warehouse to Nhava Sheva and that they were not involved in any collusion, as M/s Pristine Stainless has written a letter to the Nhava Sheva authorities admitting their mistake.
- On being asked as to whether they accepted the negligence on their part the representative replied that there was negligence on their part, and they should have thoroughly checked the goods before dispatching them to Nhava Sheva and therefore, they requested that their mistake be excused.
- On being asked as to whether the license holder, M/s Pristine Stainless, provided any justification for this gross misdeclaration, the representative replied that they had apologized and stated that the mistake was made unknowingly by a worker and that M/s Pristine Stainless had also written a letter to the Nhava Sheva authorities admitting that the wrong goods were mistakenly sent for export.
- On being asked as to whether they were you the actual owner of the goods in the case of a person working for another individual, the representative replied that they will be considered the actual owner of the goods, but the goods were purchased from M/s Pristine Stainless but they sent different goods than the declared ones directly to Nhava Sheva.
- On being asked as to whether they previously carried out any exports where the benefit of Advance Authorization was availed, the representative replied that they had filed shipping bills four times before, availing the benefit of Advance Authorization and that however, the correct goods were exported each time and that this was their first mistake, where the wrong goods were mistakenly sent to Nhava Sheva.
- On being asked as to how they came in contact with the recipient/buyer, the representative replied that it was done through the senior officials of our firm.
- On being asked as to what were the payment terms with the recipient/buyer, the representative replied that Payment was to be made within one year of supply.
- On being asked as to whether they had ever been penalized by customs, GST, or any other government agencies in the past, the representative replied in the negative.
- The representative further submitted this mistake was made by M/s Pristine Stainless and their employees and since they had a long-standing business relationship with M/s Pristine Stainless, all goods were sent from their warehouse to Nhava Sheva based on trust, without verification. Therefore, any discrepancies found in the goods should be considered a human error or an unintentional mistake by M/s Pristine Stainless.

Further, he requested to forgive their mistake, and also appealed to the senior officials to take a lenient approach toward our firm and consider this as a human error, so that the case can be resolved as soon as possible.

12. During the course of investigation, it was observed that the shipping bill was filed under Advance Authorisation under claim of RoDTEP. As the goods are grossly mis declared in terms of value and other parameters, RoDTEP benefits claimed in the shipping bill are also liable for rejection.

13. PAST EXPORTS:

SIMILAR GOODS:

In order to investigate past consignments, past data was retrieved for the exporter M/s. Sri Kirpa Exim Pvt Ltd (IEC - 2106001517) was retrieved and it was found that the exporter had exported similar goods in the past as well under the same Advance Authorisation License number. However, it was observed that all these goods were cleared for export by the proper officer in terms of Section 50 of the Customs Act. Further, the objections regarding mis-declaration in the subject goods were observed only at the time of inspection/examination and the same premise cannot be extended to the past shipments as they have already been cleared for export by the proper officer.

PAST REMITTANCE:

Table-II

Serial No.	SB No.	SB Date	LEO Date	Expected Realization Date	Drawback	RODTEP	Drawback Amount	FOB to be Realised(In n FC)	FOB Actually Realised(In n FC)
1	1226204	28-05-2024	29-05-2024	28-02-2025	-	5800.00	0	23,391	0
2	2594944	22-07-2024	24-07-2024	30-04-2025	-	19650.00	0	52,646	0
3	5086055	05-10-2021	07-10-2021	31-07-2022	90121.00	22156.00	90,121	73,915	70,640
4	7139954	20-01-2023	24-01-2023	31-10-2023	175971.00	74229.00	1,75,971	1,31,856	1,31,855
5	8406626	17-03-2015	18-03-2015	31-12-2015	73513.00	-	73,513	13,217	13,217

However, as the prescribed timeline for realization of foreign remittance is 09 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 proceedsshall be nine months from the date of Export for all Exporters including Units in SEZs, Status Holder Exporters, EOUs, Units in EHTPs, STPs & BTPs until further notice. As per Table-II, there are 02 Shipping Bills mentioned in the table above mentioned at Sr. No. 1 & 2 for which FOB has not been realized despite completion of expected realization time period as mandated by RBI.

Accordingly, RoDTEP is liable to be demanded Back from the Exporter on account of non-receipt of foreign remittance in the Shipping Bill mentioned at Sr. No. 1 & 2 in Table-II in terms of Notification No. 76/2021-Cus (N.T) dated 23.09.2021, 77/2021-Cus (N.T) dated 24.09.2021 & 25/2023-Cus (N.T) dated 01.04.2023 along with applicable interest under section 28AA of the Customs Act, 1962. Total RoDTEP claimed in 02 Shipping Bills mentioned at Sr. No. 1 & 2 of table above in which FOB not realized despite completion of time period is 25,450/-.

14. RELEVANT LEGAL PROVISIONS

A. Customs Act, 1962

Section 50: Entry of goods for Exportation. -

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

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

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

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

(a) the accuracy and completeness of the information given therein;

(b) the authenticity and validity of any document supporting it; and

(c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

Section 113(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 rate of drawback under section 75*

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;*

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.

114AB. Penalty for obtaining instrument by fraud - *Where any person has obtained any instrument by fraud, collusion, willful misstatement or suppression of facts and such instrument has been utilized by such person or any other person for discharging duty, the person to whom the instrument was issued shall be liable for penalty not exceeding the face value of such instrument.*

Section 28AAA. Recovery of duties in certain cases - (1) *Where an instrument issued to a person has been obtained by him by means of-*

(a) collusion; or

(b) willful mis-statement; or

(c) Suppression of facts,

for the purposes of this Act or the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), or any other law, or any scheme of the Central Government, for the time being in force, by

such person] or his agent or employee and such instrument is utilized under the Provisions of this Act or the Rules or regulations made or notifications issued there under, by a person other than the person to whom the instrument was issued, the duty relatable to such utilization of instrument shall be deemed never to have been exempted or debited and such duty shall be recovered from the person to whom the said instrument was issued:

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

Section 28AA of the Customs Act, 1962 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.

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.

Legal provisions in respect of import under advance authorization:

Before dealing with the contents of the investigations and conclusion, it is apt to throw light on the provisions of Advance Authorization Scheme, Entitlements, Eligibility under Foreign Trade Policy and some Rules & Regulations for obtaining Advance Authorization for duty-free import of the goods, EODC, and Transferability etc.

In terms of Para 4.03 of Chapter-4 of the FTP 2015-2020, "Advance Authorization is issued to allow duty free import of input, which is physically incorporated in export product (making

normal allowance for wastage). In addition, fuel, oil, catalysts which are consumed / utilized to obtain export product, may also be allowed." As per Para 4.14 of the Foreign Trade Policy, 2015-2020, imports under Advance Authorizations are exempted from payment of Basic Customs Duty, Additional Customs Duty, Education Cess, Anti-Dumping Duty and Safeguard duty, if any. Further, as per Para 4.16 of the FTP 2015-20 Advance Authorization and/or materials imported there under will be with actual user condition. It will not be transferable even after completion of export obligation. The export obligation period is 90 days from the date of clearance of each import consignment by Customs Authority.

In terms of Para 4.03 of Chapter-4 of the FTP 2015-2020, an Advance Authorization is issued to allow duty free import of inputs, which were physically incorporated in export product (making normal allowance for wastage). In addition, fuel, oil, catalysts which are consumed / utilized to obtain export product, may also be allowed. As per Para 4.14 of the Foreign Trade Policy, 2015-2020, the Advance Authorizations were exempted from payment of Basic Customs Duty, Additional Customs Duty, Education Cess, Anti-Dumping Duty and Safeguard duty, if any

Customs Notification No. 18/ 2015 – Customs dated 01.04.2015

(iv) That in respect of imports made before the discharge of export obligation in full, the importer at the time of clearance of the imported materials executes a bond with such surety or security and in such form and for such sum as may be specified by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, binding himself to pay on demand an amount equal to the duty leviable, but for the exemption contained herein, on the imported materials in respect of which the conditions specified in this notification are not complied with, together with interest at the rate of fifteen percent per annum from the date of clearance of the said materials;

(viii) that the export obligation as specified in the said authorization (both in value and quantity terms) is discharged within the period specified in the said authorization or within such extended period as may be granted by the Regional Authority by exporting resultant products, manufactured in India which are specified in the said authorization and in respect of which facility under rule 18 (rebate of duty paid on materials used in the manufacture of resultant product) or sub-rule (2) of rule 19 of the Central Excise Rules, 2002 has not been availed.

The import of materials under Advance Authorization Scheme was governed by Notification No. 18/2015-Cus dated 01.04.2015, as amended, at the relevant time period. The said notification exempted the materials imported into India against an Advance Authorization issued in terms of Para 4.03 of FTP 2015-2020 from whole of the Duty of Customs leviable thereon specified in the First Schedule to the Customs Tariff Act, 1975 and from the whole of the Additional Duty, Safeguard Duty and Anti-Dumping Duty leviable thereon, respectively, subject to the certain conditions and the relevant conditions are as under:-

(x) that the said Authorization shall not be transferred and the said material shall not be transferred or sold.

Thus, from the above, it is evident that the import of input under Advance Authorizations Scheme was allowed, subject to condition that such inputs should be used in the export product with actual user condition and same should not be transferred or sold. Further, the export obligation as specified in the said authorization (both in value and quantity terms) should be discharged within the period of 18 months as specified in the said authorization or within such extended period as may be granted by the Regional Authority by exporting resultant products. As per the additional condition of license, the export obligation period is 90 days from the date of clearance of each import consignment by Customs Authority.

15. WHEREAS, FROM THE INVESTIGATION, THE FOLLOWING FACTS EMERGE THAT:

15.1 M/s. Sri Kirpa Empire Exim Private Limited (IEC: 2106001517) having its office at 436/2, Baldi Village, Libaspur, North-East, Delhi- 110042 through their authorized

Customs Broker, M/s Perfect Cargo and Logistics (CHA No 11/1363) for the export of goods described as "Kitchen & Tableware and Kitchenware Parts of Gas Stove " destined to Indonesia, with a declared FOB value of ₹44,07,411.31/- under the Advance Authorisation Scheme. The Exporter is a Merchant Exporter and purchased the goods from M/s. Pristine Stainless (IEC-BLAPJ4514N).

15.2 Whereas, it was observed that said goods are covered under Advance Authorization Scheme (Scheme Code - 03). The Shipping Bill was filed under the Advance Authorisation License No 0511023254 dated 15.01.2024 and that the Advance Authorisation License Holder is M/s. Pristine Stainless (IEC - BLAPJ4514N) having address at B-41, Ground Floor, Wazirpur Industrial Area, Road, Delhi - 110052. In terms of the said Advance Authorisation License, the license holder is supposed to import duty free "Cold Rolled Stainless Steel Coils Grade -J2" and is supposed to export goods namely "Table, Kitchen and other household articles of Stainless Steel and Stainless-Steel Cutlery".

15.3 Whereas, goods were examined 100% vide Panchanama dated 30.12.2024 in the presence of two independent Panchas, representatives of Customs Broker and Exporter. During the Examination, the subject goods were found absolutely mis declared in terms of description. It was observed that goods found during the examination were not the same as declared in the shipping bills. There was no finished product. Goods were packed haphazardly in gunny bags without any markings on the goods. Further, it was also observed that bags of items "Kitchen and Tableware SS Spatula 16" were missing. Goods were declared as Kitchenware, however, unfinished strips and discs of metal were found. Further, all the strips/discs found during the examination were composed of metals of different thickness. Accordingly, the goods were found grossly mis declared in terms of description & classification as per the goods declared in the Advance Authorization License. Whereas, the goods were also examined by an empanelled Chartered Engineer whose report affirmed the findings of the Panchnama as to the fact that the goods have been found mis-declared. Further, the Chartered Engineer has provided the correct realizable value of goods in light of the findings of the examination. The Chartered Engineer has provided Correct Realizable Value of the goods around Rs. 23,58,000/- instead of the declared Rs. 44,07,411.31/-. Thus, the declared value of the goods is liable to be rejected and re-determined in terms of the correct realizable value provided by the Chartered Engineer.

15.4 Whereas, during the course of the investigation, it was observed that the License Holder M/s. Pristine Stainless (IEC BLAPJ4514N) having address at Ground Floor, B-41, Wazirpur Industrial Area Road, Block-B, North West Delhi - 110052 has registered the Advance Authorisation License No 0511023254 dated 15.01.2024 at INTKD6- ICD Tughlakabad, New Delhi - 110020, therefore, investigation w.r.t. to the License Holder M/s. Pristine Stainless (IEC BLAPJ4514N) was transferred to INTKD-6 vide letter dated 28.01.2025 wherein all the facts of the case along with the relevant documents were sent to the authority for further necessary action as per law.

15.5 Whereas, since the goods were covered under the Advance Authorisation scheme, it is evident that they exporter has attempted to mis-utilize the scheme in connivance with the license holder and thus has rendered themselves liable for penal action under the Customs Act.

15.6 Whereas, since the goods exported under the scheme of Advance Authorisation are supposed to made out of duty free imported goods which in this case are "Cold Rolled Stainless Steel Coils Grade -J2", it is deemed that the duty free imported goods have been diverted elsewhere and the exporter in connivance with the license holder has attempted to fulfil the export obligation by attempting to export goods which are

cut-outs/disc/plates etc. by way of mis-declaration which has rendered the goods liable for confiscation under Section 113(i) of the Customs Act, 1962.

15.7 Whereas, the statement of the authorized representative of the exporter, recorded under Section 108 of the Customs Act on 27.02.2025, categorically stated that:

- a. The goods were shipped directly from the license holder M/s. Pristine Stainless' warehouse to Nhava Sheva and that they did not verify the goods before attempting to export the goods
- b. The representative himself verified the goods in the CFS after the goods were put on hold before the panchnama and agreed with the fact that instead of tableware and kitchenware, scrap was sent by M/s. Pristine Stainless and that they fully acknowledged that.
- c. The license holder fully acknowledged the mistake which happened unknowingly due to a worker and had apologized to them for the mistake and that they had admitted their mistake and paid the relevant taxes at ICD Tughlakabad.
- d. They had filed shipping bills four times before, availing the benefit of Advance Authorization and that however, the correct goods were exported each time and that this was their first mistake, where the wrong goods were mistakenly sent to Nhava Sheva.

15.8 Whereas, the investigation agency was in receipt of letter dated 10.07.2025 wherein it was informed that the Importer M/s. Pristine Stainless has voluntarily paid the differential duty along with applicable interest against the goods found mis-declared at the time of export for which raw material was originally imported under Advance Authorization License No. 0511023254 dated 15.01.2024. It was also informed that the Importer has also paid penalty @15% of the duty and competent authority has concluded the case against the Importer M/s. Pristine Stainless under section 28(6) of the Customs Act, 1962. Further, it was submitted that the Challans have been verified by the concerned bank branch which confirmed the authenticity of the Challan Nos TR6-105013,105014 dated 31.01.2025 amounting to Rs. 2,57,080/- and Rs. 6,92,690/-.

15.9 Whereas, the exporter M/s. Sri Kirpa Empire Exim Private Limited (IEC: 2106001517) has contravened the provisions of Foreign Trade Policy and violated the conditions of notification No. 18/2015-Cus dated 01.04.2015 and rule 11 and rule 13 of Foreign Trade (Regulation) Rules, 1993 in connivance with the license holder M/s. Pristine Stainless (IEC-BLAPJ4514N) as the goods attempted to be exported under the said Advance Authorization License No. 0511023254 dated 15.01.2024 were found to be grossly mis-declared in terms of description and hence the subject goods are liable for confiscation under Section 113(i) of the Customs Act and the exporter is liable for penalty under Section 114(iii) of the Customs Act, 1962.

15.10 Further, during the course of investigation, it was observed that the shipping bills were filed under Advance Authorisation under claim of RoDTEP. In this regard, as discussed above RoDTEP is not available to the said goods and this has rendered the goods liable for confiscation under Section 113(ja) of the Customs Act, 1962.

15.11 For the past Shipping Bill as mentioned in Table-V wherein foreign remittance have been not received by the Exporter as per ICES 1.5 and thereby in a manner which rendered the said goods liable for confiscation in terms of Provisions of Section 113(ia) & 113(ja) of the Customs Act, 1962. The Export incentive particularly RoDTEP claimed by the Exporter in these Shipping Bill are also liable to be demanded from them in terms of Notification No. 76/2021-Cus (N.T) dated 23.09.2021 & 24/2023-Cus (N.T) dated 01.04.2023 along with applicable interest under section 28AA of the Customs Act,

1962 and the same has also rendered the exporter liable for penalty under Section 114AB of the Customs Act, 1962.

15.12 Whereas, by failing to truthfully declare the description of the goods being attempted to be exported, the exporter has acted in contravention of Section 50(2) of the Customs Act, 1962 and thus has attempted to fulfil the obligation under the Advance Authorisation scheme by way of fraudulently mis-description & mis-classification of the goods declared in the Advance Authorisation License. This act of deliberate misrepresentation and wilful non-compliance has rendered the exporter liable for penalty under Section 114AA of the Customs Act, 1962.

16. Now, as per the Draft SCN issued by SIIB(X), the exporter M/s. Sri Kirpa Empire Exim Private Limited (IEC: 2106001517) having its office at 436/2, Baldi Village, Libaspur, North-East, Delhi- 110042 are to be called upon to Show Cause to the Additional Commissioner of Customs, CEAC, NS-II, JNCH, having office at Jawaharlal Custom House, Nhava Sheva, Tal-Uran, Dist-Raigad, Maharashtra, within 30 days of receipt of this notice as to why:

(i) The declared value of Rs. 44,07,411.31/- of the goods covered under the said shipping bill should not be rejected and re-determined to Rs. 23,58,000/- as the correct realizable value provided by the Chartered Engineer.

(ii) The goods pertaining to Shipping Bill No. 6316853 dated 10.12.2024 should not be confiscated under the provisions of Section 113(i) and 113(ja) of the Customs Act, 1962.

(iii) M/s. Sri Kirpa Empire Exim Private Limited (IEC: 2106001517) should not be penalized under Section 114(iii) of the Customs Act, 1962 for reasons as mentioned above.

(iv) M/s Sri Kirpa Empire Exim Private Limited (IEC: 2106001517) should not be penalized under Section 114AA of the Customs Act, 1962 as they have knowingly and willfully attempted to fulfil export obligation under the Advance Authorisation by way of gross mis-declaration of the goods.

(v) The goods pertaining to Shipping Bills mentioned at Sr. No. 1 & 2 of Table-II totally valued at ₹ 62,92,355.79/- should not be confiscated under the Provisions of Section 113(ia) and 113(ja) of the Customs Act, 1962 since the Export benefits have been availed and taken by the Exporter without realizing the Export proceeds i.e. on account of non-receipt of foreign remittance of the value of Export.

(vi) M/s. Sri Kirpa Empire Exim Private Limited (IEC: 2106001517) should not be penalized under Section 114AB of the Customs Act, 1962 on account of claiming export incentives/benefits without receipt of the foreign remittance in Shipping Bill Nos. mentioned at Sr. No. 1 & 2 in Table-II filed by the Exporter.

(vii) The RoDTEP of ₹ 25,450/- claimed in Shipping Bills mentioned at Sr. No. 1 & 2 of Table-II above should not be recovered on account of non-receipt of remittance in terms of Notification No. 76/2021-Cus (N.T) dated 23.09.2021 & 24/2023-Cus (N.T) dated 01.04.2023 along with applicable interest under section 28AA of the Customs Act, 1962.

17. RECORD OF PERSONAL HEARING

17.1 The exporter vide their letter dated 06.08.2025 has requested for waiver of SCN in the instant matter and to adjudicate the matter without giving SCN, but they requested for PH in the subject matter.

17.2 In compliance of Principles of Natural Justice, the exporter was granted opportunity to appear before the undersigned for Personal Hearing (PH) and submit oral/written submission in their defence. Accordingly, a PH memo dated 13.08.2025, was issued to the exporter requesting to appear for PH on 14.08.2025 before the undersigned.

17.3 The PH was conducted on 14.08.2025, wherein Advocate, Bombay High Court, Mr. S. K. Mathur (Authorised representative of the exporter) appeared and has, along with submissions, submitted that-

- We introduce ourselves as a merchant exporter having IEC number 2106001517 have procured Kitchen and tableware items from M/s. Pristine Stainless, having their factory located at Ground floor, B-41, Wazirpur Industrial Area, Delhi 110052 and a shipping bill No. 6313853 dtd.10.12.24 was filed for its clearance The consignment was put on hold by the Custom officers of SIIB(X) of JNCH, Nhava Sheva and it was found to contain some quantity of inferior quality goods along with the good quality of goods and the goods were seized under seizure memo no. Cus/ Eshed/Misc/4745/2024-DC/AC-IX DIN 20250178NI0000419039 dated 16.01.2025 on account of misdeclaration.
- That, in the light of the consignment put on hold by SIIB(X) Customs we had inquired from the supplier /manufacturer of the said goods M/s. Pristine Stainless of Delhi and it was informed that the inferior quality of goods were stuffed by mistake by the labours whereas the good quality of goods were lying in the factory That, the mistake is bonafide and not intentional as we have always exported good quality of the material as any Inferior quality of material gets rejected by the recipient and it goes detrimental to our financial interests and hence we never intend to export any undesired goods to the global buyer as we always expect to get repeat orders.
- That, no export incentive was claimed in respect of the said goods as these goods were manufactured from inputs under Advance Licence for fulfillment of export obligations.
- That, the inferior quality of stuffed goods along with good quality of goods could only be noticed when the consignment was examined by Customs and it could be learnt from the manufacturer that due to mistake by labours the said inferior quality of goods were stuffed along with good quality material and as such the manufacturing company M.s, Pristine Stainless desired to take the goods back to their factory so that entire goods will be verified and good quality of material will be provided for export purposes.
- That, the mistake so occurred is not intentional but bonafide and that this noticee was not benefited in any way in sending inferior quality of goods as these could be rejected by the recipient. That, we have been exporting such goods to the purchaser of Batam (Indonesia) regularly and there have been no complaint of quality from them and that it is the first time that such kind of discrepancy in the quality is noticed. Therefore, these goods need to be returned to the manufacturer for replacing the inferior quality of goods with the good and desired quality of goods at their end.
- That we humbly pray that a lenient view be taken at your end for the bonafide mistake so occurred and the goods be permitted back to the manufacturer at the earliest and that no penalty be imposed upon us as we had no malafide intention in exporting inferior quality of goods to its buyer.

18. DISCUSSION AND FINDINGS

18.1 I have carefully gone through the facts available on the records and the investigations done in the case. I find that the principle of natural justice has been complied to M/s. Sri Kirpa Empire Exim Private Limited to set out their defence. The legal provisions as applicable in the case have been explained orally to the exporter. Hence, I take up the case and proceed to adjudicate on merits based on evidence and submissions provided by the exporter and as available on records.

19. I find that the following issues are required to be decided in the instant case as-

(i) Whether the declared value of Rs. 44,07,411.31/- of the goods covered under the said shipping bill is liable to be rejected and re-determined to Rs. 23,58,000/- as the correct realizable value provided by the Chartered Engineer.

(ii) Whether the goods pertaining to Shipping Bill No. 6316853 dated 10.12.2024 should not be confiscated under the provisions of Section 113(i) and 113(ja) of the Customs Act, 1962.

(iii) Whether M/s. Sri Kirpa Empire Exim Private Limited (IEC: 2106001517) should be penalized under Section 114(iii) of the Customs Act, 1962 for reasons as mentioned above.

(iv) M/s Sri Kirpa Empire Exim Private Limited (IEC: 2106001517) should not be penalized under Section 114AA of the Customs Act, 1962 as they have knowingly and willfully attempted to fulfil export obligation under the Advance Authorisation by way of gross mis-declaration of the goods.

(v) Whether the goods pertaining to Shipping Bills mentioned at Sr. No. 1 & 2 of Table-II totally valued at ₹ 62,92,355.79/- should be confiscated under the Provisions of Section 113(ia) and 113(ja) of the Customs Act, 1962, since the Export benefits have been availed and taken by the Exporter without realizing the Export proceeds i.e. on account of non-receipt of foreign remittance of the value of Export.

(vi) Whether M/s. Sri Kirpa Empire Exim Private Limited (IEC: 2106001517) should be penalized under Section 114AB of the Customs Act, 1962 on account of claiming export incentives/benefits without receipt of the foreign remittance in Shipping Bill Nos. mentioned at Sr. No. 1 & 2 in Table-II filed by the Exporter.

(vii) Whether the RoDTEP of ₹ 25,450/- claimed in Shipping Bills mentioned at Sr. No. 1 & 2 of Table-II above should be recovered on account of non-receipt of remittance in terms of Notification No. 76/2021-Cus (N.T) dated 23.09.2021 & 24/2023-Cus (N.T) dated 01.04.2023 along with applicable interest under section 28AA of the Customs Act, 1962.

20. I Find that, during the course of the investigation, it was observed that the exporter is a merchant exporter and has purchased the goods from the License Holder M/s. Pristine Stainless (IEC BLAPJ4514N) having address at Ground Floor, B-41, Wazirpur Industrial Area Road, Block-B, North West Delhi - 110052 has registered the Advance Authorisation License No 0511023254 dated 15.01.2024 at INTKD6- ICD Tughlakabad, New Delhi - 110020, therefore, investigation w.r.t. to the License Holder M/s. Pristine Stainless (IEC BLAPJ4514N) was transferred to INTKD-6 vide letter dated 28.01.2025 wherein all the facts of the case along with the relevant documents were sent to the authority for further necessary action as per law. Whereas, since the goods were covered under the Advance Authorisation scheme, it is evident that they exporter has attempted to mis-utilize the scheme in connivance with the license holder and thus has rendered themselves liable for penal action under the Customs Act, 1962. Since the

goods exported under the scheme of Advance Authorisation are supposed to be made out of duty free imported goods which in this case are "Cold Rolled Stainless Steel Coils Grade -J2", it is deemed that the duty free imported goods have been diverted elsewhere and the exporter in connivance with the license holder has attempted to fulfil the export obligation by attempting to export goods which are cut-outs/disc/plates etc. by way of mis-declaration which has rendered the goods liable for confiscation under Section 113(i) of the Customs Act, 1962.

21. I also find that, the investigating agency was in receipt of letter dated 10.07.2025 wherein it was informed that the Importer M/s. Pristine Stainless has voluntarily paid the differential duty along with applicable interest against the goods found mis-declared at the time of export for which raw material was originally imported under Advance Authorization License No. 0511023254 dated 15.01.2024. It was also informed that the Importer has also paid penalty @15% of the duty and competent authority has concluded the case against the Importer M/s. Pristine Stainless under section 28(6) of the Customs Act, 1962. Further, I find that, the Challans have been verified by the concerned bank branch which confirmed the authenticity of the Challan Nos TR6-105013,105014 dated 31.01.2025 amounting to Rs. 2,57,080/- and Rs. 6,92,690/-.

22. REJECTION OF DECLARED VALUE:

22.1 I find that the invoices produced by the exporter at the time of examination did not show correct and true details of the goods entered for export vide the subject Shipping bills and invoices and as such they did not appear to represent true transaction value of the impugned goods. Hence, the declared value i.e. Rs. 44,07,441.31/- 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.

22.2 I find that goods do not have any specific brand, mark & other parameters and price of the goods may vary depending upon the quality of the goods, hence, value of the goods could not be determined based on the transaction value of goods of like kind and quality exported at or about the same time under Rule 4 of CVR, 2007.

22.3 I find that the exporter is merchant exporter and 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. Hence, transaction value of the impugned goods under export could not be determined under Rule 5 of the Customs Valuation Rules, 2007. Hence the value of all the items could be ascertained from the wholesale market as per the residual Rule 6 of CVR (Export) Rules, 2007.

23. RE-DETERMINATION OF VALUE:

23.1 I find that to ascertain prevailing market value of the goods as per the residual Rule 6 of CVR (Export) Rules, 2007, the CE inspection of the goods found was conducted on 28.08.2025 along with authorized representative of the exporter, the declared FOB value was re-determined as detailed above to Rs. 23,58,000/-.

23.2 I find that the basis of the CE inspection report as discussed above, the re-determined FOB of the said Shipping bill comes out to be Rs. 23,58,000/- against declared FOB of Rs. 44,07,411.31/-. The claimed RoDTEP benefits are to be rejected entirely as the same are not applicable as discussed above, moreover the exporter is requesting for BTT of the cargo. In this way, it appears that the goods covered under Shipping Bills mentioned above, the Exporter had inflated FOB value of the export goods & attempted to claim undue/excess export benefits.

24. In view of the above discussion, I find that the exporter had not made declaration truthfully in the said Shipping Bills 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 appeared 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. 44,07,411.31/- 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. 23,58,000/- 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.

25. I find that the exporter had inflated FOB value of the goods covered under shipping bill detailed at Table-I and thereby illegally attempted to export goods by way of mis-declaration of value and other parameters and to avail excess/undue export benefit RODTEP 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(ja) of the Customs Act, 1962.

26. I find that the excess/undue export incentives RoDTEP of Rs. 17,900.46/- claimed under shipping bill detailed at Table-I, is liable for rejection.

27. In view of the discussion and findings above, I find that IEC holder of M/s. Sri Kirpa Empire Exim Private Limited is liable for penalty under Section 114(iii) of the Customs Act, 1962 and this act of deliberate misrepresentation and wilful non-compliance has rendered the exporter liable for penalty under Section 114AA of the Customs Act, 1962..

28. I further find that, the exporter in their submission during the PH, submitted that the BRC with respect to the above mentioned two shipping bills (Table-II, Sr.no. 1 & 2) have already been received and the same is submitted along with other submissions. The BRCs with respect to these shipping bills have been duly verified and it has been observed that the remittance has already been received. In this regard, I do not find any merit in the charges as per the DSCN/Investigation report with respect to 02 past shipping bills (Table -II, Sr. no 1 & 2) and hence refrain from confiscating past exports and imposing any penalties on the exporter for these shipping bills.

29. In view of the above discussion and findings, I pass the following order: -

ORDER

(i) I reject the value of the goods covered under Shipping bill no.- 6316853 dated 10.12.2024 having declared FOB of Rs 44,07,411.31/- rounded off to Rs. 44,07,411 (Rs. Forty Four Lakh Seven Thousand Four Hundred and Eleven Only) as mentioned at Table-1 above, and order to re-determine the same to Rs.23,58,000/- (Rs. Twenty-Three Lakh Fifty Eight Thousand Only) under the provisions of Rule 6 of the said Rules ibid as discussed above.

(ii) I reject the claimed RoDTEP amount of Rs. 17,900.46/- entirely for the act and omission as discussed above.

(iii) I order to confiscate the goods covered under goods pertaining to Shipping Bill No. 6316853 dated 10.12.2024 under the provisions of Section 113(i) and 113(ja) of the Customs Act, 1962. However, I allow redemption of the said goods on payment of Redemption Fine of Rs. 50,000/- (Rupees Fifty Thousand only) for limited purpose of Back to Town only.

(iv) I impose penalty of Rs. 75,000 /- (Rupees Seventy Five Thousand Only) under Section 114(iii) of the Customs Act, 1962 on the exporter M/s. Sri Kirpa Empire Exim Private Limited (IEC: 2106001517).

(v) I impose penalty of Rs. 75,000 /- (Rupees Seventy Five Thousand Only) under Section 114AA of the Customs Act, 1962 on the exporter M/s. Sri Kirpa Empire Exim Private Limited (IEC: 2106001517)

30. 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.

(Dr. Chittaranjan P. Wagh)
Addl. Commissioner of Customs,
CEAC/NS-II, JNCH

F.No.-CUS/ASS/MISC/736/2025-CEAC

Place: Nhava Sheva

Date: .09.2025

To,
Noticeses,

1. **M/s. Sri Kirpa Empire Exim Private Limited (IEC: 2106001517)**
436/2, Baldi Village, Libaspur, North-East, Delhi- 110042.

Copy to:

1. The Dep./Asstt. Commissioner of Customs,
SIIB (X), JNCH.
2. The Dep./Asstt. Commissioner of Customs,
CRRC (X), JNCH.
3. The Dep./Asstt. Commissioner of Customs,
CRAC (X), JNCH.
4. AC/ICD Tughlakabad, Delhi
5. EDI, for uploading on Website
6. Office Copy.