



भारत सरकार

वित्त मंत्रालय/ राजस्व विभाग

केंद्रीय अप्रत्यक्ष कर एवं सीमाशुल्क बोर्ड – मुंबई अंचल-I, भारतीय सीमाशुल्क

आयुक्त सीमाशुल्क (आयात-I) का कार्यालय

द्वितीय मंजिल, नवीन सीमाशुल्क भवन, शूरजी वल्लभदास मार्ग, वेलाड एस्टेट,
मुंबई-400001.

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फा.सं. : S/26-MISC-45/2017-18/Gr. IV & E-OFFICE F NO. GEN/ADJ/COMM/84/2020-ADJN

के द्वारा जारी किया गया : विवेक पाण्डेय
आयुक्त सीमाशुल्क (आयात-I)

आदेश दिनांक: 31.08.2023
जारी दिनांक: 03.10.2023

सी.ए.ओ. क्रमांक : 37/2023-24/CAC/CC(IMPORT-I)/VP/ADJ(IMP-I)
DIN No. 202310770000008186E1

मूल आदेश

- 1- यह प्रति उस व्यक्ति के प्रयोग के लिए निः शुल्क है, जिसके लिए यह पारित किया है।
- 2- इस आदेश के विरुद्ध क्षेत्रीय पीठ, सीमाशुल्क, उत्पाद एवं सेवाकर अपीलीय अधिकरण, जय सेन्टर, चौथा एवं पांचवा तल, 34 पी. डी' मेलो रोड, पूना स्ट्रीट, मस्जिद बन्दर (पूर्व) मुंबई 400 009 को अपील की जा सकती है।
- 3- सीमाशुल्क (अपील) नियमों 1982 के नियम 6 के आधार पर अपील फॉर्म सी ए-3 में जैसा कि उक्त नियम में संलग्न है के आधार पर की जानी चाहिए। अपील चार प्रतियों में की जानी चाहिए एवं 90 दिनों के अन्दर दायर की जानी चाहिए एवं उसके साथ उस आदेश की चार प्रतियां संलग्न होनी चाहिए जिसके विरुद्ध अपील की गई हो (इन प्रतियों में कम से कम एक प्रति अभिप्रमाणित प्रति होनी चाहिए)। अपील के साथ सीमाशुल्क अधिनियम 1962 की धारा 129A की उपधारा (6) के अन्तर्गत लागू रु.1,000/-, रु.5,000/- अथवा रु.10,000/- का, क्रास किया हुआ बैंक ड्रॉफ्ट अधिकरण की पीठ के सहायक रजिस्ट्रार के नाम जारी किया होना चाहिए। यह बैंक ड्राफ्ट ऐसे राष्ट्रीय बैंक का होना चाहिए जिसकी शाखा उस जगह स्थित हो जहां अधिकरण पीठ स्थित है।
- 4- अपील अधिकरण पीठ के सहायक रजिस्ट्रार अथवा इस संबंध में उनके द्वारा अधिकृत किसी भी अधिकारी के कार्यालय में प्रस्तुत की जानी चाहिए अथवा सहायक रजिस्ट्रार या ऐसे अधिकारी के नाम पंजीकृत डाक द्वारा भेजी जानी चाहिए।
- 5- जो व्यक्ति इस आदेश के विरुद्ध अपील करना चाहता है वह इस अपील के लंबित रहने तक दंडराशि या अपेक्षित शुल्क की साढ़े सात प्रतिशत धनराशि को जमा करे और ऐसे भुगतान का साक्ष्य प्रस्तुत करे। ऐसा न करने पर यह अपील सीमाशुल्क अधिनियम, 1962 की धारा 129E के प्रावधानों के अनुपालन न करने के आधार पर निरस्त मानी जाएगी।



GOVERNMENT OF INDIA
MINISTRY OF FINANCE/ DEPARTMENT OF REVENUE
CENTRAL BOARD OF INDIRECT TAXES & CUSTOMS, INDIAN CUSTOMS - MUMBAI ZONE - I
OFFICE OF THE COMMISSIONER OF CUSTOMS (IMPORT-I)
2nd FLOOR, NEW CUSTOM HOUSE, SHOORJI VALLABHDAS ROAD, BALLARD ESTATE,
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F.No. : S/26-MISC-45/2017-18/Gr. IV & E-OFFICE F NO. GEN/ADJ/COMM/84/2020-ADJN

Passed by: VIVEK PANDEY
COMMISSIONER OF CUSTOMS (IMPORT-I)

Date of Order: 31.08.2023
Date of Issue: 03.10.2023

C.A.O. No.: 37/2023-24/CAC/CC(IMPORT-I)/VP/ADJ(IMP-I)
DIN No. 202310770000008186E1

ORDER-IN-ORIGINAL

1. This copy is granted free of charge for the use of the person to whom it is issued.
2. An appeal against this order lies to the Regional Bench, Customs, Excise and Service Tax Appellate Tribunal, Jai Centre, 4th & 5th Floor, 34 P. D'Mello Road, Poona Street Masjid Bunder (East), Mumbai 400 009.
3. The appeal is required to be filed as provided in Rule 6 of the Customs (Appeals) Rules, 1982 in form C.A.3 appended to said rules. The appeal should be in quadruplicate and needs to be filed within 90 days and shall be accompanied by Four copies of the order appealed against (at least one of which should be certified copy). A crossed bank draft drawn in favour of the Asstt. Registrar of the Bench of the Tribunal on a branch of any nationalized bank located at a place where the bench is situated for Rs. 1,000/-, Rs. 5,000/- or Rs. 10,000/- as applicable under Sub Section (6) of the Section 129A of the Customs Act, 1962.
4. The appeal shall be presented in person to the Asstt. Registrar of the bench or an Officer authorized in this behalf by him or sent by registered post addressed to the Asstt. Registrar or such Officer.
5. Any person desirous of appealing against this decision or order shall pending the appeal deposit seven and a half per cent of the duty demanded or the penalty levied therein and produce proof of such payment along with the appeal failing which the appeal is liable to be rejected for non-compliance with the provisions of Section 129E of the Customs Act, 1962.

Subject: Third round of adjudication in respect of Show Cause Notice issued vide F. No. DRI/BZU/SPL/3(2)/99 dated 29.11.1999 by DRI, Bombay Zonal Unit, alleging evasion of customs duty in 60 live consignments by M/s. Aryan Overseas Ltd., by undervaluation and misdeclaration in description and quantity of imported M.S. Sheets, Tin Free Secondaries and Tin Plate Waste - reg.

Brief facts of the case

The said SCN was adjudicated ex-parte in first round vide Order-in-Original No. 1572/2000/CAC/CC/MKB dated 12.12.2000. The noticees preferred an appeal against the said OIO in CESTAT. Hon'ble CESTAT disposed of the said appeal vide Final Order No. C-I/133&138/WZB/2004 dated 25.11.2003 and observed: *"We are of the view that this matter needs to be re-adjudicated after the copies of documents are supplied to the appellants and to the adjudicator and thereafter the appellants are given proper notice of hearing regarding which extensive submissions were made by both sides and the matter be re-determined on all aspects"*.

2. Subsequently, the matter was adjudicated in the second round of adjudication vide Order-in-Original No. 136/2005/CAC/CC/PK dated 16.12.2005, which was challenged by both the Department and the noticees in the Tribunal. Hon'ble Tribunal disposed of the said appeals vide Final Order No. A/87999-88003/17/CB dated 12.06.2017 and observed *" We find that the impugned order has not recorded a disposal of the request of the importer (for) re-test of the samples. Unless the test report is able to confirm that the goods have been misdeclared, the entire proceedings, based as they are on the allegation of attempt to evade the stipulation of floor prices imposed as a condition of import, would fail. The credibility of the test report has to be established beyond doubt. The consequence of abandonment of goods has also not been examined in the impugned order. 7. Considering the critical nature of these two aspects on the final outcome of proceedings, there is need for a re-consideration of the submissions made by the importer. A proper appreciation of the circumstances can be rendered only at the level of the adjudicating authority. To enable that to be done, we set aside the impugned orders and remand the matter back to the original authority for a fresh decision after hearing the submissions of the importer."*

In pursuance of the said Hon'ble Tribunal's Order, the said SCN/case is now before me for adjudication.

3. DRI, Bombay Zonal Unit initiated an investigation following the intelligence inputs that M/s. **Aryan Overseas Ltd¹** were importing 'Tin plate sheets' misdeclared as 'Tin Free Sheets' and also misdeclaring the quantity of the goods imported. Officers of the Directorate of Revenue Intelligence, Bombay Zonal Unit (hereinafter referred as DRI, BZU) searched the office premises of the said company situated at 1511, Maker Chamber V, Nariman Point, Mumbai-400021 on 19.04.1999. During the course of the search, the officers recovered certain documents which interalia confirmed the information, and certain documents of five consignments as well. During

¹ also referred to as the Importer/AOL/Noticee-1



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31.08.23

the course of investigation, certain live consignments covered under 65 bills of entry contained in 150 containers imported by M/s. Aryan Overseas Ltd. were identified, filed at New Customs House, Mumbai through Customs Broker, M/s. Shrita Impex Pvt. Ltd., CHA No. 11/871. These goods were classified in subheading 721090 as 'Tin Free Secondary Sheets/TinPlate Secondary Strips' and in subheading 720900 as 'MSCR defective Sheets' in coil form. This show cause notice is limited to live consignments covered under 60 bills of entry contained in 139 containers as detailed in Annexure I, II, III and IV, and for remaining 11 containers covered under 05 bills of entry, show cause notice F. No. DRI/BZU/SPL/3(1)/99 dated 21.07.99 was issued and dealt separately. At the request of DRI, these consignments were examined on 100% basis by Mumbai Customs in the presence of the DRI officers and thereafter subjected to actual weighment. The subject SCN covers live consignments filed under 60 bills of entry (as detailed to the Annexure-I, II, III & IV of the SCN) which were attempted to clear as "Other than Negative List" items without obtaining import license from DGFT to import at lower price than the floor price fixed.

Statement of Shri Atul Bhatia: (Noticee-2)

4. Statement of **Shri Atul Bhatia**², Director of M/s. Aryan Overseas Ltd, was recorded on 19.4.1999, 21.04.99 and 25.06.1999 under the provisions of Section 108 of the Customs Act, 1962. He has deposed, interalia that M/s. Aryan Overseas Ltd. is engaged in the import of MS Sheets, Tin Free Secondaries, Tin plate secondaries and Tin plate waste; that they buy the products from M/s. Bowler & Sons, U.K., M/s. Hern & Co UK, M/s. Nicomet, Holland, M/s. Metro International, USA and M/s. Royal Canadian Steel, Canada; that on an average they imported about 1500 M.T. of the said goods; that from December 1998 onwards and after issue of notification by DGFT fixing floor price for import of Tin plate waste/secondary and Tinfree secondary sheets under OGL, they have been misdeclaring 'TinPlate secondary and Tin plate waste as Tin free secondaries' in the Bills of Entry filed for the clearance of the said goods; that they did this because floor price fixed for Tin plate secondaries is US\$ 545 per MT whereas the floor price for Tin Free Secondaries is US\$ 311 per MT; that on their request the foreign suppliers were describing TinPlate waste and secondaries as Tin Free Secondaries and also indicating the value as per their requirement, in the invoices received from time to time; that generally the invoice price range was between US\$ 315 to US\$ 320; that when his office was searched on 19.04.199, the DRI officers recovered two notebooks showing details of past shipment; that these two notebooks have been maintained by him personally and the entries therein are in his handwriting; that the said notebooks indicate the details indicated in these two notebooks, he explained the details written on page no.1 of the notebook (at sr. no. 9 in panchnama dated 19.04.1999), these details include the name of the shipper of the consignment, name of the vessel, date of arrival of vessel, actual goods and price per MT, invoice no./date, bill of lading no., quantity declared in the invoice, actual quantity declared in the consignment, invoice value for remittance through Bank, differential amount to be paid to the shipper on account of excess quantity shipped but not invoiced after adjusting the difference between the invoice price and actual price and other charges; that

² also referred to as the Noticee-2

they have been receiving extra quantity of about 20% of the weight declared in the invoices in most of the shipments received by them from December 1998 onwards; that an approximate quantity of 400 MT of Tin Plate Secondaries, Tin Plate Waste and Tin Free Secondaries are lying in his godown at Kalamboli; most of these goods these goods were cleared from the Customs in the near past; that he agrees that AOL (M/s. Aryan Overseas Ltd.) have evaded customs duties while importing goods by misdeclaring the description and also by misdeclaring the actual weight of the goods imported.

4.1 That he was ready to pay the differential duty and had voluntarily paid an amount of Rs. 50 Lakhs by pay order towards the duty liability on the consignments already cleared; that he would work out the balance customs duty liability and pay the same at the earliest; that the goods in 34 containers covered under 12 Bills of Entry were pending clearance from Customs; that in those 12 Bills of Entry, the imported goods had been described as Tin Free Secondary Sheets and MSCR; that he would be able to explain the actual description of the goods contained in the said containers after perusing the documents from the respective shippers; that these documents were seized by the DRI officers under panchanama dated 19.04.1999; that after perusing page no.83 of Box file No.4 seized under panchanama dated 19.04.99, he stated that the same was received from M/s. Royal Canadian Steel on 02.03.1999 by fax which show the details regarding Container no., actual description of goods and actual weight, based on these document, he stated that the goods in 16 containers covered by Bill of Entry No. 290, 277, 303, 282 & 284 all dated 01.04.1999 were Tin plate as against the declared desorption of Tin free secondary; that the declared description and actual description are same only in the case of goods covered under bills of entry no. 280 & 307 both dated 01.04.1999 . Tin Free Secondaries & MSCR defective sheets respectively in 7 containers; that the declared weight, actual weight and excess quantity in respect of these bills of entry were as follows:

Table - 1

B/E. No.& Dt.	Declared Wt. (MT)	Actual Wt. (MT)	Excess Quantity (MT)
290/01.04.99	45.44	64.89	19.45
277/01.04.99	44.3	49.5	5.2
303/01.0499	45	64.2	19.2
280/01.04.99	45.36	64.7	19.4
282/01.04.99	45.2	64	18.2
284/01.04.99	60.418	86.6	26.2
307/01.4.99	59.82	85.3	25.5

4.2 In his statement recorded on 25.6.99, Shri Atul Bhatia deposed interalia that till date, there were approx. 150 containers containing Tin Free secondaries, Tin Plate secondaries, M.S. defective sheets/coils and Tin Plate strips lying at Mulund CFS, Wadala etc; that those containers were examined by the Customs under the supervision of the DRI officers and in the presence of their CHA as his representative; that during the course of the examination it was noticed that the quantity declared in the Bill of Entries were incorrect to the extent of 20% to 40%; that it was true that in most of the Bills of Entry goods were declared as Tin Free Secondaries whereas it was actually found to be TinPlate secondaries; that he took the entire responsibility for misdeclaration done by his company as well as the shippers; that the packing lists, Bills of lading and invoices prepared by his shippers after misdeclaring the goods, were done at his instance, that after doing all this he used to save on customs duty to some extent; that for placing the order for each quarter, he used to personally visit the shippers every quarter, that he used to tell them specifically that they can put 20 to 40% more quantity in weight in the containers provided that the overall amount payable was covered within the invoice value, which was paid only through the Bank; that similarly, he used to tell them to put Tin Plate secondaries also in the containers which were declared as Tin Free secondaries only to the extent that the overall payment of all items shipped was covered by the declared invoice value, payable through Bank and illustrated his contention; that all the payments were made through their Bank officially and that he never made any cash payment directly to the shippers or through hawala transactions;

4.3 Further statement of Shri. Atul Bhatia was recorded on 18.11.99, during which he was shown the test reports of Deputy Chief Chemist, Mumbai, relating to samples drawn from the consignments covered by Bills of Entry listed in Annexure I, II, & IV to this show cause notice. After perusing the said test reports, he accepted the same. He was also shown a copy of page 1 of Box file no. 4 seized under panchnama dated 19.04.99. After perusing the document, he stated that the same was received by fax from M/s. Royal Canadian Steel, Canada and show export details for Feb, 1999; that the details include Container no. and description of goods shipped by M/s. Royal Canadian Steel to M/s. Aryan overseas Ltd; that in that document the goods from Sr. No. 25 to 53 (except Sr. No. 50) had been shown as ETP Coils Prime; that they have never ordered for ETP Coils Prime (Tinplate Prime); that the shipper M/s. Royal Canadian Steel claimed that the goods were of surplus prime quality that during examination of the goods by the Customs, visual examination revealed that only part of the goods were of prime quality and the balance were Tinplate Waste Waste in coils, which were actually ordered, that the result of the examination of the goods imported by M/s. Aryan Overseas Ltd. and **covered by 59 Bills of Entry (Listed-in Annexure I, II & IV) were communicated to him by the CHA and he accepts the same with regards to the description and actual weighment**; that with regards to goods covered by Bill of Entry No. 307 Dt. 01.04.99, wherein the goods had been declared as M.S.C.R. Sheets and Coils, **he did not accept the test reports** which indicate that the said goods were Mild Steel Plated with Tin; that he accepted the weighment of the goods covered by the Bill of Entry No. 307 dated 01.04.99.

5. The entries in the two notebooks (seized under Panchanama dated 19.4.99) indicating details of shipments, including actual description, declared quantity and actual quantity admittedly maintained by Shri Atul Bhatia, indicate that he was aware that the actual description and quantity of the goods shipped by the shipper had been mis-declared in the invoice of the shipper and other related documents presented to the Customs. Further other documents seized during the search, which had been referred to and annexed in the statement dated 21.04.99 of Shri Atul Bhatia also indicate that AOL were willfully mis-declaring the goods and also the quantity in order to evade customs duty.

6. The goods relating to all the sixty Bills of Entry were subjected to 100% examination by the Customs in the presence of the DRI officers and thereafter subjected to actual weighment. The details of the same are as under-

(i) Bill of Entry No. 277 dated 01.04.99 (Show at Sr No. 24 of Annexure-I) was filed for clearance of 44.305 MT of goods declared as Canadian Origin Tin Free secondaries (Misprint/Mislaquered). These goods were shipped by M/s. Royal Canadian Steel Inc. Canada under Invoice No. 786/082/98 dated 05-02-99, with a declared C&F value of US\$ 13,956.08 at the rate of US\$ 315 per MT. The goods had been classified under Sub-heading 7210.90 and the declared assessable value was Rs.6,02,080/-, The total Customs duty payable as indicated in the Bill of Entry is Rs. 3,65,222/-

(a) The above goods in three containers were examined on 27-05-99, On visual examination, the said goods appeared to be Secondary TinPlate sheets (ETP) as against the declared description of Tin Free Secondaries. A total of 51 skids were found in the consignments as against the declaration of 45 skids. After actual weighment, the ascertained gross weight was 63.400 MT as against the declared gross weight of 44.826 MT. Hence, the excess weight of goods in the consignment was 18.574 MT. The net weight of the goods declared in the Bill of Entry was 44.305 MT. Thus, the actual net weight of the said goods was 62.879 MT.

(b) Six representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tin Plated sheets or Tin Free sheets. The Deputy Chief Chemist vide test reports, all dated 30-06-99, informed that all the six samples were 'Tin Plated steel (Magnetic)'.

(ii) Bill of Entry No. 280 dated 01-04-99 (Show at Sr No. 6 of Annexure-I) was filed for clearance of 45.365 MT of goods declared as Canadian Origin Tin Free secondaries (Misprint/Misiaquered). These goods were shipped by M/s. Royal Canadian Steel Inc. Canada under Invoice No. 786/083/98 dated 05-02-99, with a declared C&F value of US\$ 14,289.98 at the rate of US\$ 315 per MT. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs. 6,16,485/- The total Customs duty payable, as indicated in the Bill of Entry was Rs. 3,73,960/-.

(a) The above goods in three containers were examined on 27-05-99. On visual examination, the said goods appeared to be Secondary Tin Free Steel Secondary (lacquered/misprint) sheets which are in consonance with the declaration made in the Bill of Entry. After actual weighment, the ascertained gross weight was 66.260 MT as against the declared gross weight of 46.284 MT. Hence, the excess weight of goods in the consignment was 19.976 MT. The net weight of the goods declared in the Bill of Entry was 45.365 MT. Thus, the actual net weight of the said goods was 65.341 MT

(b) Nine representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tin Plated sheets or Tin Free sheets. The Deputy Chief Chemist vide test reports, all dated 30-6-99, informed that all the nine samples were 'Steel Magnetic, Tin Plated'.

(iii) Bill of Entry No. 282 dated 01.04.99 (Show at Sr. No. 25 of Annexure-I) was filed for clearance of 45.207 MT of goods declared as Canadian Origin Tin Free secondaries (Misprint/Mislaquered). These goods were shipped by M/s. Royal Canadian Steel Inc. Canada under invoice no. 786 / 081 / 98 dated 05.02.99, with a declared C&F value of US\$ 14,240.21 at the rate of US\$ 315 per MT. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs.6,14,342/- and the total Customs duty payable as indicated in the Bill of Entry was Rs. 3,72,660/-.

(a) The above goods in three containers were examined on 27.05.99. On visual examination, the said goods appeared to be Secondary 'TinPlate sheets (ETP)' as against the declared description of 'Tin Free Secondary sheets'. After actual weighment, the ascertained gross weight was 64.510 MT as against the declared gross weight of 45.694 M.T. Hence, the excess weight of goods in the consignment was 18.816 M.T. The net weight of the goods declared in the Bill of Entry was 45.207 M.T. Thus, the actual net weight of the said goods was 64.023 M.T.

(b) Six representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tin Plated sheets or Tin Free sheets. The Deputy Chief Chemist vide test reports, all dated 30-6-99, informed that all the six samples were 'Tin Plated steel (Magnetic)'.

(iv) Bill of Entry No. 284 dated 01.04.99 (Show at Sr. No. 28 of Annexure-I) was filed for clearance of 60.418 MT of goods declared as Canadian Origin M.S.C.R. Defective Sheets (in coil form). These goods were shipped by M/s. Royal Canadian Steel Inc. Canada under invoice no. 786 / 071 / 98 dated 05.02.99, with a declared C&F value of US\$ 18,236.40 at the rate of US\$ 300 per MT. The goods had been classified under Sub-heading 7209.00 and the declared assessable value was Rs.7,86,737/- and the total Customs duty payable as indicated in the Bill of Entry was Rs. 4,77,235/-.

(a) The above goods in four containers i.e. GATU-0588450, NSAU-2403629, NSAU-2032385 and NSAU-2034937 were examined on 27-05-99. On visual examination, the said goods appeared

to be Secondary TinPlate in coils as against the declared description of M.S.C.R. defective sheets. A total of 12 coils were found in the consignments as against the declaration of 14 skids. The said goods were also examined by the Customs Appraiser (Metal Expert) on 25.06.99 to ascertain whether the same were Prime or Seconds. After examination of the goods, the Appraiser (Metal Expert) has reported that the goods in Container Nos. NSAU-2032385 and NSAU-2403629 were Tin Plate W/W (Waste/Waste) and the goods in container Nos. NSAU 2034937 and GATU0588450 were TinPlate Prime. The details of declared weight (shown in B/L No. RD 024HFDB010 dated 05-02-99 covering the consignment and the actual weighment of the consignment in four containers were as below :

Table - 2

S. No.	Container No.	Declared Gr. WT.	Net. WT.	Actual Wt.	Excess Wt.	Actual Net Wt.
1	NASU2032385	15.238	15.111	22.020	6.782	21.893
2	NSAU2403629	15.269	15.142	22.030	6.761	21.903
	(Tin Plate W/W)	30.507	30.253	44.050	13.543	43.796
3	NSAU2034937	15.212	15.086	21.870	6.658	21.744
4	GATU0588450	15.205	15.079	21.960	6.755	21.834
	(Tinplate Prime)	30.417	30.165	43.830	13.413	43.578

The above tabulation clearly indicates that there was an excess quantity of 26.956 M.T. of the said goods in the consignment. Further, the actual net weight of TinPlate Waste/Waste was 43.796 M.T. and that of TinPlate Prime was 43.578 M.T.

(b) Six representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tin Plated sheets or Tin Free sheets. The Deputy Chief Chemist vide test reports, all dated 30.06.99 informed that all the six samples were 'Tin Plated steel (Magnetic)'.

(v) Bill of Entry No.290 dated 01.04.99 (Show at Sr.No. 27 of Annexure-I) was filed for clearance of 45.443 M.T. of goods declared as Canadian Origin Tin Free secondaries (Misprint/Mislaquered). These goods were shipped by M/s. Royal Canadian Steel Inc., Canada under Invoice No. 786/078/98 dated 05.02.99, with a declared C&F value of US\$ 14,314.55 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs.6,17,548/- with the total Customs duty payable as indicated in the Bill of Entry was Rs. 3,74,605/-.

(a) The above goods in three containers were examined on 27.05.99. On examination the said goods appeared to be 'Secondary Tin Plate (lacquered ETP)' sheets as against the declared description of 'Tin Free Secondaries'. After actual weighment, the ascertained gross weight is 66.460 M.T. as against the declared gross weight of 46.235 M.T. Hence, the excess weight of goods in the consignment was 20.225 M.T. The net weight of the goods declared in the Bill of Entry was 45.443 M.T. Thus, the actual net weight of the said goods was 65.668 M.T.

(b) Six representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tin Plated sheets or Tin Free sheets. The Deputy Chief Chemist vide test reports, all dated 28.06.99, informed that all the six samples were 'Tin Plated steel(Magnetic)'.

(vi) Bill of Entry No. 303 dated 01.04.99 (Show at Sr. No. 26 of Annexure-I) was filed for clearance of 45.091 M.T. of goods declared as Canadian Origin 'Tin Free secondaries (Misprint/Mislaquered)'. These goods were shipped by M/s. Royal Canadian Steel inc., Canada under Invoice No. 786/079/98 dated 05.02.99 with a declared C&F value of US\$ 14,203.67 at the rate of US\$ 315 per M.T. The goods had been classified under Sub-heading 7210.90 and the declared assessable value was Rs. 6,12,762/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 3,71,701/-.

(a) The above goods in three containers were examined on 27.05.99. A total of 73 skids were found in the consignment as against the declaration of 62 skids. Out of the 73 skids, 54 skids appeared to be Secondary Tin Plate (ETP) and 19 skids appeared to be Tin Free Secondary sheets. The 19 skids of Tin Free Secondary sheets were found in container no GSTU-3421122 alongwith 11 skids of Secondary Tin Plate (ETP). After actual weighment, the ascertained gross weight was 64.650 M.T. as against the declared gross weight of 45.795 M.T. Hence, the excess weight of goods in the consignment was 18.855 M.T. The ascertained gross weight of Secondary TinPlate was 53.450 M.T. and that of Tin Free sheets was 11.200 M.T. The net weight declared was 45.091 M.T. After proportionately adjusting the difference of 0.704 M.T. The actual net weight of Secondary TinPlate sheets was 52.929 M.T. and that of Tin Free Secondary sheets was 11.017 M.T.

(b) Seven representative samples (two of Tin Free sheets and five of TinPlate sheets) were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tin Plated sheets or Tin Free sheets. The Deputy Chief Chemist vide test reports, all dated 28.6.99, reported that the two samples of Tin Free sheets are composed of steel (Magnetic) not Tin Plated and that the five samples of Tin Plated sheets were composed of 'Tin Plated steel (Magnetic)'.

(vii) Bill of Entry No.10812 dated 24.06.99 (Show at Sr. No. 1 of Annexure-I) was filed for clearance of 38.000 M.T. of goods declared as European Origin Tin Free secondaries (Misprint/Mislaquered). These goods were shipped by M/s. H. J. Bowler & Sons Ltd., U.K. under

Invoice No. 2969 dated 13.04.99, with a declared CIF value of US\$ 11,970.00 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs.5,19,253/-. The total Customs duty payable as indicated in the Bill of Entry was Rs. 3,14,978/-.

(a) The above goods in two containers were examined on 25.06.99. On examination the said goods appeared to be Secondary Tin Plate (misprint/lacquered) sheets as against the declared description of Tin Free Secondaries. After actual weighment, the ascertained gross weight was 46.740 M.T. as against the declared gross weight of 38.722 M.T. Hence, the excess weight of goods in the consignment was 8.018 M.T. The net weight of the goods as declared in the Bill of Entry was 38.00 M.T. Thus, the actual net weight of the said goods was 46.018 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tin Plated sheets or Tin Free sheets. The Deputy Chief Chemist vide test reports, all dated 29.7.99, informed that all the four samples were 'Tin Plated steel(Magnetic)'.

(viii) Bill of Entry No.10814 dated 24.6.99 (Show at Sr.No. 2 of Annexure-I) was filed for clearance of 38.000 M.T. of goods declared as European Origin Tin Free secondaries (Misprint/Mislaquered). These goods were shipped by M/s. H. J. Bowler & Sons Ltd., U.K. under Invoice No. 2964-dated 13.4.99, with a declared CIF value of US\$ 11,970.00 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs. 5,19,253/-. The total Customs duty payable as indicated in the Bill of Entry was Rs. 3,14,978/-.

(a) The above goods in two containers were examined on 25.06.99. On examination, the said goods appeared to be Secondary Tin Plate (misprint/lacquered) sheets as against the declared description of Tin Free Secondaries. After actual weighment, the ascertained gross weight was 50.720 M.T. as against the declared gross weight of 38.722 M.T. Hence, the excess weight of goods in the consignment was 11.998 M.T. The net weight of the goods declared in the Bill of Entry was 38.000 M.T. Thus, the actual net weight of the said goods was 49.998 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were TinPlate sheets or Tin Free sheets. The Deputy Chief Chemist vide test reports, all dated 29.07.99, informed that all the four samples were composed of 'Tin Plated Steel Magnetic'.

(ix) Bill of Entry No. 10815 dated 24.06.99 (Shown at Sr. No. 1 of Annexure-II) was filed for clearance of 40.69 M.T. of goods declared as European Origin Tin Free secondaries (Misprint/Mislaquered). These goods were shipped by M/s. H. J. Bowler & Sons Ltd., U.K. under Invoice No. 2971 dated 13.04.99, with a declared CIF value of US\$ 12,817.35 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared

assessable value was Rs. 5,56,010/-. The total Customs duty payable as indicated in the Bill of Entry was Rs. 3,37,276/-,

(a) The above goods in two containers were examined on 25.06.99. On examination, the said goods appeared to be Tin Free Secondary sheets which are in consonance with the declared description. After actual weighment, the ascertained gross weight of the consignment was 52.200 M.T. as against the declared gross weight of 41.412 M.T. Hence, the excess weight of goods in the consignment was 10.788 M.T. The net weight of the goods declared in the Bill of Entry was 40.690 M.T. Thus, the actual net weight of the said goods was 51.478 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tin Free sheets or TinPlate sheets. The Deputy Chief Chemist vide test reports, all dated 29.07.99, informed that all the four samples were 'Tin Free steel (Magnetic)'.

(x) Bill of Entry No. 10820 dated 24.06.99 (Shown at Sr. No. 3 of Annexure-I) was filed for clearance of 40.519 M.T. of goods declared as European Origin Tin Free secondaries (Misprint/Mislaquered). These goods were shipped by M/s. H. J. Bowler & Sons Ltd., U.K. under Invoice No. 2962 dated 13.04.99, with a declared CIF value of US\$ 12,763.49 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs.5,53,674/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 3,35,858/-.

(a) The above goods in two containers were examined on 25.06.99. On examination, the said goods appeared to be Secondary TinPlate sheets(plain) as against the declared description of Tin Free Secondaries. After actual weighment, the ascertained gross weight was 52.835 M.T. as against the declared gross weight of 41.241 M.T. Hence, the excess weight of goods in the consignment was 11.594 M.T. The net weight of the goods declared in the Bill of Entry was 40.519 M.T. Thus, the actual net weight of the said goods was 52.113 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tin Plated sheets or Tin Free sheets. The Deputy Chief Chemist vide test reports, all dated 29.07.99, informed that all the four samples were 'Tin Plated steel (Magnetic)'.

(xi) Bill of Entry No. 10822 dated 24.6.99 (Shown at Sr. No. 4 of Annexure-I) was filed for clearance of 38.000 M.T. of goods declared as European Origin Tin Free secondaries (Misprint/Mislaquered). These goods were shipped by M/s. H. J. Bowler & Sons Ltd., U.K. under Invoice No. 2968 dated 13.04.99, with a declared CIF value of US\$ 11,970.00 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs. 5,19,253/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 3,14,978/-.

(a) The above goods in two containers were examined on 25.06.99. On examination, the said goods appeared to be Tin Plate (misprint) sheets as against the declared description of Tin Free Secondaries. After actual weighment, the ascertained gross weight was 47.110 M.T. as against the declared gross weight of 38.722 M.T. Hence, the excess weight of goods in the consignment was 8.388 M.T. The net weight of the goods declared in the Bill of Entry was 38.000 M.T. Thus, the actual net weight of the said goods was 46.388 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tin Plated sheets or Tin Free sheets. The Deputy Chief Chemist, vide test reports, all dated 29.07.99, informed that all the four samples were 'Tin Plated steel (Magnetic)'.

(xii) Bill of Entry No. 10823 dated 24.6.99 (Shown at Sr. No. 5 of Annexure-I) was filed for clearance of 38.000 M.T. of goods declared as European Origin Tin Free secondaries (Misprint/Mislaquered). These goods were shipped by M/s. H. J. Bowler & Sons Ltd., U.K. under Invoice No. 2963 dated 13.04.99, with a declared CIF value of US\$ 11,970 00 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs.5,19,253/-. The total Customs duty payable as indicated in the Bill of Entry was Rs. 3,14,978/-.

(a) The above goods in two containers were examined on 25.06.99. On examination, the said goods appeared to be Tin Plate (plain/misprint) sheets as against the declared description of Tin Free Secondary Sheets. After actual weighment, the ascertained gross weight was 51.410 M.T. as against the declared gross weight of 38.722 M.T. Hence, the excess weight of goods in the consignment was 12.688 M.T. The net weight of the goods declared in the Bill of Entry was 38.000 M.T. Thus, the actual net weight of the said goods was 50.688 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tin Plated sheets or Tin Free sheets. The Deputy Chief Chemist, vide test reports, all dated 29.07.99, informed that all the four samples were 'Tin Plated steel (Magnetic)'.

(xiii) Bill of Entry No. 10831 dated 24.06.99 (Shown at Sr. No. 6 of Annexure-I) was filed for clearance of 38.000 M.T. of goods declared as European Origin Tin Free secondaries (Misprint/Mislaquered). These goods were shipped by M/s. H. J. Bowler & Sons Ltd., U.K. under Invoice No. 2965 dated 13.04.99, with a declared CIF value of US\$ 11,970.00 at the Rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs.5,19,253/-. The total Customs duty payable as indicated in the Bill of Entry was Rs. 3,14,978/-.

(a) The above goods in two containers were examined on 25.6.99. On examination, the said goods appeared to be Tin Plate (misprint) sheets as against the declared description of Tin Free Secondaries. After actual weighment, the ascertained gross weight was 46.580 M.T. as against the

declared gross weight of 38.722 M.T. Hence, the excess weight of goods in the consignment was 7.858 M.T. The net weight of the goods declared in the Bill of Entry was 38.000 M.T. Thus, the actual net weight of the said goods was 45.858 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tin Plated sheets or Tin Free sheets. The Deputy Chief Chemist, vide test reports, all dated 29.7.99, informed that all the four samples were 'Tin Plated steel (Magnetic)'.

(xiv) Bill of Entry No! 10834 dated 24.6.99 (Shown at Sr. No. 2 of Annexure-II) was filed for clearance of 38.518 M.T. of goods declared as European Origin Tin Free secondaries (Misprint/Mislaquered). These goods were shipped by M/s. H. J. Bowler & Sons Ltd., U.K. under Invoice No. 2970 dated 13.4.99, with a declared CIF value of US\$ 12,133.17 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs.5,26,331/-. The total Customs duty payable as indicated in the Bill of Entry was Rs. 3,19,272/-.

(a) The above goods in two containers were examined on 25.06.99. On examination, the said goods appeared to be Tin Free Steel (Lacquered) Secondary Sheets which are in consonance with the declaration made in the Bill of Entry. After actual weighment, the ascertained gross weight was 50.925 M.T. as against the declared gross weight of 39.240 M.T. Hence, the excess weight of goods in the consignment was 11.685 M.T. The net weight of the goods declared in the Bill of Entry was 38.518 M.T. Thus, the actual net weight of the said goods was 50.203 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were TinPlate sheets or Tin Free sheets. The Deputy Chief Chemist, vide test reports, all dated 29.7.99, informed that all the four samples were "Tin Free Steel (Magnetic)".

(xv) Bill of Entry No. 10836 dated 24.6.99 (Shown at Sr. No. 3 of Annexure-II) was filed for clearance of 38.161 M.T. of goods declared as European Origin Tin Free Secondaries (Misprint/Mislaquered). These goods were shipped by M/s. H. J. Bowler & Sons Ltd., U.K. under Invoice No. 2972 dated 13.4.99, with a declared CIF value of US\$ 12,020.72 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs. 5,21,453/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 3,16,313/-.

(a) The above goods in two containers were examined on 25.06.99. On examination the said goods appeared to be Tin Free (Plain) Secondary Sheets which are in consonance with the declaration made in the Bill of Entry. After actual weighment, the ascertained gross weight was 49.110 M.T. as against the declared gross weight of 38.883 M.T. Hence, the excess weight of goods in the consignment was 10.227 M.T. The net weight of the goods declared in the Bill of Entry is 38.161 M.T. Thus, the actual net weight of the said goods was 48.388 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tin Free sheets or TinPlate sheets. The Deputy Chief Chemist, vide test reports, all dated 29.07.99, has informed that all the four samples were 'Tin Free Steel (Magnetic)'.

(xvi) Bill of Entry No. 10846 dated 24.6.99 (Shown at Sr. No. 7 of Annexure-I) was filed for clearance of 38.000 M.T. of goods declared as European Origin Tin Free Secondaries: (Misprint/Mislaquered). These goods were shipped by M/s. H. J. Bowler & Sons Ltd., U.K. under Invoice No. 2967 dated 13.4.99, with a declared CIF value of US\$ 11,970.00 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs. 5,19,253/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 3,14,978/-.

(a) The above goods in two containers were examined on 25.06.99. On examination, 'the said goods appeared to be Tin Plate (Misprint) Sheets as against the declared description of Tin Free Secondaries. After actual weighment, the ascertained gross weight was 51.460 M.T. as against the declared gross weight of 38.722 M.T. Hence, the excess weight of goods in the consignment was 12.738 M.T. The net weight of the goods declared in the Bill of Entry was 38.000 M.T. Thus, the actual net weight of the said goods was 50.738 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were TinPlate sheets or Tin Free sheets. The Deputy Chief Chemist, vide test reports, all dated 29.7.99, informed that all the four samples were 'Tin Plated Steel (Magnetic)'.

(xvii) Bill of Entry No.10849 dated 24.6.99 (Shown at Sr. No. 8 of Annexure-I) was filed for clearance of 38.000 M.T. of goods declared as European Origin Tin Free Secondaries (Misprint/Mislaquered). These goods were shipped by M/s. H. J. Bowler & Sons Ltd., U.K. under Invoice No. 2966 dated 13.4.99, with a declared CIF value of US\$ 11,970 00 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs.5,19,253/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs.3,14,978/-.

(a) The above goods in two containers were examined on 25.06.99. On examination, the said goods appeared to be Secondary Tin Plate (Lacquered/Misprint) Sheets as against the declared description of Tin Free Secondary Sheets. After actual weighment, the ascertained gross weight was 52.460 M.T. as against the declared gross weight of 38.722 M.T. Hence, the excess weight of goods in the consignment was 13.738 M.T. The net weight of the goods declared in the Bill of Entry is 38.00 M.T. Thus, the actual net weight of the said goods was 51.738 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were

Tinplate Sheets or Tin Free sheets. The Deputy Chief Chemist vide test reports all dated 29.07.99, informed that all the four samples were 'Tin Plated Steel (Magnetic)'.

(xviii) Bill of Entry No.5088 dated 11.6.99(Shown at Sr. No. 9 of Annexure-I) was filed for clearance of 38.341 M.T. of goods declared as European Origin Tin Free Secondaries (Misprint/Mislaquered). These goods were shipped by M/s. Nicomet TinPlate/Steel BV, Holland under Invoice No. 819900157/NF dated 21.4.99, with a declared CIF value of US\$ 12,077.42 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value is Rs. 5,25,311/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 3,18,654/-.

(a) The above goods in two containers were examined on 18.6.99. On examination, the said goods appeared to be Tin Plate (Plain) Sheets W/W as against the declared description of Tin Free Secondary Sheets. After actual weighment, the ascertained gross weight was 55.170 M.T. as against the declared gross weight of 38.849 M.T. Hence, the excess weight of goods in the consignment was 16.321 M.T. The net weight of the goods declared in the Bill of Entry was 38.341 M.T. Thus, the actual net weight of the said goods was 54.662 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were TinPlate sheets or Tin Free sheets. The Deputy Chief Chemist, vide test reports, all dated 27.07.99, informed that all the four samples were 'Tin Plated Steel (Magnetic)'.

(xix) Bill of Entry No.5089 dated 11.6.99 (Shown at Sr. No. 10 of Annexure-I) was filed for clearance of 38.852 M.T. of goods declared as European Origin Tin Free Secondaries (Misprint/Mislaquered). These goods were shipped by M/s. Nicomet TinPlate/Steel BV, Holland under Invoice No. 819900159/NF dated 21.4.99, with a declared CIF value of US\$ 12,238.38 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs. 5,32,309/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 3,22,899/-.

(a) The above goods in two containers were examined on 18.06.99. On examination, the said goods appeared to be Tin Plate (Lacquered/Misprint) and Tin Plate (Plain) Sheets W/W as against the declared description of Tin Free Secondaries. After actual weighment, the ascertained gross weight is 55.580 M.T. as against the declared gross weight of 39.398 M.T. Hence, the excess weight of goods in the consignment was 16.182 M.T. The net weight of the goods declared in the Bill of Entry was 38.852 M.T. Thus, the actual net weight of the said goods was 55.034 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were TinPlate sheets or Tin Free sheets. The Deputy Chief Chemist, vide test reports, all dated 29.7.99, informed that all the four samples were 'Tin Plated Steel (Magnetic)'.

(xx) Bill of Entry No.5090 dated 11.06.99 (Shown at Sr. No. 11 of Annexure-I) was filed for clearance of 37.594 M.T. of goods declared as European Origin Tin Free Secondaries (Misprint/Mislaquered). These goods were shipped by M/s. Nicomet TinPlate/Steel BV, Holland under Invoice No. 819900156/NF dated 2.1.4.93, with a declared CIF value of US\$ 11,842.11 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs. 5,15,077/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 3,12,446/-.

(a) The above goods in two containers were examined on 18.06.99. On examination, the said goods appeared to be Tin Plate (Plain) Sheets W/W as against the declared description of Tin Free Secondaries. After actual weighment, the ascertained gross weight was 51.110 M.T. as against the declared gross weight of 38.006 M.T. Hence, the excess weight of goods in the consignment was 16.104 M.T. The net weight of the goods declared in the Bill of Entry was 37.594 M.T. Thus, the actual net weight of the said goods was 53.698 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were TinPlate sheets or Tin Free sheets. The Deputy Chief Chemist, vide test reports, all dated 27.07.99, informed that all the four samples were 'Tin Plated Steel (Magnetic)'.

(xxi) Bill of Entry No. 5091 dated 11.6.99 (Shown at Sr. No. 4 of Annexure-II) was filed for clearance of 39.200 M.T. of goods declared as European Origin Tin Free Secondaries (Misprint/Mislaquered). These goods were shipped by M/s. Nicomet TinPlate/Steel BV, Holland under Invoice No. 819900158/NF dated 21.04.99, with a declared CIF value of US\$ 12,348.00 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs. 5,37,045/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 3,25,772/-.

(a) The above goods in two containers were examined on 18.06.99. On examination, the said goods appeared to be Tin Free Secondary (Misprints) which are in consonance with the declaration in the Bill of Entry. After actual weighment, the ascertained gross weight was 56.210 M.T. as against the declared gross weight of 39.976 M.T. Hence, the excess weight of goods in the consignment was 16.234 M.T. The net weight of the goods declared in the Bill of Entry was 39.200 M.T. Thus, the actual net weight of the said goods was 55.434 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tin Free Sheets or Tinplate Sheets. The Deputy Chief Chemist, vide test reports, all dated 29.07.99, informed that all the four samples were 'Tin Free Steel (Magnetic)'.

(xxii) Bill of Entry No. 5092 dated 11.6.99 (Shown at Sr. No. 12 of Annexure-I) was filed for clearance of 38.797 M.T. of goods declared as European Origin Tin Free Secondaries (Misprint/Mislaquered). These goods were shipped by M/s. Nicomet TinPlate/Steel BV, Holland

under Invoice No. 819900154/NF dated 21.04.99, with a declared CIF value of US\$ 12,221.06 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs. 5,31,557/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 3,22,443/-.

(a) The above goods in two containers were examined on 18.06.99. On examination, the said goods appeared to be Tin Plate (Waste/Waste and Misprint) Sheets as against the declared description of Tin Free Secondaries. After actual weighment, the ascertained gross weight was 55.950 M.T. as against the declared gross weight of 39.740 M.T. Hence, the excess weight of goods in the consignment was 16.210 M.T. The net weight of the goods declared in the Bill of Entry is 38.797 M.T. Thus, the actual net weight of the said goods was 55.007 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were TinPlate sheets or Tin Free sheets. The Deputy Chief Chemist vide test reports all dated 29.07.99, informed that all the four samples were 'Tin Plated Steel (Magnetic)'.

(xxiii) Bill of Entry No. 5093 dated 11.6.99 (Shown at Sr. No. 13 of Annexure-I) was filed for clearance of 39.398 M.T. of goods declared as European Origin Tin Free Secondaries (Misprint/Mislaquered). These goods were shipped by M/s. Nicomet TinPlate/Steel BV, Holland under Invoice No. 819900155/NF dated 21.04.99, with a declared CIF value of US\$ 12,410.37 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs. 5,39,801/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 3,27,443/-.

(a) The above goods in two containers were examined on 18.6.99. On examination, the said goods appeared to be Tin Plate (Plain) Sheets Waste/Waste as against the declared description of Tin Free Secondaries. After actual weighment, the ascertained gross weight was 55.870 M.T. as against the declared gross weight of 39.830 M.T. Hence, the excess weight of goods in the consignment was 16.040 M.T. The net weight of the goods declared in the Bill of Entry was 39.398 M.T. Thus, the actual net weight of the said goods was 55.438 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were TinPlate sheets or Tin Free sheets. The Deputy Chief Chemist, vide test reports, all dated 27.07.99, informed that all the four samples were 'Tin Plated Steel (Magnetic)'.

(xxiv) Bill of Entry No. 5094 dated 11.6.99 (Shown at Sr. No. 14 of Annexure-I) was filed for clearance of 38.977 M.T. of goods declared as European Origin Tin Free Secondaries (Misprint/Mislaquered). These goods were shipped by M/s. Nicomet TinPlate/Steel BV, Holland under Invoice No. 819900153/NF dated 21.4.99, with a declared CIF value of US\$ 12,277.76 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the

declared assessable value was Rs. 5,34,017/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 3,23,935/-.

(a) The above goods in two containers were examined on 18.6.99. On examination, the said goods appeared to be Secondary Tin Plate (Misprint) Sheets as against the declared description of Tin Free Secondary Sheets. After actual weighment, the ascertained gross weight was 55.745 M.T. as against the declared gross weight of 39.542 M.T. Hence, the excess weight of goods in the consignment was 16.203 M.T. The net weight of the goods declared in the Bill of Entry was 38.977 M.T. Thus, the actual net weight of the said goods was 55.180 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were TinPlate sheets or Tin Free sheets. The Deputy Chief Chemist, vide test reports, all dated 29.07.99, informed that all the four samples were 'Tin Plated Steel (Magnetic)'.

(xxv) Bill of Entry No. 5095 dated 11.06.99 (Shown at Sr. No. 15 of Annexure-I) was filed for clearance of 19.748 M.T. of goods declared as European Origin Tin Free Secondaries (Misprint/Mislaquered). These goods were shipped by M/s. Nicomet TinPlate/Steel BV, Holland under Invoice No. 819900160/NF dated 21.4.99, with a declared CIF value of US\$ 6,220.62 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs. 2,70,571/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 1,64,129/-.

(a) The above goods in one container were examined on 18.06.99. On examination, the said goods appeared to be Tin Plate (Waste/Waste, Plain) Sheets as against the declared description of Tin Free Secondaries. After actual weighment, the ascertained gross weight was 28.040 M.T. as against the declared gross weight of 19.959 M.T. Hence, the excess weight of goods in the consignment was 8.081 M.T. The net weight of the goods declared in the Bill of Entry was 19.748 M.T. Thus, the actual net weight of the said goods was 27.829 M.T.

(b) Two representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertainment whether the same were TinPlate sheets or Tin Free sheets. The Deputy Chief Chemist, vide test reports, dated 27.07.99, informed that both the samples were 'Tin Plated Steel (Magnetic)'.

(xxvi) Bill of Entry No. 5096 dated 11.6.99 (Shown at Sr. No. 16 of Annexure-I) was filed for clearance of 38.786 M.T. of goods declared as European Origin Tin Free Secondaries (Misprint/Mislaquered). These goods were shipped by M/s. Nicomet TinPlate/Steel BV, Holland under Invoice No. 819900152/NF dated 21.4.99, with a declared CIF value of US\$ 12,217.59 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value is Rs. 5,31,407/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 3,22,352/-.

(a) The above goods in two containers were examined on 18.06.99. On examination, the said goods appeared to be Tin Plate (Misprint) Secondary Sheets as against the declared description of Tin Free Secondaries. After actual weighment, the ascertained gross Weight was 55.450 M.T. as against the declared gross weight of 39.316 M.T. Hence, the excess weight of goods in the consignment was 16.134 M.T. The net weight of the goods declared in the Bill of entry was 38.786 M.T. Thus, the actual net weight of the said goods was 54.920 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were TinPlate sheets or Tin Free sheets. The Deputy Chief Chemist, vide test reports, all dated 29.07.99, informed that all the four samples were 'Tin Plated Steel (Magnetic)'.

(xxvii) Bill of Entry No.6569 dated 15.6.99 (Shown at Sr. No. 17 of Annexure-I) was filed for clearance of 28.887 M.T. of goods declared as U.S. Origin Tin Free Steel Secondaries (Misprint/Mislaquered). These goods were shipped by M/s. Metro International Trading Corp., New York under Invoice No. 3799 dated 26.03.99, with a declared CIF value of US\$ 9,099.41 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs. 3,95,783/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 2,40,083/-.

(a) The above goods in two containers were examined on 24.06.99. On examination, the said goods appeared to be Secondary Tin Plate (Plain) Sheets as against the declared description of Tin Free Secondary Sheets. After actual weighment, the ascertained gross weight was 42.060 M.T. as against the declared gross weight of 29.486 M.T. Hence, the excess weight of goods in the consignment was 12.574 M.T. The net weight of the goods declared in the Bill of Entry was 28.887 M.T. Thus, the actual net weight of the said goods was 41.461 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were TinPlate sheets or Tin Free sheets. The Deputy Chief Chemist, vide test reports, all dated 29.7.99, informed that all the four samples were 'Tin Plated Steel (Magnetic)'.

(xxviii) Bill of Entry No. 6573 dated 15.6.99 (Shown at Sr. No. 18 of Annexure-I) was filed for clearance of 28.751 M.T. of goods declared as U.S. Origin Tin Free Steel Secondaries (Misprint/Mislaquered). These goods were shipped by M/s. Metro International Trading Corp., New York under Invoice No. 3798 dated 26.03.99, with a declared CIF value of US\$ 9,056.57 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs. 3,93,920/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 2,38,952/-.

(a) The above goods in two containers were examined on 24.6.99. On examination, the said goods appeared to be Secondary Tin Plate (Plain) Sheets as against the declared description of Tin Free Secondaries. After actual weighment, the ascertained gross weight was 42.020 M.T. as

against the declared gross weight of 29.423 M.T. Hence, the excess weight of goods in the consignment is 12.597 M.T. The net weight of the goods declared in the Bill of Entry was 28.751 M.T. Thus, the actual net weight of the said goods was 41.348 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were TinPlate sheets or Tin Free sheets. The Deputy Chief Chemist, vide test reports, all dated 29.07.99, informed that all the four samples were 'Tin Plated Steel (Magnetic)'.

(xxix) Bill of Entry No. 6578 dated 15.6.99 (Shown at Sr. No. 19 of Annexure-I) was filed for clearance of 28.200 M.T. of goods declared as U.S. Origin Tin Free Steel Secondaries (Misprint/Mislaquered). These goods were shipped by M/s. Metro International Trading Corpn., New York under Invoice No. 3800 dated 26.03.99, with a declared CIF value of US\$ 8,883.00 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs. 3,86,369/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 2,34,371/-.

(a) The above goods in two containers were examined on 24.06.99. On examination, the said goods appeared to be Secondary TinPlate Sheets (Plain) as against the declared description of Tin Free Secondaries. After actual weighment, the ascertained gross weight was 41.240 M.T. as against the declared gross weight of 28.636 M.T. Hence, the excess weight of goods in the consignment was 12.604 M.T. The net weight of the goods declared in the Bill of Entry was 28.200 M.T. Thus, the actual net weight of the said goods was 40.804 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were TinPlate sheets or Tin Free sheets. The Deputy Chief Chemist, vide test reports dated 29.7.99, informed that all the four samples were 'Tin Plated Steel (Magnetic)'.

(xxx) Bill of Entry No. 6588 dated 15.6.99 (Shown at Sr. No. 5 of Annexure-II) was filed for clearance of 14.408 M.T. of goods declared as U.S. Origin Tin Free Steel Secondaries (Misprint/Mislaquered). These goods were shipped by M/s. Metro International Trading Corpn., New York under Invoice No. 3789 dated 26.03.99, with a declared CIF value of US\$ 4,538.52 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs. 1,97,403/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 1,19,744/-.

(a) The above goods in one container were examined on 24.6.99. On examination, the said goods appeared to be Tin Free Secondary Sheets which are in consonance with the declaration in the Bill of Entry. After actual weighment, the ascertained gross weight was 21.050 M.T. as against the declared gross weight of 14.653 M.T. Hence, the excess weight of goods in the consignment was 6.397 M.T. The net weight of the goods declared in the Bill of Entry was 14.408 M.T. Thus, the actual net weight of the said goods was 20.805 M.T.

(b) Two representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tin Free Sheets or Tin Plated Sheets. The Deputy Chief Chemist, vide test reports, dated 29.7.99, informed that the two samples were 'Tin Free Steel (Magnetic)'.

(xxxi) Bill of Entry No. 6017 dated 14.6.99 (Shown at Sr. No. 20 of Annexure-I) was filed for clearance of 45.543 M.T. of goods declared as Canadian Origin Tin Free Secondaries (Misprint/Mislaquered). These goods were shipped by M/s. Royal Canadian Steel Inc., Canada under Invoice No. 786/077/98 dated 5.2.99, with a declared CIF value of US\$ 14,346.05 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs. 6,23,975/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 3,78,503/-.

(a) The above goods in three containers were examined on 18.6.99. On examination, the said goods appeared to be Secondary TinPlate Sheets as against the declared description of Tin Free Secondaries.' After actual weighment, the ascertained gross weight was 66.320 M.T. as against the declared gross weight of 46.235 M.T. Hence, total excess weight of goods in the consignment is 20.085 M.T. The net weight of the goods declared in the Bill of Entry was 45.543 M.T. Thus, the actual net weight of the said goods was 65.628 M.T.

(b) Six representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were TinPlate sheets or Tin Free sheets. The Deputy Chief Chemist, vide test reports, all dated 27.7.99, informed that all the six samples were 'Tin Plated Steel (Magnetic)'.

(xxxii) Bill of Entry No. 6027 dated 14.6.99 (Shown at Sr. No. 21 of Annexure-I) was filed for clearance of 60.418 M.T. of goods declared as Canadian Origin M.S.C.R. Defective Sheets (in coil form). These goods were shipped by M/s. Royal Canadian Steel Inc., Canada under Invoice No. 786/070/98 dated 05.02.99, with a declared CIF value of US\$ 18,125.40 at the rate of US\$ 300 per M.T. The goods have been classified under Sub-heading 7209.00 and the declared assessable value was Rs. 7,88,357/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 4,78,218/-.

(a) The above goods in four containers were examined on 18.06.99. On examination, the said goods appeared to be Tin Plate Secondaries in Coils as against the declared description of M.S.C.R. Defective Sheets in Coils. After actual weighment, the ascertained gross weight was 87.920 M.T. as against the declared gross weight of 60.610 M.T. Hence, the excess weight of goods in the consignment was 27.310 M.T. The net weight of the goods declared in the Bill of Entry was 60.418 M.T. Thus, the actual net weight of the said goods was 87.728 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were

TinPlate sheets or M.S.C.R. Coil. The Deputy Chief Chemist, vide test reports, all dated 27.7.99, informed that all the four samples were made of 'Tin Plated Steel(Magnetic)'.

(xxxiii) Bill of Entry No.6042 dated 14.6.99 (Shown at Sr. No. 22 of Annexure-I) was filed for clearance of 60.418 M.T. of goods declared as Canadian Origin M.S.C.R. Defective Sheets (in coil form). These goods were shipped by M/s. Royal Canadian Steel Inc., Canada under Invoice No. 786/072/98 dated 05.02.99, with a declared CIF value of US\$ 18,186.50 at the rate of US\$ 300 per M.T. The goods have been classified under Sub-heading 7209.00 and the declared assessable value was Rs.7,91,014/- The total Customs duty payable, as indicated in the Bill of Entry was Rs. 4,79,829/-.

(a) The above goods in four containers were examined on 18.6.99. On examination, the said goods appeared to be Tin Plate Secondaries in Coils as against the declared description of M.S.C.R. Defective Sheets in Coils. After actual weighment, the ascertained gross weight was 87.650 M.T. as against the declared gross weight of 60.758 M.T. Hence, the excess weight of goods in the consignment was 26.892 M.T. The net weight of the goods declared in the Bill of Entry was 60.418 M.T. Thus, the actual net weight of the said goods was 87.310 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tin Plate sheets or M.S.C.R. Coil. The Deputy Chief Chemist, vide test reports, all dated 27.07.99, informed that all the four samples were made of 'Tin Plated Steel(Magnetic)'.

(xxxiv) Bill of Entry No.6033 dated 14.6.99 (Shown at Sr. No. 23 of Annexure-I) was filed for clearance of 60.446 M.T. of goods declared as Canadian Origin M.S.C.R. Defective Sheets (in coil form). These goods were shipped by M/s. Royal Canadian Steel Inc., Canada under Invoice No. 786/076/98 dated 05.02.99, with a declared CIF value of US\$ 18,139.80 at the rate of US\$ 300 per M.T. The goods have been classified under Sub-heading 7209.00 and the declared assessable value was Rs. 7,88,981/- The total Customs duty payable, as indicated in the Bill of Entry was Rs. 4,78,596/-.

(a) The above goods in four containers were examined on 18.06.99. On examination, the said goods appeared to be Tin Plate Secondaries in Coils as against the declared description of M.S.C.R. Defective Sheets in Coils. After actual weighment, the ascertained gross weight was 87.800 M.T. as against the declared gross weight of 60.594 M.T. Hence, the excess weight of goods in the consignment was 27.206 M.T. The net weight of the goods declared in the Bill of Entry was 60.446 M.T. Thus, the actual net weight of the said goods was 87.652 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tin Plate sheets or M.S.C.R. Coil. The Deputy Chief Chemist, vide test reports, all dated 27.7.99, informed that all the four samples were made of 'Tin Plated Steel(Magnetic)'.

(xxxv) Bill of Entry No.3120 dated 9.6.99 (Shown at Sr. No. 32 of Annexure-I) was filed for clearance of 38.698 M.T. of goods declared as European Origin Tin Free Secondaries (Misprint/Mislaquered). These goods were shipped by M/s. Nicomet TinPlate/Steel BV, Holland under Invoice No. 819900127/NF dated 01.04.99, with a declared CIF value of US\$ 12,189.87 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs. 5,30,204/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 3,21,622/-.

(a) The above goods in two containers were examined on 11.6.99. On examination, the said goods appeared to be Secondary TinPlate Sheets Plain as against the declared description of Tin Free Secondaries. After actual weighment, the ascertained gross weight was 54.420 M.T. as against the declared gross weight of 39.481 M.T. Hence, the excess weight of goods in the consignment was 14.999 M.T. The net weight of the goods declared in the Bill of Entry was 38.698 M.T. Thus, the actual net weight of the said goods was 53.697 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were TinPlate sheets or Tin Free sheets. The Deputy Chief Chemist, vide test reports, all dated 18.8.99, informed that all the four samples were 'Tin Plated Steel(Magnetic)'.

(xxxvi) Bill of Entry No.3121 dated 9.6.99 (Shown at Sr. No. 33 of Annexure-I) was filed for clearance of 38.417 M.T. of goods declared as European Origin Tin Free Secondaries (Misprint/Mislaquered). These goods were shipped by M/s. Nicomet TinPlate/Steel BV, Holland under Invoice No. 819900123/NF dated 01.04.99, with a declared CIF value of US\$ 12,101.36 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs. 5,26,353/-. The total Customs duty payable as indicated in the Bill of Entry was Rs. 3,19,286/-.

(a) The above goods in two containers were examined on 11.6.99. On examination, the said goods appeared to be Secondary TinPlate Sheets (Misprints) as against the declared description of Tin Free Secondaries. After actual weighment, the ascertained, gross weight was 54.130 M.T. as against the declared gross weight of 39.063 M.T. Hence, the excess weight of goods in the consignment was 15.067 M.T. The net weight of the goods declared in the Bill of Entry was 38.417 M.T. Thus, the actual net weight of the said goods was 53.484 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were TinPlate sheets or Tin Free sheets. The Deputy Chief Chemist, vide test reports, all dated 18.8.99, informed that all the four samples were made of 'Tin Plated Steel(Magnetic)'.

(xxxvii) Bill of Entry No.3122 dated 9.6.99 (Shown at Sr. No. 34 of Annexure-I) was filed for clearance of 39.286 M.T. of goods declared as European Origin Tin Free Secondaries (Misprint/Mislaquered). These goods were shipped by M/s. Nicomet TinPlate/Steel BV, Holland

under Invoice No. 819900122/NF dated 1.4.99, with a declared CIF value of US\$ 12,375.09 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs. 5,38,255/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 3,26,505/-.

(a) The above goods in two containers were examined on 11.6.99. On examination, the said goods appeared to be Secondary TinPlate Sheets (Misprint/Mislacquered) as against the declared description of Tin Free Secondaries. After actual weighment, the ascertained gross weight was 54.935 M.T. as against the declared gross weight of 39.875 M.T. Hence, the excess weight of goods in the consignment was 15.060 M.T. The net weight of the goods declared in the Bill of Entry was 39.286 M.T. Thus, the actual net weight of the said goods was 54.346 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House; Mumbai for ascertaining whether the same were TinPlate sheets or Tin Free sheets. The Deputy Chief Chemist, vide test reports, all dated 18.8.99, informed that all the four samples were 'Tin Plated Steel(Magnetic)'.

(xxxviii) Bill of Entry No. 3123 dated 9.6.99 (Shown at Sr. No. 35 of Annexure-I) was filed for clearance of 38.062 M.T. of goods declared as European Origin Tin Free Secondaries (Misprint/Mislaquered). These goods were shipped by M/s. Nicomet TinPlate/Steel BV, Holland under Invoice No. 819900125/NF dated 1.4.99, with a declared CIF value of US\$ 11,989.53 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs. 5,21,490/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 3,16,335/-.

(a) The above goods in two containers were examined on 11.06.99. On examination, the said goods appeared to be Secondary TinPlate Sheets (Misprint/Plain) as against the declared description of Tin Free Secondaries. After actual weighment, the ascertained gross weight was 53.630 M.T. as against the declared gross weight of 38.754 M.T. Hence, the excess weight of goods in the consignment was 14.876 M.T. The net weight of the goods declared in the Bill of Entry is 38.062 M.T. Thus, the actual net weight of the said goods was 52.938 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were TinPlate sheets or Tin Free sheets. The Deputy Chief Chemist, vide test reports, all dated 18.08.99, informed that all the four samples were 'Tin Plated Steel(Magnetic)'.

(xxxix) Bill of Entry No.3125 dated 09.06.99 (Shown at Sr. No. 36 of Annexure-I) was filed for clearance of 39.053 M.T. Of goods declared as European Origin Tin Free Secondaries (Misprint/Mislaquered). These goods were shipped by M/s. Nicomet TinPlate/Steel BV, Holland under Invoice No. 819900126/NF dated 1.4.99, with a declared CIF value of US\$ 12,301.70 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the

declared assessable value was Rs. 5,35,068/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 3,24,572/-.

(a) The above goods in two containers were examined On 11.06.99. On examination, the said goods appeared to be Secondary TinPlate Sheets (Plain) as against the declared description of Tin Free Secondaries. After actual weighment, the ascertained gross weight was 54.840 M.T. as against the declared gross weight of 39.952 M.T. Hence, the excess weight of goods in the consignment was 14.888 M.T. The net weight of the goods declared in the Bill of Entry was 39.053 M.T. Thus, the actual net weight of the said goods was 53.941 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were TinPlate sheets or Tin Free sheets. The Deputy Chief Chemist, vide test reports; all dated 18.8.99, informed that all the four samples were 'Tin Plated Steel(Magnetic)'.

(XL) Bill of Entry No.3126 dated 9.6.99 (Shown at Sr. No. 10 of Annexure-II) was filed for clearance of 38.773 M.T. of goods declared as European Origin Tin Free Secondaries (Misprint/Mislaquered). These goods were shipped by M/s. Nicomet TinPlate/Steel BV, Holland under Invoice No. 819900124/NF dated 01.04.99, with a declared CIF value of US\$ 12,213.50 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs.5,31,230/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 3,22,244/-.

(a) The above goods in two containers were examined on 11.6.99. On examination, the said goods appeared to be Tin Free Secondaries (Plain/Lacquered) which were in consonance with the declaration. After actual weighment, the ascertained gross weight was 54.570 M.T. as against the declared gross weight of 39.452 M.T. Hence, the excess weight of goods in the consignment was 15.118 M.T. The net weight of the goods declared in the Bill of Entry was 38.773 M.T. Thus, the actual net weight of the said goods was 53.891 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tin Free Sheets or Tin Plated Sheets. The Deputy Chief Chemist, vide test reports, all dated 18.08.99, informed that all the four samples were 'Tin Free Steel(Magnetic)'.

(XLI) Bill of Entry No.3127 dated 9.6.99 (Shown at Sr. No. 37 of Annexure-I) was filed for clearance of 38.696 M.T. of goods declared as European Origin Tin Free Secondaries (Misprint/Mislaquered). These goods were shipped by M/s. Nicomet TinPlate/Steel BV, Holland under Invoice No. 819900132/NF dated 01.04.99, with a declared CIF value of US\$ 12,189.24 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs. 5,30,177/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 3,21,605/-.

(a) The above goods in two containers were examined on 11.6.99. On examination, the said goods appeared to be Secondary TinPlate Sheets (Plain) as against the declared description of Tin Free Secondaries. After actual weighment, the ascertained gross weight was 54.250 M.T. as against the declared gross weight of 39.249 M.T. Hence, the excess weight of goods in the consignment was 15.001 M.T. The net weight of the goods declared in the Bill of Entry was 38.696 M.T. Thus, the actual net weight of the said goods was 53.697 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were TinPlate sheets or Tin Free sheets. The Deputy Chief Chemist, vide test report dated 18.08.99, informed that all the four samples were "Tin Plated Steel(Magnetic)".

(XLII) Bill of Entry No.3128 dated 09.06.99 (Shown at Sr. No. 38 of Annexure-I) was filed for clearance of 39.689 M.T. of goods declared as European Origin Tin Free Secondaries (Misprint/Mislaquered). These goods were shipped by M/s. Nicomet TinPlate/Steel BV, Holland under Invoice No. 819900133/NF dated 1.4.99, with a declared CIF value of US\$ 12,502.04 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs. 5,43,784/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 3,29,859/-.

(a) The above goods in two containers were examined on 11.06.99. On examination, the said goods appeared to be Secondary TinPlate Sheets (Plain) as against the declared description of Tin Free Secondaries. After actual weighment, the ascertained gross weight was 55.230 MT as against the declared gross weight of 40.208 M.T. Hence, the excess weight of goods in the consignment was 15.022 M.T. The net weight of the goods declared in the Bill of Entry was 39.689 M.T. Thus, the actual net weight of the said goods was 54.711 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were TinPlate sheets or Tin Free sheets. The Deputy Chief Chemist vide test reports, all dated 18.08.99, informed that all the four samples were "Tin Plated Steel (Magnetic)".

(XLIII) Bill of Entry No.3129 dated 9.6.99 (Shown at Sr.No. 39 of Annexure-I) was filed for clearance of 37.418 M.T. of goods declared as European Origin Tin Plate Secondaries Strips (Misprint/Mislaquered). These goods were shipped by M/s. Hern & Company, U. K., under Invoice No. 2285 dated 11.3.99, with a declared CIF value of US\$ 9728.68 at the rate of US\$ 260 per M.T. The goods have been classified under Sub-heading 7210.12 and the declared assessable value was Rs. 4,22,025/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 2,56,001/-

(a) The above goods in two containers were examined on 11.6.99. On examination, the said goods appeared to be Secondary TinPlate Sheets (Plain/Misprint) as against the declared description of Secondary TinPlate Strips. After actual weighment, the ascertained gross weight was 46.660 M.T.

as against the declared gross weight of 38.140 M. T. Hence the excess weight of goods in the consignment was 8.520 M.T. The net weight of the goods declared in the Bill of Entry was 37.418 M T. Thus, the actual net weight of the said goods was 45.938 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tin Plated or otherwise. The Deputy Chief Chemist vide test reports, all dated 18.8.99, informed that all the four samples were 'Tin Plated Steel(Magnetic)'.

(XLIV) Bill of Entry No 5259 dated 11 6 99 (Shown at Sr. No. 40 of Annexure-I) was filed for clearance of 38.900 M.T. of goods declared as European Origin TinPlate Secondary Strips (Misprint/Mislaquered). These goods were shipped by M/s. Nicomet TinPlate/Steel BV, Holland under Invoice No 819900115/NF dated 22.03.99 with a declared CIF value of US\$ 10,114.00 at the rate of US\$ 260 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs 4,39,905/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 2,66,846/-

(a) The above goods in two containers were examined on 14.6.99. On examination, the said goods appeared to be Secondary TinPlate Sheets (Plain) as against the declared description of Tin Plate Secondary Strips. After actual weighment the ascertained gross weight was 54.480 M.T. as against the declared gross weight of 39.454 M.T. Hence, the excess weight of goods in the consignment was 15.026 M.T. The net weight of the goods declared in the Bill of Entry was 38.9 M.T. Thus, the actual net weight of the said goods was 53.926 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Murnbai for ascertaining whether the same were Tin Plated sheets or otherwise. The Deputy Chief Chemist, vide test reports, all dated 13.08.99, informed that all the four samples were 'Tin Plated Steel(Magnetic)'.

(XLV) Bill of Entry No. 5274 dated 11 6.99 (Shown at Sr. No 1 of Annexure-IV) was filed for clearance of 39.387 M.T. of goods declared as European Origin TinPlate Secondary Strips (Misprint/Mislaquered) These goods were shipped by M/s Nicomet TinPlate/Steel BV, Holland under Invoice No. 819900113/NF dated 22.3.99 with a declared CIF value of US\$ 10,240.62 at the rate of US\$ 260 per M. T. The goods have been classified under' Sub-heading 7210 90 and the declared assessable value was Rs. 4,45,412/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 2,70,187/-.

(a) The above goods in two containers were examined on 14.6.99. A total of 36 skids were found in the consignment. On examination, 35 skids appeared to be Tin Plated Steel Secondary Strips and one skid appeared to be TinPlate Secondary Sheet. After actual weighment, the ascertained gross weight was 55.390 M. T. as against the declared gross weight of 40.262 M T. Hence, the excess weight of goods in the consignment was 15.128 M. T. The gross weight of one skid containing TinPlate Secondary Sheet was found to be 2.89 M.T. After adjusting the difference

between the declared gross weight and net weight proportionately, the net weight of 35 skids of TinPlate Secondary Strips worked out to 51.649 M.T. and the net weight of 1 skid containing Secondary TinPlate Sheet worked out to 2.866 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tin Plated or otherwise. The Deputy Chief Chemist, vide test reports, all dated 13.8.99, informed that all the four samples were 'Tin Plated Steel(Magnetic)'.

(XLVI) Bill of Entry No 5286 dated 11.6.99 (Shown at Sr. No 41 of Annexure-I) was filed for clearance of 39.013 M.T. of goods declared as European Origin TinPlate Secondary Strips (Misprint/Mislaquered) These good were shipped by M/s Nicomet TinPlate/Steel BV, Holland under Invoice No 819900114/NF dated 22.3.99, with a declared CIF value of US\$ 10,143.38 at the rate of US\$ 260 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs. 4,41,182/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs 2,67,621/-

(a) The above goods in two containers were examined on 14.06.99. On examination, the said goods appeared to be Secondary Tin Plate (Plain) Sheets as against the declared description of TinPlate Secondary Strips After actual weighment the ascertained gross weight was 55.090 M.T. as against the declared gross weight of 39.814 M.T. Hence, the excess weight of goods in the consignment was 15.276 M.T. The net weight of the goods declared in the Bill of Entry was 39.013 M.T. Thus, the actual net weight of the said goods was 54.289 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tin Plated sheets or otherwise. The Deputy Chief Chemist, vide test reports, all dated 13.6.99, informed that all the four samples were 'Tin Plated Steel(Magnetic)'.

(XLVII) Bill of Entry No: 10689 dated 25.05.99 (Shown at Sr. No. 7 of Annexure-II) was filed for clearance of 38.053 M.T. of goods declared as European Origin Tin Free secondaries sheets (Misprint/Mislaquered). These goods were shipped by M/s. H J. Bowler & Sons Ltd., U.K under invoice No. 2955 dated 11.3.99, with a declared CIF value of US\$ 11.986.70 at the rate of US\$ 315 per M.T The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs. 5,20,582/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 3,15,785/-

(a) The above goods in two containers were examined on 10.6.99. On examination, the said goods appeared to be Secondary Tin Free sheets (plain/lacquered), which are in consonance with the declaration After actual weighment, the ascertained gross weight was 48.590 M.T. as against the declared gross weight of 38.775 M T. Hence, the excess weight of goods in the consignment was 9.815 M.T. The net weight of the goods declared in the Bill of Entry was 38.053 M.T. Thus, the actual net weight of the said goods was 47.868 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tin Free sheets or Tin Plated sheets: The Deputy Chief Chemist vide test reports, all dated 16.09.99 informed that all the four samples were 'Steel (Magnetic) not Tin Plated'.

(XLVIII) Bill of Entry No.10702 dated 25.05.99 (Shown at Sr.No. 42 of Annexure-I) was filed for clearance of 40.365 M.T. of goods declared as European Origin Tin Plate Secondaries Strips(Misprint/Mislaquered). These goods were shipped by M/s. H J Bowler & Sons Ltd., U.K. under Invoice No.2956 dated 11.03.99, with a declared CIF value of US\$ 10,494.90 at the rate of US\$ 260 per M.T. The goods have been classified under Sub-heading 7210.12 and the declared assessable value was Rs. 4,55,794/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 2,76,485/-.

(a) The above goods in two containers were examined on 10.6.99. On examination, the said goods appeared to be Secondary TinPlate Sheets (misprint/mislaquered) as against the declared description of Tin Plate Secondary Strips. After actual weighment, the ascertained gross weight was 50.750 M.T. as against the declared gross weight of 41.087 M.T. Hence, the excess weight of goods in the consignment was 9.663 M.T. The net weight of the goods declared in the bill of entry was 40.365 M.T. Thus the actual net weight of the said goods was 50.028 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House Mumbai for ascertaining whether the same were Tin Plated or otherwise. The Deputy Chief Chemist vide test reports all dated 16.09.99 informed that the four samples were 'Tin Plated Steel (Magnetic)'.

(XLIX) Bill of Entry No. 10738 dated 25.05.99 (shown at sr. no. 43 of Annexure-I) was filed for clearance of 38.00 M. T. of goods declared as European Origin 'Tin Free Secondaries Sheets (misprint/mislaquered). These goods were shipped by M/s. H. J. Bowler & Sons Ltd., U. K. under invoice no. 2949 dated 11.03.99 with a declared CIF value of US\$ 11, 970.00 at the rate of US\$ 315 per M.T. The goods have been classified under sub-heading 721090 and the declared assessable value was Rs. 5,19, 857/-. The total Customs duty payable as indicated in the Bill of Entry was Rs. 3,15,345/-.

(a) The above goods in two containers were examined on 10.05.99. On examination, the said goods appeared to be Secondary TinPlate Sheets (Misprint/Mislaquered) as against the declared description of Tin Free Secondary Sheet. After actual weighment, the ascertained gross weight was 49.390 M.T. as against the declared gross weight of 38.722 M.T. Hence, the excess weight of goods in the consignment was 10.638 M.T. The net weight of the goods declared in the Bill of ENtry is 38.00 M.T. Thus, the actual net weight of the said goods was 48.668 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist. New Custom House Mumbai for ascertaining whether the same were Tin

Plated or Tin Free Sheet. The Deputy Chief Chemist, vide test reports all dated 16.09.99 informed that all the four samples were 'Tin Plated Steel (Magnetic)'.

(L) Bill of Entry No. 10746 dated 25.5.99 (Shown at Sr.No. 47 of Annexure-I) was filed for clearance of 38.000 M.T. of goods declared as European Origin Tin Free Secondaries Sheets (Misprint/Mislaquered). These goods were shipped by M/s. H. J Bowler & Sons Ltd., U.K. under Invoice No. 2950 dated 11.03.99, with a declared CIF value of US\$ 11,970.00 at the rate of US\$ 315 per M. T. The goods have been classified under Sub-heading 721090 and the declared assessable value was Rs.5,19,657/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs 3,15,345/-.

(a) The above goods in two containers were examined on 10.06.99. On examination, the said goods appeared to be Secondary TinPlate Sheets (Misprint/lacquered) as against the declared description of Tin Free Secondaries. After actual weighment, the ascertained gross weight was 45.600 M. T. as against the declared gross weight of 38.722 M.T. Hence, the excess weight of goods in the consignment was 6.878 M.T. The net weight of the goods declared in the Bill of Entry is 38.00 M.T. Thus, the actual net weight of the said goods was 44.878 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tin Plate Sheet or Tin Free Sheets. The Deputy Chief Chemist, vide test reports, all dated 16.9.99 informed that all the four samples were 'Tin Plated Steel(Magnetic)'.

(LI) Bill of Entry No.10752 dated 25.05.99 (Shown at Sr. No. 2 of Annexure- IV) was filed for clearance of 38.000 M.T. of goods declared as European Origin Tinplate Secondaries Strips (Misprint/Mislaquered). These goods were shipped by M/s. H J Bowler & Sons Ltd., U K. under Invoice No. 2948 dated 11.3.99, with a declared CIF value of USS 9,880.00 at the rate of USS 260 per M.T. The goods have been classified under Sub-heading 721012 and the declared assessable value was Rs 4,29,068/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs 2,60,285/-.

(a) The above goods in two containers were examined on 10.6.99. On examination, the said goods were found to be TinPlate Secondary Strips which are in the consonance with the declaration made in the Bill of Entry. After actual weighment, the ascertained gross weight of the consignment was 49.680 M.T. as against the declared gross weight of 38.772 M.T. Hence, the excess weight of goods in the consignment was 10.958 M.T. The net weight of the goods declared in the Bill of Entry was 38.00 M.T. Thus, the actual net weight of the said goods was 48.958 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tin Plated or otherwise. The Deputy Chief Chemist, vide test reports, all dated 16.09.99 informed that all the four samples were 'Tin Plated Steel(Magnetic)'.

(LII) Bill of Entry No. 10767 dated 25.05.99 (Shown at Sr. No 44 of Annexure-I) was filed for clearance of 38.000 M.T. of goods declared as European Origin Tin Free Secondaries Sheets (Misprint/Mislaquered). These goods were shipped by M/s. H. J. Bowler & Sons Ltd., U.K. under Invoice No 2952 dated 11.03.99, with a declared CIF value of US\$ 11,970.00 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs. 5,19,857/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 3,15,345/-.

(a) The above goods in two containers were examined on 10.06.99. On examination, the said goods appeared to be Secondary TinPlate Misprint Sheets as against the declared description of Tin Free Secondary Sheets. After actual weighment, the ascertained gross weight was 45.410 M.T. as against the declared gross weight of 38.722 M.T. Hence, the excess weight of goods in the consignment was 6.688 M.T. The net weight of the goods declared in the Bill of Entry is 38.000 M.T. Thus, the actual net weight of the said goods was 44.688 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tinplate Sheets or Tin Free Sheets. The Deputy Chief Chemist, vide test reports, all dated 16.09.99 informed that all the four samples were 'Tin Plated Steel (Magnetic)'.

(LIII) Bill of Entry No. 10772 dated 25.5.99 (Shown at Sr. No. 45 of Annexure-I) was filed for clearance of 38.000 M.T. of goods declared as European Origin Tin Free Secondaries Sheets (Misprint/Mislaquered). These goods were shipped by M/s. H. J. Bowler & Sons Ltd., U.K. under Invoice No. 2951 dated 11.03.99, with a declared CIF value of US\$ 11,970.00 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs. 5,19,857/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 3,15,345/-.

(a) The above goods in two containers were examined on 10.06.99. On examination, the said goods appeared to be Secondary TinPlate Sheets (Misprint) as against the declared description of Tin Free Secondaries. After actual weighment, the ascertained gross weight was 45.710 M.T. as against the declared gross weight of 38.722 M.T. Hence, the excess weight of goods in the consignment was 6.988 M.T. The net weight of the goods declared in the Bill of Entry was 38.000 M.T. Thus, the actual net weight of the said goods was 44.988 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tin Plate Sheet or Tin Free Sheets. The Deputy Chief Chemist, vide test reports, all dated 16.9.99, informed that all the four samples were 'Tin Plated Steel(Magnetic)'.

(LIV) Bill of Entry No.10778 dated 25.5.99 (Shown at Sr. No. 8 of Annexure-II) was filed for clearance of 38.881 M.T. of goods declared as European Origin Tin Free Secondaries Sheets (Misprint/Mislaquered). These goods were shipped by M/s. H. J. Bowler & Sons Ltd., U.K. under

Invoice No. 2953 dated 11.3.99, with a declared CIF value of US\$ 12,247.52 at the rate of US\$ 315 per M.T. The goods have been classified under Sub-heading 7210.90 and the declared assessable value was Rs. 5,31,910/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 3,22,656/-.

(a) The above goods in two containers were examined on 10.6.99. On examination, the said goods appeared to be Tin Free Steel Secondary (Lacquered) Sheets which are in consonance with the declaration made in the Bill of Entry. After actual weighment, the ascertained gross weight was 49.160 M.T. as against the declared gross weight of 39.603 M.T. Hence, the excess weight of goods in the consignment was 9.577 M.T. The net weight of the goods declared in the Bill of Entry was 38.881 M.T. Thus, the actual net weight of the said goods was 48.438 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tin Plate Sheet or Tin Free Sheets. The Deputy Chief Chemist, vide test reports, all dated 16.9.99, informed that all the four samples were 'Steel(Magnetic) not Tin Plated'.

(LV) Bill of Entry No. 10736 dated 25.5.95 (Shown at Sr. No. 46 of Annexure-I) was filed for clearance of 38.724 M.T. of goods declared as European Origin Tin Free Secondaries Sheets (Misprint/Misiaquered) These goods were shipped by M/s H. J Bowler & Sons Ltd., U K under Invoice No 2954 dated 11.3 99, with a declared CIF value of US\$ 12,198.06 at the rate of US\$ 315 per M T The goods have been classified under Sub-heading 721000 and the declared assessable value was Rs. 5,29,762/- The total Customs duty payable, as indicated in the Bill of Entry was Rs. 3,21,354/-.

(a) The above goods in two containers were examined on 10.06.99. On examination, the said goods appeared to be Secondary Tin Plate (Plain) Sheets as against the declared description of Tin Free Secondary Sheets After actual weighment, the ascertained gross weight was 49.580 M.T. as against the declared gross weight of 39.446 M.T. Hence, the excess weight of goods in the consignment was 10.134 M.T. The net weight of the goods declared in the Bill of Entry was 38.724 M.T. Thus, the actual net weight of the said goods was 48.858 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tin Plate Sheet or Tin Free Sheets. The Deputy Chief Chemist, vide test reports, all dated 16.9.99, informed that all the four samples were 'Tin Plated Steel(Magnetic)'.

(LVI) Bill of Entry No.10840 dated 24.06.99 (Shown at Sr. No. 9 of Annexure-II) was filed for clearance of 14.286 M.T. of goods declared as U.S. Origin Tin Free Steel Secondaries (Misprint/Mislaquered) These goods were shipped by M/s. Metro International Trading Corpn., New York under Invoice No 3789 dated 26.3.99, with a declared CIF value of US\$ 4,500.09 at the rate of US\$ 315 per M.T The goods have been classified under Subheading 7210 90 and the

declared assessable value was Rs. 1,95,727/- The total Customs duty payable, as indicated in the Bill of Entry was Rs. 1,18,728/-.

(a) The above goods in one container were examined on 12.08.99. On examination, the said goods appeared to be Secondary Tin Free Sheets (Lacquered/Plain) which are in consonance with the declared description. After actual weighment, the ascertained gross weight was 20.750 M.T. as against the declared gross weight of 14.599 M.T. Hence, the excess weight of goods in the consignment was 6.151 M.T. The net weight of the goods declared in the Bill of Entry was 14.286 M. T. Thus, the actual net weight of the said goods was 20.437 M.T.

(b) Two representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tin Free Sheets or Tin Plated Sheets. The Deputy Chief Chemist, vide test report, dated 30.8.99, informed that the two samples were 'Tin Free Steel(Magnetic)'.

(LVII) Bill of Entry No.307 dated 01.04.99 (Shown at Sr. No.1 of Annexure-III) was filed for clearance of 59.823 M.T. of goods declared as Canadian Origin M.S.C.R. Defective Sheets (in coil form). These goods were shipped by M/s. Royal Canadian Steel Inc., Canada under Invoice No. 786/069/98 dated 5.2.99, with a declared CIF value of US\$ 17,946.90 at the rate of US\$ 300 per M.T. The goods have been classified under Sub-heading 7209.00 and the declared assessable value was Rs.7,42,247/-. The total Customs duty payable as indicated in the bill of entry was Rs 4,69,658/-.

(a) The above goods in four containers were examined on 19.05.99. On examination, the said goods appeared to be M.S.C.R. Defective Sheets. After actual weighment, the ascertained gross weight was 85.290 M.T. as against the declared gross weight of 60.673 M.T. Hence, the excess weight of goods in the consignment was 24.617 M.T. The net weight of the goods declared in the Bill of Entry was 59.823 M.T. Thus, the actual net weight of the said goods was 84.440 M.T.

(b) Six representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were TinPlate Sheets or M.S.C R. Defective Sheets. The Deputy Chief Chemist, vide test reports, all dated 07.06.99, informed that all the Six samples were made of 'Mild Steel Plated with Tin'. The said six test reports were shown to Shri Atul Bhatia who did not accept the same and requested for retest. Accordingly, the duplicate set of samples along with the remnants received from the Dy. Chief Chemist, Mumbai were forwarded to the Director (Revenue Laboratories), New Delhi, for retesting.

(c) Thereafter, addendum dated 14.12.99 to the show cause notice was issued to the extent that in view of the test report, sub para (LVII) (b) of para 4 at page 40 of the show cause notice dated 29.11.99 was thereby deleted and same might be read as follows:-

"(b) Six representative samples were drawn from the said consignment and forwarded to the Dy. Chief Chemist, New Customs House, Mumbai for ascertaining whether the same are 'Tinplate Sheets or M.S.C.R. Defective Sheets. The Dy. Chief Chemist vide test reports all dated 07.06.99 has informed that all the six samples are made of 'Mild Steel Plated with Tin'. The said six test reports were shown to Shri Atul Bhatia who did not accept the same and requested for retest. Accordingly, the duplicate set of samples along with the remnant received from the Dy. Chief Chemist, Mumbai were forwarded to the Director (Revenue Laboratory), New Delhi for retesting. The Director (Revenue Laboratories) has reported vide letter F. No. 50-CUS/97 dated 25.11.99 that all the six samples are 'Steel Sheets coated on both sides with Tin'.

(LVIII) Bill of Entry No. 5967 dated 14.06.99 (Shown at Sr. No. 29 of Annexure-I) was filed for clearance of 60.244 M.T. of goods declared as Canadian Origin M.S.C.R. Defective Sheets (in coil form). These goods were shipped by M/s. Royal Canadian Steel Inc., Canada under Invoice No. 786/073/98 dated 05.02.99, with a declared CIF value of US\$ 18,073.20 at the rate of US\$ 300 per M.T The goods have been classified under Sub-heading 7209.00 and the declared assessable value was Rs. 7,86,085/-. The total Customs duty payable as indicated in the Bill of Entry was Rs. 4,76,839/-.

(a) The above goods in four containers i.e. CAXU-2100846, GSTU-2120741, NSAU-2016830 and NSAU-2017987 were examined on 18.6.99. On visual examination, the said goods appeared to be Secondary TinPlate Coils as against the declared description of M.S.C.R. Defective Sheets. A total of 13 Coils were found in the consignment as against the declaration of 75 Skids. The said goods were also examined by the Customs Appraiser (Metal Expert) on 25.6.99 to ascertain whether the same were Tinplate Prime or Seconds. After examination of the goods, the Appraiser (Metal Expert) has reported that the goods in container nos. CAXU2100846 and GSTU2120741 are TinPlate Waste/Waste and that the goods in container nos. NSAU2016830 and NSAU2017987 were Tin Plate. Prime. The details of the declared weight (shown in B/L no RD 024 HFDB 014 dated 05.02.99 covering the consignment) and the actual weighment of the consignment in four containers were as below:

Table - 3

S. N.	Container No.	Declared Gr. Wt.	Declared Net. Wt.	Actual Wt.	Excess Wt.	Actual Net. Wt.
1	CAXU-2100846	15.127	15.082	22.200	7.073	22.155
2	GSTU2120741	15.142	15.108	22.380	7.238	22.346
	(Tin Plate W/W)	30.269	30.190	44.580	14.311	44.501
3	NSAU-2016830	14.992	14.958	21.610	6.618	21.576

4	NSAU2017987	15.130	15.096	21.700	6.570	21.666
	Tinplate Prime	30.122	30.054	43.310	13.188	43.242

The above tabulation clearly indicates that there was an excess quantity of 27.499 M.T. of the said goods in the consignment Further, the actual net weight of TinPlate Waste/Waste was 44.601 M.T. and that of TinPlate Prime was 43.242 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tin Plated sheets or Tin Free sheets The Deputy Chief Chemist, vide test reports, all dated 27.07.99, informed that all the four samples were 'Tin Plated steel (Magnetic)'.

(LIX) Bill of Entry No.5999 dated 14.06.99 (Shown at Sr. No 30 of Annexure-I) was filed for clearance of 60.401 MT of goods declared as Canadian Origin M.S.C.R. Defective Sheets (in coil form). These goods were shipped by M/s. Royal Canadian Steel Inc, Canada under Invoice No. 786/074/98 dated 05.02.99, with a declared C&F value of US\$ 18,120.30 at the rate of US\$ 300 per M.T. The goods have been classified under Sub-heading 7209.00 and the declared assessable value was Rs.7,88,133/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 4,78,081/-.

(a) The above goods in four containers i.e. CAXU-2860725, CRXU-2254614, GATU-0063585 and TRIU-3671406 were examined on 18.6.99. On visual examination, the said goods appeared to be Secondary TinPlate Coils as against the declared description of M.S.C.R. Defective Sheets. A total of 12 Coils were found in the consignment as against the declaration of 75 Skids. The said goods were also examined by the Customs Appraiser (Metal Expert) on 25.6.99 to ascertain whether the same are Tinplate Prime or Seconds. After examination of the goods, the Appraiser (Metal Expert) has reported that the goods in container nos CAXU-2860725 and TRIU-3671406 are TinPlate Prime and the goods in container nos. CRXU-2254614 and GATU-0063585 are Tin Plate Waste/Waste. The details of the declared weight (shown in B/L no RD 024 HFDB 011 dt. 5.2.99 covering the consignment) and the actual weighment of the consignment in four containers are as below:

Table -4

S. N.	Container No.	Declared Gr. Wt.	Declared Net. Wt.	Actual Wt.	Excess Wt.	Actual Net. Wt.
1	GATU-006358	15.157	15.082	21.970	6.800	21.936
2	CRXU2254614	15.116	15.082	22.150	7.034	22.116
	(Tin Plate w/w)	30.286	30.218	44.120	13.834	44.052

3	CAXU2860725	15.237	15.203	21.970	6.733	21.936
4	TRIU3671406	15.014	14.980	22.250	7.236	22.216
	(Tin Plate Prime)	30.251	30.183	44.220	13.969	44.152

The above tabulation clearly indicates that there was an excess quantity of 27.803 M.T. of the said goods in the consignment. Further, the actual net weight of TinPlate Waste/Waste was 44.052 M.T. and that of TinPlate Prime was 44.152 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same are Tin Plated sheets or Tin Free sheets. The Deputy Chief Chemist vide test reports, all dated 27.07.99 informed that all the four samples were 'Tin Plated steel (Magnetic)'.

(LX) Bill of Entry No. 6010 dated 14.03.99 (Shown at Sr. No. 31 of Annexure-1) was filed for clearance of 60.306 M.T. of goods declared as Canadian Origin M.S.C.R. Defective Sheets (in coil form). These goods were shipped by M/s. Royal Canadian Steel Inc., Canada under Invoice No. 786/075/98 dated 05.02.99, with a declared C&F value of US\$ 18,091.80 at the rate of US\$ 300 per M.T. The goods have been classified under Sub-heading 7209.00 and the declared assessable value was Rs.7,86,894/-. The total Customs duty payable, as indicated in the Bill of Entry was Rs. 4,77,330/-.

(a) The above goods in four containers i.e NSAU-2006339, NSAU-2028699, SCZU-7296534 and SCZU-7805210 were examined on 18.06.99. On visual examination, the said goods appeared to be Secondary TinPlate Coils as against the declared description of MSCR Defective Sheet total 14 Coils were found in the consignment as against the declaration of 75 Skids. The said goods were also examined by the Customs Appraiser (Metal Expert) on 25.6.99 to ascertain whether the same were Tinplate Prime or Seconds. After examination of the goods, the Appraiser (Metal Expert) reported that the goods in container nos. NSAU-2006339 were TinPlate Prime and the goods in container nos NSAU-2028699, SCZU-7296534 and SCZU-7805210 were Tinplate Waste/Waste. The details of the declared weight (shown in B/L no RD 024 HFDB 012 dated 05.02.99 covering the consignment) and the actual weight of the consignment in four containers are as below:

Table - 5

S. N.	Container No.	Declared Gr. Wt.	Declared Net. Wt.	Actual Wt.	Excess Wt.	Actual Net. Wt.
1	NSAU2028699	15.041	14.996	22.490	7.449	22.445
2	SCZU7296534	15.196	15.161	22.340	7.144	22.305

3	SCZU7805210	15.047	15.013	21.960	6.913	21.926
	(Tin Plate w/w)	45.284	45.170	66.790	21.506	66.676
4	NSAU2006339	15.181	15.136	22.220	7.039	22.175

The above tabulation clearly indicates that there was an excess quantity of 28.545 M.T. of the said goods in the consignment. Further, the actual net weight of TinPlate Waste/Waste was 66.676 M.T. and that of TinPlate Prime was 22.175 M.T.

(b) Four representative samples were drawn from the said consignment and forwarded to the Deputy Chief Chemist, New Custom House, Mumbai for ascertaining whether the same were Tin Plated sheets or Tin Free sheets. The Deputy Chief Chemist vide test reports, all dated 27.07.99, informed that all the four samples were 'Tin Plated steel (Magnetic)'.

7. The goods covered by the said sixty Bills of Entry were placed under seizure vide Memorandum dated 16.06.99, 26.06.99 and 23.08.99 under the reasonable belief that the same were liable to confiscation under the provisions of the Customs Act, 1962.

7.1 The import of seconds and defective TinPlate falling under heading 72.10 of the Customs Tariff were restricted in terms of licensing notes inserted at para (3) in chapter 72 of the ITC(HS) Classification of Export and Import Items 1997-2002. Vide Notification No 34(RE-98)1997-2002 dated 10.12.98 as amended, issued by the Director General of Foreign Trade, the seconds and defectives of Tin Plate (including TinPlate Waste/Waste/Tin Plate Misprints) were not Freely permitted to import if the CIF value of the said goods was below US\$ 545 per M.T. Similarly, the said notification also stipulated that Plates falling under heading 7208/72.11 were not permitted for import Freely if the CIF value of the said goods was below U.S.\$ 311 per M.T.

7.2 The import of Prime steel items including Tin Plates falling under heading 72.10 of the Customs tariff were restricted in terms of licensing notes inserted at para (4) in Chapter 72 of the ITC(HS) Classification of Export and Import Items 1997-2002. Vide Notification No. 35(RE-98)1997-2002 dated 11.12.98, issued by the Director General of Foreign Trade, Prime Tin Plates were not Freely permitted for imports if the CIF value of the said goods was below U.S.\$ 720 per M.T.

8. M/s. AOL has imported Tin Plate Secondaries/ Waste/Waste in Sheets/ Coils from USA, Canada, UK and Holland and have misdeclared the same as Tin Free Secondaries and MSCR defective Sheets. AOL had also imported Tin Plate Prime in Coils from Canada and had misdeclared the same as MSCR defective Sheets. Therefore, declared value for these goods cannot be accepted as Transaction Value in terms of Rule 4 to the Customs Valuation (Determination of Price of Imported Goods) Rules, 1988.

Contemporaneous Imports

9. Enquiries revealed that "ETP (Electro Tin Plated) Prime and Seconds and TinPlate Waste/Waste in coils and sheets falling under sub-heading 7210.12 of the Customs Tariff were being imported by various importers discussed as follows:

9.1 M/s. Zenith Cans & Containers, A/18, Nand Bhuvan, Industrial Estate, Mahakali Caves Road, Andheri(E), Bombay-400093 had imported 37.49 M.T. of Tin Plate Secondaries classified under sub-heading 7210.12 of Customs Tariff under Bill of Entry No. 5942 dated 14.5.99. The said goods are covered by Invoice No. (Export Reference No. CFF/99065H dated 18.1.99 of Steel Canada Ltd. 375 Traders Blvd. E. Mississauga, Ontario, Canada L4Z.2E5 and were shipped under Bill of lading No NSLUNTCMTR-0049681 dated 18.01.99. The unit price of the said goods indicated on the invoice dated 18.01.99 was 545 US\$ per M.T CIF. The said bill of Entry indicated that the goods were of Canadian origin.

9.2 M/s. Pooja Fab. Kala Silk Factory Compound, Shed No.24, Kashi Village, Post Mira, Dist, Thane, Maharashtra-401104 had imported 37.64 MT of Tin Plate secondaries classified under sub-heading 72.10 of Customs Tariff under Bill of Entry No 3820 dated 12.4.99 the said goods were covered by Invoice No (Export Reference No. CFF99065C dated 18.01.99 of Steel Canada Ltd 375 Traders Blvd. E. Mississauga, Ontario, Canada L4Z.2E5 and were shipped under Bill of lading No.NSLUNTCMTR-0049681 dated 18.1.99. The unit price of the said goods indicated on the invoice dated 18.1.99 was 545 US\$ per M.T. CIF. The said bill of Entry indicated that the goods were of Canadian origin.

9.3 M/s. Deccan Can & Printers P Ltd. Plot No 19, Road No 19, MIDC, Marol, Andheri (E) Mumbai-93 had imported 61.621 M.T. of TinPlate Waste/Waste sheets classified under sub heading 7.210.12 of the customs Tariff. The said goods have been imported under Bill of Entry no. 8535 dt 20-5-99 vide Invoice No. 4373/950722 dated 11-4-99 of M/s. Lefer Blanc Inc 613, Pammus Road NJ 07652. The goods were shipped from Norfolk to Mumbai under Bill of lading no. BALA 012942 dated 11-4-99. The unit price for the goods declared in the said invoice was US\$ 550 CIF per M.T. The said Bill of Entry indicated that the said goods were of USA origin.

9.4 M/s. Bombay Crown Industries, 20, Udyog Industrial Estate. Parsi Panchayat Road, Andheri (E), Mumbai - 69 had imported 40.425 M.T. of ETP second in coils classified under sub-heading 7210.12 of the customs Tariff under Bill of Entry No. 5151 dated 11-6-99. The said goods were covered by Invoice No. IN 9044522 T.P. dated 19-4-99 of M/s Breen International, 1060, Montour West Industrial Blvd. Covaopolis, PA 15108, USA and were shipped from Baltimore to Mumbai under Bill of Lading No. RDBADB 002 dated 19-4-99. The unit price of the said goods indicated in the Invoice dt 19-4-99 of M/s. Breen International was US\$ 547 per MT (C&F) The said goods were of USA origin.

9.5 M/s. Everest Containers, G/4. Ansa Industrial Estate, Saki Vihar Road, Sakinaka, Bombay - 72 have imported 14.434 MT of TinPlate seconds classified under heading 7210.12 of the Customs Tariff under Bill of Entry no. 7913 dated 19-5-99. The said goods were covered by

Invoice No. 99-335 dt 30-3-99 of M/s. Ameritin International Corpn. 4185, Madison AVC, LA Grange, IL 60525 and were shipped under Bill of Lading no. SENU CHI 23763 dated 4-4-99. The unit price of the said goods indicated on the invoice dated 30-3-99 was US\$ 545 per MT (CIF). The said Bill of Entry indicated that the goods were of USA origin.

9.6 M/s. Deccan Cans & Printers P. Ltd. Plot NO. 19, Road no 9, MIDC, Marol, Andheri (E); Mumbai - 63 had imported 62.550 MT of Tin Plate Seconds classified under- sub-heading 721012 of the customs Tariff under Bill of Entry No. 8782 dated 23-3-99. The said goods were covered by invoice no. 3034 dated 2-2-99 of M/s. Conquest (Japan) Ltd. P.O. Box No. 440, Kobe, Japan and were shipped under Bill of Lading no. ELSU - 400900006124 dt 2-2-99 from Baltimore. The unit price of the said goods indicated on the invoice dated 2-2-99 was US\$ 545 per MT (C&F). The said Bill of Entry indicates that the goods were of USA origin.

9.7 M/s. Asian paints (India) Ltd. Plot No. 5, Gaiwadi industrial Estate, S.V. Road. Goregaon (W) Mumbai - 62 had imported 19.777 M.T. of Electrolytic TinPlate prime coils classified under heading 7210.12 of the Customs Tariff Under B/E No. 11984 dt 25-11-98. The said goods were covered by inv. No. IIXIKK 80217A02 dated 26-10-98 of M/s. Daewoo Corporation. CP02310 Seoul, Korea The unit price of the said goods as indicated on the invoice dated 26-10-98 was US\$ 620 per MT (C & F). The said Bill of Entry indicated that the goods were of Korean Origin.

9.8 M/s. Hindustan Tin Works. Ltd., Dhatoori Road, village and P.O. Bhigan, Tehsil Canour, Dist Sonapat. Haryana had imported 40.040 MT of TinPlate Prime Electrolytic classified under heading 7210.12 of the Customs Tariff under Bill of Entry No. 5095 dt 22-7-98. The said goods were covered by invoice no 86450118 dated 3-6-98 of M/s. Marubeni Corpn. P.O. Box 595, Tokyo 100 - 91, Japan. The unit price of the said goods indicated on the invoice dt 3-6-96 was US\$ 695 per MT (CIF) for TinPlate Prime, Electrolytic, Stone finish, double reduced and US\$ 720 per MT -CIF) for TinPlate Prime, Electrolytic, stone finish, double reduced. The said B/E indicated that the goods were of Japanese origin.

9.9 M/s. Hindustan Tin Works Ltd. A-10, Industrial Area, Site - IV, Sahibabad - 201010 had imported 17.291 M.T. of TinPlate Prime, electrolytic, stone finish, single reduced classified under heading 7210.12 of the customs Tariff under B/E No. 1744 dated 6-10-98. The said goods were covered by Invoice no. 98/8474 dated 15-8-98 of M/s. Stemcor U.K. Ltd. The unit price of the said goods was indicated on the invoice dated 15-8-98 in US\$ 718 per M.T. (C & F). The said Bill of Entry indicated that the goods were of Brazilian origin.

9.10 M/s Zenith Cans & Containers. A/18. Nand Bhuvan indi. Est, Mahakali caves Road, Andheri (E), Mumbai - 93 had imported 38 722 M.T. of Electrolytic Tinplate Waste/Waste sheets classified under heading 721012 of the customs Tariff under Bili of Entry No 8534 dt 20-5-99. The said goods were covered by invoice no. 3050 dated 31-3-99 of M/s. Lefer Itanc Inc. 150-20 76th Road, Flushing. N.Y. 11367 and were shipped under Bill of lading no NYCA - 015405. The

unit price of the said goods indicated on the invoice dated 31-3-99 is US\$ 550 per M.T. (CIF). The said Bill of Entry indicated that the goods were of USA origin.

10. During the relevant period contemporaneous imports of Tin Plate prime at Mumbai of Canada origin were not noticed. Further, contemporaneous imports of Tin Plate Secondary Sheets of Europe origin at Mumbai were also not noticed during the relevant period.

10.1 The details of some of the contemporaneous imports by other importers of TinPlate Waste /Waste and Seconds in Sheets and Coils, as discussed in the foregoing paras clearly indicated that the unit price of the said goods of Canada and USA origin ranged between 545-550 US\$ per MT (CIF). Further, a unit price of 620 - 720 US\$ per MT (CIF) was noticed for imports of TinPlate Prime wherein the countries of origin were Japan, Korea and Brazil. These prices were for import at Mumbai. Import of TinPlate Prime from Canada during the relevant period has not been noticed. Further, import of TinPlate Prime from countries other than Canada, immediately proceeding the import of the said goods by AOL had also not been noticed. The goods covered by the Bills of Entry as discussed in the foregoing para were similar to the goods i.e. TinPlate Prime coils and Tin Plate sheets secondaries imported by AOL from USA, Europe & Canada AOL had also imported the said TinPlate Secondary sheets / coils at or about the time when the said similar goods had been imported from USA , Canada & Europe by other importers, it appeared that AOL had misdeclared the value of the goods in addition to misdeclaration of description and weight as discussed above at the time of import of the said goods. It, therefore, appeared that the goods i.e. Tin Plated Secondary sheets & coils imported by AOL were liable to be assessed at the rate of US\$ 545 (CIF) per M.T. which was the lowest of the available invoice price for similar goods in terms of Rule 6 of the Customs Valuation (Determination of Price of Imported Goods) Rules 1988.

10.2 Further, Tin Plated Prime Coils imported by AOL, had been misdeclared as MSCR defective sheets in Coils, with a declared C & F value of US\$ 300 per M.T. Thus, the declared value of US\$ 300 per MT(C&F) was not accepted as the transaction value under Rule 4 of the Customs Valuation Rules 1988. The value of the subject goods could not be determined under Rule 5 and 6 of the Customs Valuation Rules, 1988 as the transaction value of identical or similar goods sold for export to India and imported at or about the same time as the goods being valued, were not available. Further, the Deductive value and Computed value methods provided under Rule 7 and 7A of the Customs Valuation Rules were not applicable, as neither unit price at which the imported goods or identical or similar imported goods sold in India at or about the time the declaration for determination of value was presented could be noticed, nor the cost of materials and fabrication or other process employed in producing the imported goods were available. Thus, the application of the residual method under Rule 8, *ibid*, read with the Interpretative Notes to the Rules became imperative. As discussed in the foregoing paras, the import of similar Tin Plate Prime had been noticed during the earlier period wherein the declared price range between US\$ 620 per MT (C & F) to US\$ 720 per MT (CIF). The import of 17.291 MT of TinPlate Prime by M/s. Hindustan Tin Works Ltd. Sahibabad, had been noticed at Mumbai wherein, a unit price of US\$ 716 per MT (C&F) has been indicated in the invoice dated 15-08-98 of the shipper. The origin

of these goods had been declared as Brazilian (South America). The TinPlate Prime imported by AOL are of Canadian Origin (North America). It had been noticed that the unit price of TinPlate Secondary sheets/coils imported in Mumbai had recorded an upward trend since Dec, 93 and thus, it was reasonable to conclude that the price of TinPlate Prime would also have recorded an upward trend. Further, DGFT vide Notification No. 35(RE-98)/1997-98 dated 11.12.96 fixed a floor price of US\$ 720/- per MT (CIF) for free import of TinPlate Prime falling under heading 72.10 of the Customs Tariff. Importer had not produced any import licenses for import of TinPlate Prime in accordance with the said notification dated 11-12-98. It, thus, appeared that the Tin Plate Prime imported by Importer were liable to be assessed at a unit price of US\$ 720 per MT (CIF).

11. The foregoing appears to show that:

- a) M/s. Aryan Overseas Ltd. had imported the following goods under sixty Bills of Entry:
 - i) 153.147 M.T. of Tinplate Prime and 2517.633 M.T. of Tin Plate Secondary -as per Annexure-I.
 - ii) 473.250 M.T. of Tin Free Secondary Sheets as per Annexure -II.
 - iii) 84.440 M.T. of Tin Plate Secondary Sheets as per Annexure -III.
 - iv) 100.607 M.T. of Tin Plate Secondary Strips as per Annexure-IV.
- b) AOL had imported the said 2517.633 MT of Tin Plated Steel Secondary sheets/coils falling under sub-heading 7210.12 of the Customs Tariff and wilfully misdeclared the same as 'Tin Free Secondary sheets' & MSCR defective sheets in coils classifying them under sub-heading 7210.90/7209.00 with a uniform value of US\$ 315 per M T (C & F /CIF) and US\$ 300 per M.T. (C&F) respectively. They also imported 153.147 M.T. of TinPlate Prime in coil falling under sub-heading 7210.12 of the Customs Tariff but wilfully misdeclared the same as MSCR defective sheets in coil classifying them under sub-heading 7209.00 with a uniform C&F value of US\$ 300 per M.T. Further, they also imported 84.440 MTs of TinPlate Secondary Sheets falling under sub-heading 7210.12 and willfully mis-declared the same as MSCR defective sheets classifying them under sub-heading 7209.00 with uniform C & F value of US\$ 300 per M.T.
- c) It appeared that they did this in order to undervalue the goods to the extent of US\$ 230 to US\$ 245 per M.T. for Secondary Tin Plate and US\$ 420 per MT for Tin Plate Prime and thereby evade Customs duty. As discussed earlier, the Secondary TinPlate Sheets / Coils and Tin Plate Prime appear to be liable for assessment at a unit price of US\$ 545 per MT, CIF and USS 720 per MT, C&F respectively.
- d) Since no import license was furnished by AOL for the import of the said Tin Plate sheet , Secondary Sheet / Coils and Tin Plate Prime in Coils , it appeared that the said goods were liable to be reassessed at a value of US\$ 545 per M.T.(CIF) and USS 720 per M.T. (CIF) respectively.
- e) AOL also imported:-
 - i. 473.250 M.T. of Tin Free Secondary sheets as detailed in Annexure II and

- ii. 100.607 MT of TinPlate Secondary strips as detailed in Annexure-IV, and wilfully misdeclared the quantities in the Bills of Entry as detailed in the Annexure-I, II, III & IV. The quantities were short declared in order to evade Customs duty.

(f) On reassessment of the goods covered by the sixty Bills of Entry under consideration, it appeared the total assessable value amounts to **Rs. 7,38,27,509/-** and the Customs duty payable thereon total to **Rs. 4,47,84,011/-**. M/s. Aryan Overseas Ltd. declared a total assessable value of **Rs. 3,24,07,825/-** in the said sixty Bills of Entry and indicated the total duty payable as **Rs. 1,96,59,181/-**. Thus the duty attempted to be evaded amounts to **Rs. 2,51,24,830/-** as detailed in Annexure I, II, III & IV and as summarized in Annexure-V.

(g) The said goods i.e. TinPlate Secondary Sheets/coils weighing 2517.633 M. T. with ascertained assessable value Rs.5,94,73,473/- and 84.440 M.T. of TinPlate Secondary Sheets (declared as MSCR defective Sheets for which retest reports are awaited) covered to Bill of Entry No. 307 dated 01.04.99 with ascertained assessable value of Rs. 19,80,045/- falling under heading 72.10 of the Customs Tariff appears to had been imported in contravention of the provisions of Notification No. 34(RE-98) 1997-2002 dated 10.12.98, as amended, issued under Section 5 of the Foreign Trade (Development & Regulation) Act, 1992, since the said goods when imported with a declared value of US\$ 300/315 per MT (CIF/C&F) can be imported only under cover of a valid import license. No such license particulars were furnished in the Bills of Entry filed by M/s. Aryan Overseas Ltd. Hence, the said goods were liable to confiscation under the provisions of Section 111 (d) of the Customs Act, 1962.

(h) The Tin Plate prime coil weighed 153.147 M.T. with ascertained assessable value of Rs. 47,72,186/- falling under heading 72.10 of the Customs Tariff appeared to had been importer in contravention of the provisions of Notification No. 35 (RE-98)/1997-2002, issued under Section 5 of the Foreign Trade (Development & Regulation) Act, 1992, since the said goods when imported with a declared C&F value of US\$ 300 per M.T. can be imported only under cover of a valid import license. No such license particulars weren furnished in the Bills of Entry filed by M/s. AOL. Hence, the said goods were also liable to confiscation under the provisions of Section 111 (d) of the Customs Act, 1962.

(i) The said goods also appeared to have been misdeclared with regard to the value, description and quantities as revealed during examination. Tin Plate Secondary sheets and Tin Plato prime/TinPlate Waste//Waste in coils falling under sub-heading 7210.12 had been declared as Tin Free Secondary Sheets, MSCR defective sheets and Tm Piste Secondary Strips respectively, and classified under sub-heading 7210.90 and 7209.00. Further, quantities in excess of the declared weight had been found during examination of the goods. It, therefore, appeared that the said goods were liable to confiscation under the provisions of section 111(l) and 111(m) of the Customs Act, 1962.

(j) In the import under Bill of Entry no. 303 dated 01.04.99, 11.017 M.T. of Tin Free Steel Secondaries are in excess of the declared quantity and the same had been used for concealing in Plated steel sheets Secondaries. Therefore 11.017 M.T. of Tin Free Steel Secondaries were liable to confiscation under Section 119 of the Customs Act, 1962.

(k) In the import under Bill of Entry No. 5274 dated 11.06.99 filed for clearance of 39.387 MT of goods declared as TinPlate Secondary Strips, one skid consisting of 2.866 MT of Secondary TinPlate Sheet (Misprint) was found concealed therein which were in excess of the total quantity declared. Therefore, the 2.866 MT of Secondary TinPlate sheets having an assessable value of Rs. 67,757/- were liable to confiscation Under Section 111 (e) of the Customs Act, 1962.

(l) In the import under Bills of Entry No. 280 dated 01.04.99; 10834, 10815 and 10836 all dated 24.06.099, 391 dated 11.06.99, 6588 dated 15.06.99, 3126 dated 09.06.99, 10689 dated 25.05.99, 10778 dated 25.05.99 and 10840 dated 24.06.99, a total quantity of 462.233 M.T. of Tin Free Secondary Sheets were found during examination as against a declared total weight of 346.335 M.T. The excess Quantity of 115.898 M.T. of the said goods were liable to confiscation under Section 111(l) of the Customs Act, 1962. Further, the 346.335 M.T. of the said goods were mixed with the excess quantities smuggled Therefore, the 346.335 M.T. of Tin Free Secondary Sheets having assessable value of Rs. 47,34,176/- were also liable to confiscation under Section 120(2) of the Customs Act, 1962.

(m) In the Bills of Entry No. 5274 dated 11-6-99 and No. 10752 dated 25-5-99, a total quantity of 100.617 M.T. of Tinplate Secondary Strips were found during examination as against the declared weight of 77.387 M.T. The excess quantity of 23.220 MT of the said goods were liable to confiscation under section 111(l) of the Customs Act 1962. Further, the 77.387 MT of the said goods were mixed with the excess quantities smuggled. Therefore, the 77.387 MT of TinPlate Secondary/ Strips having assessable value of Rs. 8,74,500/- were also liable to confiscation under section 120 (2) of the Customs Act, 1962.

(n) The Statements of Shri Atul Batia, Director of M/s AOL, the documents referred to in his statements and the two seized note books clearly establish that AOL and its Director Shri Atul Bhatia knowingly, wilfully and deliberately misdeclared Tin Piale Secondary Sheets / Coils and Tin Plate Prime Coils as Tin Free Secondary Sheets, Tin Plate Secondary Strips and MSCR Defective Sheets, while importing the said goods they also misdeclared the actual quantity. The misdeclaration of description and quantity were resorted to by them knowingly and willfully to evade Customs duty. It therefore appears that Shri Atul Bhatia and AOL have in relation to the said goods, done acts and/or omitted to do acts which acts and/or omissions have rendered the said goods liable to confiscation. They have, therefore, rendered themselves liable to penal action under the provisions of section 112 (a) of the Customs Act 1962.

(o) The goods covered by the said sixty Bills of Entry were presented for assessment wherein the duty was sought to be short levied by reason of wilful mis-statement and suppression of facts by

AOL and Shri Atul Bhatia. It, therefore, appears that they are liable to pay penalty equal to the duty evaded, under the provisions of Section 114 (A) of the Customs Act, 1962 and interest under Section 28 AB of the Customs Act, 1962, and;

12. Therefore, i) Shri Atul Bhatia, Director of M/s. Aryan Overseas Ltd. and ii) M/s. Aryan Overseas Ltd. were required to Show Cause to the Commissioner of Customs (Imports), New Customs House, Mumbai as to why:-

(a) The 2517.633 M.T. of TinPlate Secondary Sheets covered by Bills of Entry listed in Annexure-I and 84.440 MTs of Tin Plated Secondary Sheets covered by Bill of Entry No. 307 dated 01.04 99 listed in Annexure-III should not be classified under sub-heading 7210.12 of the Customs Tariff and should not be re-assessed to a unit value of US\$ 545 per M.T.(CIF).

(b) The 153.147 M.T. of Tinplate Prime in Coils covered by Bills of Entry as listed in Annexure-I should not be classified under sub-heading No.7210.12 of the Customs Tariff and should not be reassessed to a unit value of US\$- 720 per M.T.(CIF).

(c) The said goods i.e 2517.633 M.T. and 84.440 MT respectively of TinPlate Secondary Sheets should not be held liable to confiscation under the provisions Section 111(d) and/ or 111 (l) and /or 111(m) and or 111 (e) of the Customs Act, 1962 as aforesaid.

(d) The 153.147 M.T. of Tin Prime in should not be held liable to confiscation under provisions of Section 111(d) and /or 111(l) and /or 111(m) of the Customs Act, 1962.

(e) 462.233 M.T. of Tin Free Steel Secondaries should not be held liable to confiscation under the Provisions Section 111(l) and Section 120(2) of the Customs Act, 1962.

(f) The 11.017 M.T. of Tin Free steel Secondaries should not be held liable to confiscation under the provisions of Section 119 of the Customs Act, 1962.

(g) The 100.607 M.T. of TinPlate Secondary Strip should not be held liable to confiscation under the provisions of section 111 (l) and section 120 (2) of the Customs Act, 1962.

(h) The duty amounting to Rs. 4,47,84,011/- as detailed in the annexure I, II, III & IV to this Show Cause Notice should not be recovered under the provisions of Sec. 28 of the Customs Act, 1962 together with interest on duty sought to be evaded in terms of Section 28 AB, ibid.

(i) Penalty should not be imposed on them under the provisions of section 112 and / or section 114A of the Customs Act, 1962.

13.1 Notices for personal hearing were served at the office address as well as the residence address of Shri Atul Bhatia (Noticee-2) asking him to appear before the Adjudicating Authority for personal hearing. However, all the letters sent at the office address (located at Nariman Point) remained undelivered and Shri Atul Bhatia ignored all the letters and his advocate appeared for personal hearing. Since the matter was old enough, so, his Advocate was unable to answer certain

queries. Therefore, Customs officers visited both the address of office and residence and found out that Shri Atul Bhatia had sold the registered office premises to some other firm without informing the Department. Subsequently, this office vide letter F. No. S/26-Misc.-45/2017-18/Gr.IV dated 15.06.2023 requested to SIIB (I), New Customs House, Mumbai to record a statement of Shri Atul Bhatia, Director of M/s. Aryan Overseas Ltd. to ascertain the facts, namely the present status, assets and liabilities, last balance sheet, profit & loss account details, status of the assets of the firm, directors of the firm, present address of the firm, other related companies of the same family and directors and any other information relevant to the present case.

13.2 Subsequently, SIIB (I), NCH, Mumbai vide letter F. No. CUS/SIIB/MISC/421/2023 -SIIB-O/o COMMR-CUS-IMP-I-ZONE-I-MUMBAI dated 24.08.2023 has reported that Shri Atul Bhatia, Director of M/s. Aryan Overseas Ltd. was summoned; that his statement was recorded on 26.06.2023 in which he stated that the firm is closed since 1999 and no transaction or business has taken place since then; that the firm's premises located at 1511, Maker Chamber, Nariman Point, Mumbai has been sold out to M/s. P. S. F. Trading Pvt. Ltd.; that thereafter, M/s. P. S.F. Trading Pvt. Ltd. summoned on 04.07.2023 but the summon letter was returned with 'Not Known' comment; that furthermore, during visit of said address (Nariman Point) by an intelligence officer of SIIB (I), it was learnt that M/s. P. S. F. Trading Pvt. Ltd. does not exist at the said address; that Shri Atul Bhatia vide letter dated 12.07.2023 was summoned again, to which he had submitted reply vide letter dated 17.07.2023 stating that he has nothing to add and it is no more relevant in adjudication of the matter. The above developments indicate the non-transparent and clandestine behaviour of the notices.

RECORD OF PERSONAL HEARING

14. Personal hearings in this third round of adjudication were conducted with both the noticees on 21.01.2020, 11.11.2022 and 24.05.2023. The submissions made during these personal hearings are summed up in paras below.

14.1 A personal hearing was held on 21.01.2020 in which Shri Akhilesh Kangsia, Advocate appeared in person on behalf of the noticees (noticee-1 & 2) and who inter-alia stated that the **goods have been abandoned**. Hence there is no question of payment of duty, interest and fine; that issue with respect to penalty under Section 112 of the Customs Act 1962 and charge is that confiscation should be done under Section 111 (d) & 111 (m) of the Customs Act 1962 that allegation is with respect to misdeclaration of the goods (tin free as declared or tin plated), quantity & price; that policy Notification No.31(RE-98)/1997-2002 dated 01.11.1999, 34(RE-98)/1997-2002 dated 10.12.1998 & 35(RE-98)/1997-2002 dated 11.12.1998 is a temporary notification having validity of 2 months and thus proceeding does not service after expiry of Ntfn.; that reliance placed upon various case laws, namely a) **Ajay Industrial Corporation**³ b) **Fibre Boards**⁴ (Para-23); that he further argued that once goods are relinquished, the penalty is not impossible and

³ Ajay Industrial Corporation Vs. CC- reported in 2006 (201) ELT 410 (Tri.-Mumbai)

⁴ Fibre Boards Pvt. Ltd. versus Commissioner of Income Tax reported in 2015-TIOL-178-SC-IT

reliance is placed upon various case laws, namely a) **Nalakath Spices Trading Co.**⁵ b) **Sewa Ram & Bros**⁶ c) **Garima Trade Services**⁷ and reiterated that CESTAT has asked for retesting.

14.2. Further, a personal hearing was held on **11.11.2022** in which Shri Akhilesh Kangsia, Advocate and Ms. Apoorva Parihar, Advocate appeared in person on behalf of noticees (1&2) and inter alia stated that goods have already been abandoned and so they argued for no penalty on Shri Atul Bhatia, Director of M/s. Aryan Overseas Ltd.; that they also informed that the main noticee company i.e. M/s. Aryan Overseas Ltd no longer exists; that they did not have a copy of request for re-testing and so they will submit the grounds for retesting request by 21.11.2022. Also they will try to submit relevant documentary proof of non-existence of the main noticee.

14.3. Last personal hearing took place on **24.05.2023**, Shri T. Vishwanathan advocate appeared on behalf of noticee-1. The proceedings of personal hearing are summed up as below.

- i. Advocate Shri T. Vishwanathan was questioned about the non-availability of request letters for the retest of goods from the department's records. The Advocate responded that even if the request letters were not currently available, the Tribunal recognized the pending request. The retest request related to consignments covered by two Show Cause Notices, with file numbers DRI/BZU/SPL/3(1)/99 and DRI/BZU/SPL/3(2)/99.
- ii. The advocate was shown an addendum DRI/BZU/SPL/3(2)/99 dated 14.12.1999 to 2nd SCN dated 29.11.1999, test report letter dated 25.11.1999 issued by Director, CRCL covering 11 samples and receipts of aforesaid addendum by the noticees vide acknowledgement dated 15.12.1999 and this acceptance has never been retracted. He acknowledged that the department seems to have already undertaken and presented this retest.
- iii. When asked about the adjudicating authority's handling of the consequences of abandoning goods in previous rounds of adjudications, the advocate pointed out that the importer had already suffered significant losses due to this abandonment. He emphasized that a penalty should not have been imposed given the circumstances.
- iv. Advocate Vishwanathan was questioned about a third Show Cause Notice, SCN no. DRI/BZU/SPL/3(3)/99 dated 17.04.2000 and its adjudication. He stated that, to his knowledge, this notice had not been adjudicated, and no subsequent order had been received.
- v. In response to a claim made during a previous hearing, the advocate clarified that M/s Aryan Overseas Limited is not closed but is, in fact, defunct.
- vi. The advocate was asked for further information about the directors of M/s Aryan Overseas and the company's financial statements. He committed to providing these details by 26.05.2023.

⁵ M/s. Nalakath Spices Trading Co. Vs. Commissioner of Customs, reported in 2007(213)ELT283(Tri.-Bang.)

⁶ Commissioner of Customs, ICD, New Delhi Vs. Sew Ram & Bros., reported in 2003(151)ELT344(Tri.-Del.)

⁷ Garima Trade Services Ltd. Vs. Commissioner of Customs, reported in 2002(146)ELT150(Tri.-Chennai)

vii. Lastly, the advocate was requested to provide sales documents detailing the transfer of the office of M/s Aryan Overseas Limited to M/s. PSF Trading. He agreed to obtain and provide these documents, if available, by 26.05.2023.

14.4 The noticees did not provide the above details and documents relating to other Directors of the firm, its latest financial statements, documents relating to sale of its registered office, etc. till the time of issuance of this Order.

Written Submissions

15. During personal hearing held on 21.01.2020, the noticees submitted written submission dated 21.01.2020, wherein it was argued:

15.1 That the notifications dated 10.12.1998 & 11.12.1998 are temporary statute.

15.2 That the goods imported are of cold rolled sheets falling under heading 72.08. The value of the goods imported is less than the minimum price of 232 US\$ per MT stipulated in Notification No. 34(RE-98)/1997-02 dated 10.12.1998. The said Notification No. 34 dated 10.12.1998 was amended by Notification No. 31 (RE-99)/1997-02 dated 01.11.1999 introducing license note and revising the minimum CIF value stipulated in the parent notification and stipulating that the restriction will be effective for a period of two months from the date of issue of the notification, and the minimum import prices as indicated above in the said licensing note shall be treated as withdrawn after the said period of two months. The notification expired on 31.12.1999 without any savings clause.

15.3 By virtue of the decision of the Hon'ble Supreme Court in **Kohlapur Cane Sugar Co. Ltd.**⁸, Section 6 of the General Clauses Act will apply only to Central Act and not to rules or notification. Notification dated 1.11.1999 being a subordinate legislation will not attract application of Section 6 of General Clauses Act. Additionally, as the Notification dated 10.12.1998, as amended by Notification dated 1.11.1999, expired on its own, the same is not repeal. Hence, Section 6 of the General Clauses Act will not apply for this reason as well.

15.4 The Mumbai Tribunal, in case of **Ajay Industrial Corporation**⁹ dealt with the Notification dated 10.12.1998 as amended by Notification dated 01.11.1999 and held that the restriction imposed in the notification expired on its own without a saving clause. Also, the Notification being in the nature of temporary statute, the application of General Clauses Act was precluded. The Tribunal further held that after the expiry of the notification on 31-12-1999, no order can be passed holding a person liable for penalty for contravention of the Notification dated 10-12-1998 as amended on 01-11-1999 even if the act of contravention took place when the Notification was in force. The said decision of the Tribunal in Ajay Industrial has been accepted by the department.

⁸ Kohlapur Cane Sugar Co. Ltd. Vs. Union of India-2000 (119) ELT 257

⁹ Ajay Industrial Corporation Vs. CC- -2006 (201) ELT 410 (T)

This is evident from the Order-in-Original No. 8/10-ACAO 229/09/YSR/AC/GR. VIIC dated 21.8.2009 passed by the Assistant Commissioner.

15.5 In the present case, the SCN was issued on 21.07.1999. However, the first order adjudging the violation of the Notification was passed only on 16.12.2005 by which date the Notifications had expired. Therefore, Notification No. 34(RE-98) dated 10.12.1998 fixing floor price on the imported goods expired when the order of confiscation was passed. In the light of decision of the Tribunal in Ajay Industrial Corporation, the impugned goods are not liable for confiscation under Section 111(d).

15.6 Further, the Hon'ble CESTAT in number of decisions has held that no penalty is imposable once the importer relinquished the title of the goods.

15.7 **No mis-declaration of value or quantity by the Noticees:** There is no mis-declaration of the value in the present case since the invoice value represents the transaction value. Also, the goods have been described by the Noticees as per the purchase order placed on the foreign supplier and invoice issued by the foreign supplier.

15.8 Further, it is submitted that the reliance by the customs department on the test report to support its case on mis-declaration of description of the goods is not proper. This is because the Noticees have requested for retest of the samples. This submission has been appreciated by the Hon'ble CESTAT in Final Order dated 16.02.2017 and the same has been recorded as one of the reasons for remand and in the absence of re-testing of the samples, the allegation of misdeclaration of description of the goods is sustainable. In view of these facts, confiscation under Section 111 (m) is not sustainable.

15.9 The department has also alleged that the quantity declared by the Noticees is incorrect and the same is a case of mis-declaration. However, the customs duty is leviable on ad valorem basis and since for the purpose of valuation what is relevant is the price actually paid or payable, the mis- declaration of the quantity is irrelevant. Further, it is not the case of the department that the Noticees have paid to the foreign supplier, over and above the price mentioned in the invoice. Therefore, confiscation under Section 111(l) is not sustainable.

15.10 Invocation of Section 111 of the Customs Act, 1962 for confiscation of goods is not sustainable since the goods are already abandoned. The noticees have abandoned the impugned goods and the same still remain in the custody of the customs department. The noticees are not under the control of the impugned goods and no import has been completed. Therefore, the proposal to invoke clauses of Section 111 for confiscation is not valid and justified.

15.11 **Penalty is not imposable:** in light of the foregoing submissions, goods are not liable to confiscation under Section 111. As the goods are not liable to confiscation under Section 111, penalty under Section 112 is not imposable on the noticees. In any case, the goods are available

with the customs. Hence, in these facts and circumstances, no penalty ought to have been imposed on the noticees.

15.12 As mentioned above, there is no mis-declaration of the value of the goods. Further, without admitting even if it assumed that there is mis-declaration of description of the goods and therefore, the goods are liable for confiscation under Section 111(m), the penalty of an amount Rs. 5,000/- alone can be imposed under Section 112(ii) of the Customs Act 1962. This is because there is no evasion of duty as the value of the goods have been correctly declared.

16. During personal hearing held on 11.11.2022, Advocate submitted synopsis retreating the same as in the synopsis dated 21.01.2020, along with 1) Chapter 1 of Foreign Trade Policy 1997-2002 as amended up to 05.11.1999; 2) **Garima Trade Services Ltd.**¹⁰ 3) **Cooper Pharma**¹¹; 4) **Classic Colour Photo**¹²; 6) **N. K. Wollen and Silk Mills**¹³; 7) **Geep Industrial Syndicate Ltd.**¹⁴; 8) **Yamuna Gases and Chemicals Ltd.**¹⁵

DISCUSSIONS AND FINDINGS

17. The case involves 2 noticees and their 60 live consignments. The noticees are :

Noticee-1 (M/s. Aryan Overseas Ltd.) &

Noticee-2 (Shri Atul Bhatia, Director).

18. I have gone through all the case records especially SCN, defense replies of the noticees and their submissions made during the personal hearings.

19. This is the third round of adjudication in this case. The subject SCN was adjudicated in first round vide Order-in-Original No. 1572/2000/CAC/CC/MKB dated **12.12.2000** issued in F. No. S/10-56/99 /Adj. by Commissioner of Customs(Adjudication) New Customs House, Mumbai. Aggrieved with the said OIO, the noticees appealed against the said Order in Hon'ble Tribunal, Mumbai vide Appeal Numbers C/404, 423, 424/01, C/803, 804 and 805/03. Hon'ble Tribunal vide Final Order No. C-I/133 & 138/EZB/2004 dated **25.11.2003** remanded the case back to the original adjudicating authority with direction to provide copies of relevant documents. Following the directions of the Hon'ble Tribunal, the matter was re-adjudicated by the Commissioner vide Order-in-Original No. 136/2005/CAC/CC/PK dated **16.12.2005** from even file number. Again, aggrieved with the said OIO dated 16.12.2005, the noticees appealed against the said Order in Hon'ble Tribunal, Mumbai vide Appeal No. C/344 to 347/2006. The Department also filed an appeal against the same order on the issue of failure of adjudicating authority to confiscate

¹⁰ Garima Trade Services Ltd. versus CC, Visakhapatnam reported in 2002 (146) ELT 150 (Tri.-Madras)

¹¹ Cooper Pharma versus CC (I) reported in 2009 (243) ELT 199 (Tri.-Mumbai)

¹² Classic Colour Photo versus CC reported in 1994 (70) ELT 750 (Tri.-Delhi)

¹³ N. K. Wollen and Silk Mills versus CCE reported in 1989 (43) ELT 686

¹⁴ Geep Industrial Syndicate Ltd. versus Union of India reported in 1992 (38) ELT 493

¹⁵ Yamuna Gases and Chemicals Ltd. versus CCE reported in 2017 (347) ELT 291 (Tri.-Chandigarh).

provisionally released goods covered under Bill of Entry No. 5967 dated 14.06.1999 vide Appeal No. C/77/2006. Hon'ble Tribunal vide Final Order No. A/87999-88003/17/CB dated 07.02.2017 remanded the case again on the following two points:

- i. *disposal of the request of the importer for re-test of the samples*
- ii. *consequence of abandonment of goods has also not been examined*

The case remained in call book for long due to the impact of Mangali Impex and Canon India Judgments. In compliance with the Order of the Hon'ble Tribunal, the matter is now being taken up for *denovo* adjudication.

20. The SCN alleges evasion of Customs duty by misdeclaration in description and quantity and undervaluation in the import of 'Tin Plated Secondary Sheets' and 'Tin Plate Prime Coils' under sixty bills of entry as detailed in Annexure-I, II, III & IV of the SCN, filed by the noticees at Mumbai Port. Out of 60 live consignments, one was provisionally cleared and the rest 59 stand abandoned by the noticees.

21. Based on the submissions of the noticees and observations of the Hon'ble Tribunal, the following issues arise for determination in this adjudication:

- I. Whether misdeclaration and undervaluation of 'Tin Plated Secondary Sheets' and 'Tin Plate Prime Coils' by the noticees is proved or not?
- II. Disposal of the request of the importer for re-test of the samples.
- III. There is no offence as the Not. No. 34 (RE-98) dated 10.12.98 has got repealed and does not exist anymore. The Notification was issued under the Foreign Trade Regulation Act 1998 which did not have a saving clause unlike the Customs Act which has a saving clause in Section 159A. The interpretation is based on reading of the Section 6 of the General Clauses Act and Hon'ble Supreme Court's Judgment in the case of Kolhapur Cane Sugar.
- IV. The consequences of abandonment of the goods as regards to the demand of differential duty, confiscation and penal action in respect to the act of the noticees.

Now let me take up the issues one by one:

22. Whether misdeclaration and undervaluation of 'Tin Plated Secondary Sheets' and 'Tin Plate Prime Coils' by the noticees is proved or not?

22.1 Para 4 of the said SCN records that the imported goods covered under the sixty BEs were subjected to 100% examination and actual weighment by Customs. Thereafter, multiple representative samples from each consignment were tested by the Deputy Chief Chemist, NCH, Mumbai. Samples of consignment of bill of entry number 307 dated 01.04.99 were retested by the Central Revenue Control Laboratory, New Delhi, on the noticees' request. The details of misdeclaration found in the nature of goods, quantity and test results of samples are summed up in the Table -6 below:

Table - 6 : Summary of misdeclarations found in 60 consignments

Sr. No.	Bill of Entry No. and Date	Declared Goods	Declared Weight (MT)	Actual Goods Found	Actual Weight (MT)	Test Results
1	277 dated 01.04.99	Tin Free Secondary Sheets	44.305	Secondary TinPlate Sheets	62.879	Tin Plated Steel (Magnetic)
2	280 dated 01.04.99	Tin Free Secondary Sheets	45.365	Tin Free Secondary Sheets	65.341	Steel Magnetic, Tin Plated
3	282 dated 01.04.99	Tin Free Secondary Sheets	45.207	Secondary TinPlate Sheets	64.023	Tin Plated Steel (Magnetic)
4	284 dated 01.04.99	M.S.C.R. Defective Sheets	60.418	TinPlate	43.796	Tin Plated Steel (Magnetic)
				Tinplate Prime	43.578	Tin Plated Steel (Magnetic)
5	290 dated 01.04.99	Tin Free Secondary Sheets	45.443	Secondary TinPlate Sheets	65.668	Tin Plated Steel (Magnetic)
6	303 dated 01.04.99	Tin Free Secondary Sheets	45.091	Secondary TinPlate Sheets	52.929	Tin Plated Steel (Magnetic)
				Tin Free Sheets	11.017	Steel (Magnetic), not Tin Plated
7	10812 dated 24.06.99	Tin Free Secondary Sheets	38	Secondary TinPlate Sheets	46.018	Tin Plated Steel (Magnetic)
8	10814 dated 24.06.99	Tin Free Secondary Sheets	38	Secondary TinPlate Sheets	49.998	Tin Plated Steel (Magnetic)
9	10815 dated 24.06.99	Tin Free Secondary Sheets	40.69	Tin Free Secondary Sheets	51.478	Tin Free Steel (Magnetic)
10	10820 dated 24.06.99	Tin Free Secondary Sheets	40.519	Secondary TinPlate Sheets	52.113	Tin Plated Steel (Magnetic)
11	10822 dated 24.06.99	Tin Free Secondary Sheets	38	TinPlate Sheets	46.388	Tin Plated Steel (Magnetic)
12	10823 dated 24.06.99	Tin Free Secondary Sheets	38	TinPlate Sheets	50.668	Tin Plated Steel (Magnetic)
13	10831 dated 24.06.99	Tin Free Secondary Sheets	38	TinPlate Sheets	45.858	Tin Plated Steel (Magnetic)
14	10834 dated 24.06.99	Tin Free Secondary Sheets	38.518	Tin Free Secondary Sheets	50.203	Tin Free Steel (Magnetic)
15	10836 dated 24.06.99	Tin Free Secondary Sheets	38.161	Tin Free Secondary Sheets	48.388	Tin Free Steel (Magnetic)
16	10846 dated 24.06.99	Tin Free Secondary Sheets	38	TinPlate Sheets	50.738	Tin Plated Steel (Magnetic)
17	10849 dated 24.06.99	Tin Free Secondary Sheets	38	Secondary TinPlate Sheets	51.738	Tin Plated Steel (Magnetic)
18	5088 dated 11.06.99	Tin Free Secondary Sheets	38.341	TinPlate Sheets	54.862	Tin Plated Steel (Magnetic)
19	5089 dated 11.06.99	Tin Free Secondary Sheets	38.852	TinPlate Sheets	55.034	Tin Plated Steel (Magnetic)
20	5090 dated 11.06.99	Tin Free Secondary Sheets	37.594	TinPlate Sheets	53.698	Tin Plated Steel (Magnetic)
21	5091 dated 11.06.99	Tin Free Secondary Sheets	39.2	Tin Free Secondary Sheets	55.434	Tin Free Steel (Magnetic)
22	5092 dated 11.06.99	Tin Free Secondary Sheets	38.797	TinPlate Sheets	55.007	Tin Plated Steel (Magnetic)

23	5093 dated 11.06.99	Tin Free Secondary Sheets	39.398	TinPlate Sheets	55.438	Tin Plated Steel (Magnetic)
24	5094 dated 11.06.99	Tin Free Secondary Sheets	38.977	Secondary TinPlate Sheets	55.18	Tin Plated Steel (Magnetic)
25	5095 dated 11.06.99	Tin Free Secondary Sheets	19.748	Tin Plate Sheets	27.829	Tin Plated Steel (Magnetic)
26	5096 dated 11.06.99	Tin Free Secondary Sheets	38.786	Secondary TinPlate Sheets	54.92	Tin Plated Steel (Magnetic)
27	6569 dated 15.06.99	Tin Free Secondary Sheets	28.887	Secondary TinPlate Sheets	41.461	Tin Plated Steel (Magnetic)
28	6573 dated 15.06.99	Tin Free Secondary Sheets	28.751	Secondary TinPlate Sheets	41.348	Tin Plated Steel (Magnetic)
29	6578 dated 15.06.99	Tin Free Secondary Sheets	28.2	Secondary TinPlate Sheets	40.804	Tin Plated Steel (Magnetic)
30	6588 dated 15.06.99	Tin Free Secondary Sheets	14.408	Tin Free Secondary Sheets	20.805	Tin Free Steel (Magnetic)
31	6017 dated 14.06.99	Tin Free Secondary Sheets	45.543	Secondary TinPlate Sheets	65.628	Tin Plated Steel (Magnetic)
32	6027 dated 14.06.99	M.S.C.R. Defective Sheets	60.418	Tin Plate Secondaries in Coils	87.728	Tin Plated Steel (Magnetic)
33	5967 dated 14.06.99	M.S.C.R. Defective Sheets	60.244	TinPlate	44.501	Tin Plated Steel (Magnetic)
				Tinplate Prime	43.242	Tin Plated Steel (Magnetic)
34	5999 dated 14.06.99	M.S.C.R. Defective Sheets	60.401	TinPlate	44.052	Tin Plated Steel (Magnetic)
				Tinplate Prime	44.152	Tin Plated Steel (Magnetic)
35	6010 dated 14.03.99	M.S.C.R. Defective Sheets	60.306	Tin Plate	66.676	Tin Plated Steel (Magnetic)
				Tinplate Prime	22.175	Tin Plated Steel (Magnetic)
36	3120 dated 09.06.99	Tin Free Secondary Sheets	38.698	Secondary TinPlate Sheets	53.697	Tin Plated Steel (Magnetic)
37	3121 dated 09.06.99	Tin Free Secondary Sheets	38.417	Secondary TinPlate Sheets	53.484	Tin Plated Steel (Magnetic)
38	3122 dated 09.06.99	Tin Free Secondary Sheets	39.286	Secondary TinPlate Sheets	54.346	Tin Plated Steel (Magnetic)
39	3123 dated 09.06.99	Tin Free Secondary Sheets	38.062	TinPlate Sheets	52.938	Tin Plated Steel (Magnetic)
40	3125 dated 09.06.99	Tin Free Secondary Sheets	39.053	Secondary TinPlate Sheets	53.941	Tin Plated Steel (Magnetic)
41	3126 dated 09.06.99	Tin Free Secondary Sheets	38.773	Tin Free Secondary Sheets	53.891	Tin Free Steel (Magnetic)
42	3127 dated 09.06.99	Tin Free Secondary Sheets	38.696	Secondary TinPlate Sheets	53.697	Tin Plated Steel (Magnetic)
43	3128 dated 09.06.99	Tin Free Secondary Sheets	39.689	Secondary TinPlate Sheets	54.711	Tin Plated Steel (Magnetic)
44	3129 dated 09.06.99	TinPlate Secondary Strips	37.418	Secondary TinPlate Sheets	45.938	Tin Plated Steel (Magnetic)
45	5259 dated 11.06.99	TinPlate Secondary Strips	38.9	Secondary TinPlate Sheets	53.926	Tin Plated Steel (Magnetic)

46	5274 dated 11.06.99	TinPlate Secondary Strips	39.387	TinPlate Secondary Strips	51.649	Tin Plated Steel (Magnetic)
				Secondary TinPlate Sheets	2.866	Tin Plated Steel (Magnetic)
47	5286 dated 11.06.99	TinPlate Secondary Strips	39.013	Secondary TinPlate Sheets	54.289	Tin Plated Steel (Magnetic)
48	10689 dated 25.05.99	Tin Free Secondary Sheets	38.053	Tin Free Secondary Sheets	47.868	Steel (Magnetic) not Tin Plated
49	10702 dated 25.05.99	TinPlate Secondary Strips	40.365	Secondary TinPlate Sheets	50.028	Tin Plated Steel (Magnetic)
50	10738 dated 25.05.99	Tin Free Secondary Sheets	38	Secondary TinPlate Sheets	48.668	Tin Plated Steel (Magnetic)
51	10746 dated 25.05.99	Tin Free Secondary Sheets	38	Secondary TinPlate Sheets	44.878	Tin Plated Steel (Magnetic)
52	10752 dated 25.05.99	TinPlate Secondary Strips	38	TinPlate Secondary Strips	48.958	Tin Plated Steel (Magnetic)
53	10767 dated 25.05.99	Tin Free Secondary Sheets	38	Secondary TinPlate Sheets	44.688	Tin Plated Steel (Magnetic)
54	10772 dated 25.05.99	Tin Free Secondary Sheets	38	Secondary TinPlate Sheets	44.988	Tin Plated Steel (Magnetic)
55	10778 dated 25.05.99	Tin Free Secondary Sheets	38.881	Tin Free Secondary Sheets	48.438	Steel (Magnetic) not Tin Plated
56	10840 dated 24.06.99	Tin Free Secondary Sheets	14.286	Tin Free Secondary Sheets	20.437	Tin Free Steel (Magnetic)
57	307 dated 01.04.99	M.S.C.R. Defective Sheets	59.823	TinPlate Sheets	84.44	Steel Sheet coated on both sides with Tin
58	10786 dated 25.05.99	Tin Free Secondary Sheets	38.724	Secondary Tinplate Sheets	48.858	Tin Free Steel (Magnetic)
59	6042 dated 14.06.99	M.S.C.R. Defective Sheets	60.418	TinPlate Secondaries in Coils	87.31	Tin Free Steel (Magnetic)
60	6033 dated 14.06.99	M.S.C.R. Defective Sheets	60.446	TinPlate Secondaries in Coils	87.652	Tin Free Steel (Magnetic)

22.2 Para-4 of the SCN records that goods were misdeclared as below

- Tin Plated Secondary Sheets were found to be mis-declared as Tin Free Secondary Sheets upon examination and testing.
- Tin Plate Prime Coils mis-declared as MSCR Defective Sheets upon examination and testing.
- TinPlate Secondary Strips mis-declared as TinPlate Secondary Sheets

22.3 Para-4 of the SCN also records that substantial excess quantity was found on weighment done during 100% examination of the goods. The matrix of excess weight found bill of entry wise is already detailed in Table - 6 above.

22.4 Para-4 of the SCN also records that the goods were used for concealment as detailed below

- i. In bill of entry no. 303 dated 01.04.99, some quantity of Tin Free Sheets used to conceal Tin Plated Secondary Sheets.
- ii. In bill of entry no. 5274 dated 11.06.99, 2.866 MT of TinPlate Secondary Sheets found concealed in TinPlate Secondary Strips.

22.5 Thus, the total actual goods imported under the said sixty Bills of Entry were:

- i. 153.147 MT of TinPlate Prime and 2517.633 MT of TinPlate Secondary as detailed in Annexure-I to the SCN
- ii. 473.250 M.T of Tin Free Secondary Sheets as detailed in Annexure-II to the SCN
- iii. 84.440 M.T of TinPlate Secondary Sheets as detailed in Annexure-III to the SCN
- iv. 100.607 M.T. of TinPlate Secondary Strips as detailed in Annexure-IV to the SCN

22.6 Shri Atul Bhatia (Noticee-2) has accepted the above misdeclaration in quantity, description and value in his statement dated 25.06.1999, rendered voluntarily under Section 108 of the Customs Act, 1962, wherein he explained his modus operandi with illustration (at page no. 3 of the statement), being extracted under as Image No.1:

- 13 -

A. Goods declared in Bill of Entries:

Item: } Tinplate Secondary
Quantity } 100 MT
Declared }
Unit Price } ₹ 315 CTR
declared }
Amount Payable } Total ₹ 31,500

B. Goods Actually Imported:

S.No	Description	Quantity	Unit Price	Amount
1	Tinplate Waste (Assumed)	10 MT	₹ 400 per MT	₹ 4000
2	Tinplate Secondary (Assumed)	20 MT	₹ 300 MT	₹ 6000
3	Tinplate Secondary (Assumed)	40 MT	₹ 250 MT	₹ 10,000
4	Tinplate Secondary (Assumed)	20 MT	₹ 200 MT	₹ 4000
5	Tinplate Secondary (Assumed)	50 MT	₹ 150	₹ 7500
Total Amount				₹ 31,500
140 MT				

From the above it is very clear, that even after misdeclaring in description and misdeclaring of weight the total amount of all over imports are covered within the commercial invoices presented in customs and paid through the bank.

Atul Bhatia
25-6-99

Image -1 Illustration of modus operandi as per statement dated 25.06.1999 of Noticee No. 2

22.7 The import of seconds- and defective TinPlate falling under CTH 7210 were restricted in terms of licensing notes inserted in Para 3 in Chapter 72 of the ITC (HS) Classification of Export and Import Items 1997-2002. Vide Notification No. 34(RE-98) 1997-2002 dated 10.12.1998 as amended and issued by the DGFT, the seconds and defective TinPlate (including TinPlate Waste/Waste/TinPlate Misprints) were not freely permitted for imports if the CIF value of the said goods was below US\$ 545 per MT. Similarly, the said Notification also stipulated that Plates falling under heading CTH 7208/7211 were not permitted for import freely if the CIF value of the said goods was below US\$ 311 per MT. The import of Prime steel items including TinPlates falling under heading 72.10 of the Customs tariff were restricted in terms of licensing notes inserted at para 4 in Chapter 72 of the ITC (HS) Classification of Export and Import Items 1997-2002. Vide Notification No. 35(RE-98)1997-2002 dated 11.12.98, as amended and issued by the DGFT, Prime TinPlates were not permitted for import freely if the CIF value of the said goods was below U.S.\$ 720 per M.T.

22.8 The noticees have imported 'TinPlate Secondaries/ Waste/Waste in Sheets/ Coils' from USA, Canada, UK and Holland and have misdeclared the same as 'Tin Free Secondaries' and 'MSCR defective Sheets'. The noticees also imported Tinplate Prime in Coils from Canada and have misdeclared the same as MSCR defective Sheets. After examining the contemporaneous import data of similar goods 'TinPlate Waste / Waste and Seconds in Sheets and Coils', having like characteristics, same component material of Canadian and USA origin; DRI, MZU found that similar goods were being imported at Mumbai Port at the rate of US\$ 545 to 550 per MT by various importers (as detailed in Para 8 of the Show Cause Notice.) Contemporaneous imports of 'Tinplate Prime' at Mumbai of Canada origin were not noticed during that period. The import of similar 'Tinplate Prime' have been noticed during the earlier period wherein the declared price range between USS 620 per MT (C & F) to USS 720 per MT (CIF) as detailed in Para 9 of the SCN. Thus, the said goods appeared to be under-valued and their transaction values were liable for rejection in terms of Rule 12 of the CVR 1988.

22.9 Thus, the proposals in the Show Cause Notice to reject the transaction values of the Tin Plated Secondary sheets & coils and Tin Plate Prime and redetermine the same at the rate of US\$ 545 per MT under Rule 6 of the CVR, 1988 and at the rate of US\$ 720 per MT under Rule 8 of the CVR 1988 respectively appears to be correct. With these valuations, the import of the subject goods in India becomes prohibited as the valuations are in violation of the license restrictions.

22.10 Hence, I conclude that there was mis-declaration in terms of description and quantity and also undervaluation of the imported goods with the intent to bypass the restriction imposed in the DGFT Notifications. Hence, I find that the imported goods are liable for confiscation under Sections 111 (d), 111 (e), 111 (f) and 111 (m) of the Customs Act, 1962.

23. Disposal of the request of the importer for re-test of the samples.

23.1 The above discussion clearly brings out as to how the consignments covered under the said 60 Bills of Entry imported by the noticees were mis-declared as 'Tin Free Secondary sheets' and 'MSCR defective sheets' whereas, they actually contained Tin Plate Secondary sheets/coils and Tin Plate Prime coils. Under 60 bills of entry, the quantity declared by the notices was 361.61 MT of MSCR defective sheets, 1717.399 MT of Tin Free Secondary sheets and 233.083 MT of Tin Plate Secondary Sheets. The test results of the nature of goods and the actual weight found as detailed in Annexure I, II, III & IV of the SCN, show that the total quantity under the said 60 BEs was found to be 2517.633 MT of Tin Plated Steel Secondary sheets/coils misdeclared as Tin Free Secondary sheets & MSCR defective sheets with a uniform value of US\$ 315 per MT (C&F/CIF) and US\$ 300 per MT (C&F); 153.147 MT of Tin Plate Prime in coil misdeclared as MSCR defective sheets in coil with a uniform C & F value of US\$ 300 per MT; 84.440 MT of Tin Plate Secondary Sheets mis-declared as MSCR defective sheets with a uniform C & F value of US\$ 300 per MT. DGFT vide notifications mentioned below prescribed minimum floor prices for goods as mentioned below :

- i. DGFT Notification No. 34(RE-98)1997-2002 dated 10.12.98 prescribed the minimum floor price for Tin Plated Sheets US\$ as 545 per MT under CTH 7210, Similarly, minimum floor price for Plates as U.S.\$ 311 per MT under heading 7208/72.11
- ii. DGFT Notification No. 35(RE-98)1997-2002 dated 11.12.98 prescribed the minimum floor price for Prime Tin Plates as US\$ 720 per MT

23.2 The above discussion shows that the goods in sixty bills of entry were not only mis-declared in terms of the nature and quantity but were also grossly undervalued. The 100% examination, Panchnama proceedings, samples for testing and actual weighment were all done in the presence of the importer or his representatives. All the test reports, issued by Deputy Chemist, NCH, Mumbai showing the nature of the goods in 60 Bills of Entry were shown to Shri Atul Bhatia. Shri Atul Bhatia accepted all the test results of 59 bills of entry **except that of one bill of entry number 307 dated 01.04.99**. Therefore, the remnant sample of that BE was forwarded to the Director (Revenue Laboratories) Central Revenue Control Laboratory, New Delhi, for retest. At the time of issue of the show cause notice dated 29.11.99, the retest report was awaited. The Director (Revenue Laboratories) furnished report vide letter F. No. 50-Cus/97 dated 25.11.99 stating that the said six samples were cut pieces from a metallic sheet of thickness less than 0.5 mm having rust on both surfaces of 'Steel Sheet coated on both sides with Tin'. Thereafter, Addendum dated 14.12.99 to the said SCN was issued stating that in view of the test report, sub para (LVII)(b) of para 4 at page 40 of the show cause notice dated 29.11.99 was thereby deleted and same to be read as follows: -

"(b) Six representative samples were drawn from the said consignment and forwarded to the Dy. Chief Chemist, New Customs House, Mumbai for ascertaining whether the same are 'Tin Plate

Sheets or M.S.C.R. Defective Sheets. The Dy. Chief Chemist vide test reports all dated 07.06.99 has informed that all the six samples are made of 'Mild Steel Plated with Tin'. The said six test reports were shown to Shri Atul Bhatia who did not accept the same and requested for retest. Accordingly, the duplicate set of samples along with the remnant received from the Dy. Chief Chemist, Mumbai were forwarded to the Director (Revenue Laboratory), New Delhi for retesting. The Director (Revenue Laboratories) has reported vide letter F. No. 50-CUS/97 dated 25.11.99 that all the six samples are 'Steel Sheets coated on both sides with Tin'. (emphasis added)"

23.3 The Addendum dated 14.12.99 was received by the noticees on 15.12.1999. Contemporaneous acknowledgments of the addendum by the notices are reproduced as Image No. 2 and Image No. 3 below.

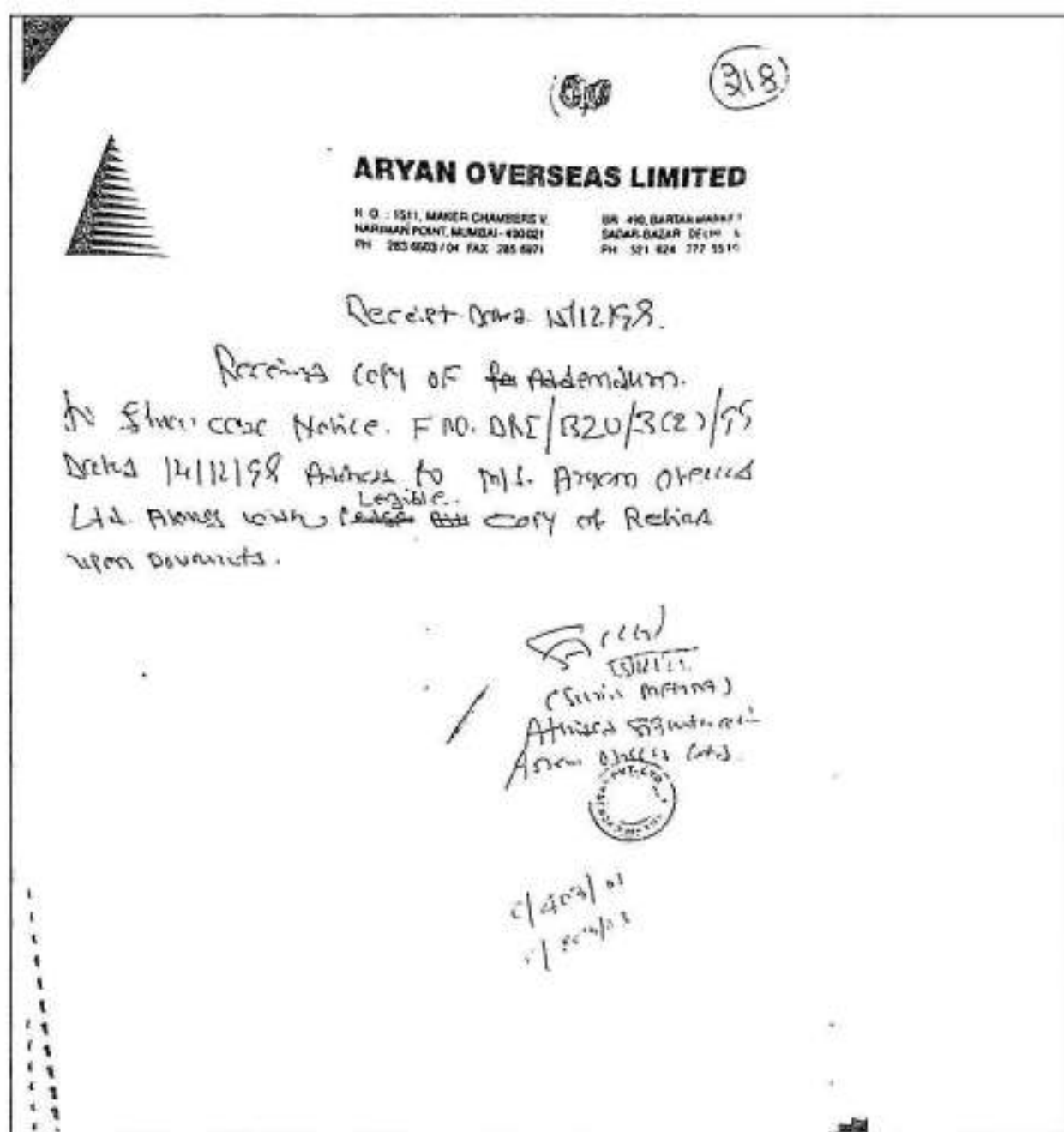


Image No. 2 : Contemporaneous acknowledgment dated 15.12.1999 of the addendum by Noticee-1

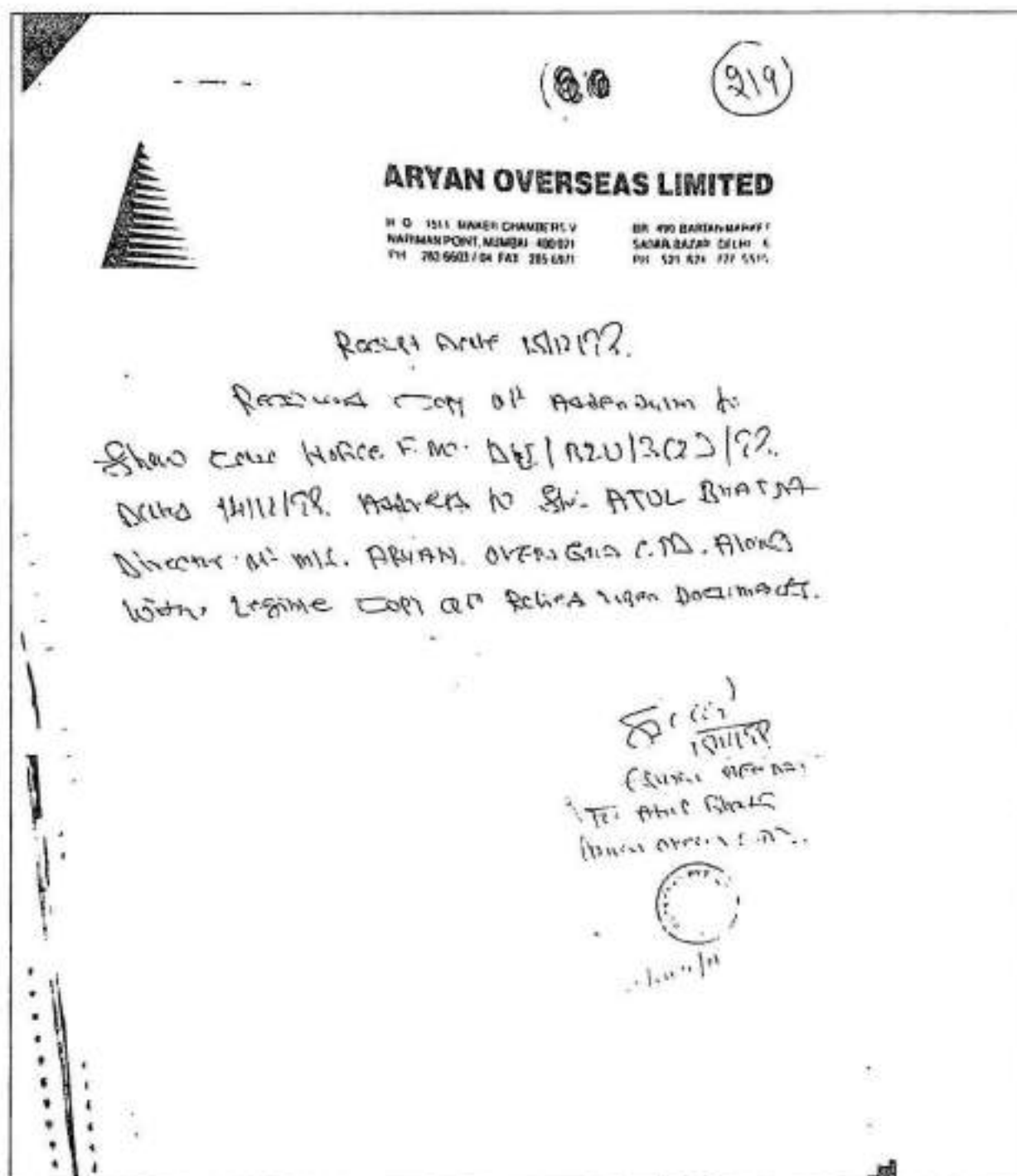


Image No. 3: Contemporaneous acknowledgment dated 15.12.1999 of the addendum by Noticee-2

23.4 On the issue of Hon'ble Tribunal's direction to examine the importer's request for retest, I find that from the records of investigation pertaining to the present SCN dated 29.11.1999, no request for retest of the samples appears to have been made by the noticees during the course of investigation for 59 bills entry except one bill of entry 307 dated 01.04.99 for which noticees requested for retest of the samples. Considering the same, DRI, Mumbai forwarded remanant samples as well as spare samples to the Director (Revenue Laboratory), Central Revenue Control Laboratory, New Delhi for retest. The Director (Revenue Laboratory) analyzed the samples drawn from the consignment covered under Bill of Entry 307 dated 01.04.1999 and furnished report vide letter F. No. 50-Cus/97 dated 25.11.1999 wherein it was reported that all the samples were 'cut pieces from metallic sheet of thickness less than 0.5 MM having rust on both sides, it is **'Steel Sheet coated on both sides with Tin'**, to this effect, an addendum vide F. No. DRI/BZUSPL/3(2)/99 dated 14.12.1999 was issued and the same was acknowledged by the noticees 1 & 2. **During the personal hearing on 24.05.2023**, Sh. T. Vishwanathan, Advocate of

the Noticees while accepting the addendum dated 14.12.1999 categorically admitted that *"it seems the retest has already been undertaken by the Department and shown to the importer which stands accepted"*. Hence, I conclude that the noticees' request for retest in the single bill of entry already stands accepted and disposed of by the Department.

24. There is no offence as the Not. No. 34 (RE-98) dated 10.12.98 has got repealed and does not exist anymore. The Notification was issued under the Foreign Trade Regulation Act 1998 which did not have a saving clause unlike the Customs Act which has a saving clause in Section 159A. The interpretation is based on reading of the Section 6 of the General Clauses Act and Hon'ble Supreme Court's Judgment in the case of Kolhapur Cane Sugar.

24.1 The counsel representing the noticees has advanced the argument that Section 6 of the General Clauses Act is inapplicable to notifications once they have been repealed, basing this interpretation on the Supreme Court's Judgment in the case of **Kolhapur Cane Sugar**¹⁶. They posit that this section does not extend its applicability to notifications which have lapsed.

24.2 Upon examination, it becomes clear that the circumstances and context in the aforementioned Kolhapur Cane Sugar case are distinct from the matter at hand. The case in question pertained to Rule 10-A of the Central Excise Rules, which subsequently faced omission and was not about any notification falling under the FTDR Act. The core issue revolved around an exemption notification under the Central Excises and Salt Act, 1944. The crux being that a subsequent amendment in 1975 rendered this exemption incongruent with the parent statute. The Hon'ble Supreme Court adjudicated that such a notification can not perpetuate under Section 6 of the General Clauses Act, as it would be at odds with the modified parent statute.

24.3 Drawing parallels with the present case, the notifications issued by the DGFT, which introduce floor price restrictions, do not create any inconsistency with the Foreign Trade (Development & Regulation) Act, 1992. These notifications are harmonious with the delegated rule-making powers enshrined within the parent statute. As a result, the interpretation and the precedent set in the Kolhapur Cane Sugar supra concerning any discord between delegated legislation and the parent Act do not find relevance or applicability in the present case.

24.4 Also in the present case, it is amply clear that the said DGFT Notification No 34(RE-98)1997-2002 dated 10.12.98 prescribed the minimum floor prices for Tin Plated Sheets as US\$ 545 per MT under CTH 7210 and for Plates as U.S.\$ 311 per M.T under heading 7208/72.11. Also, DGFT Notification No 35(RE-98)1997-2002 dated 11.12.98 prescribed the minimum floor price for Prime Tin Plates as US\$ 720 per MT. The noticees attempted to escape the license condition by misdeclaration of Tin Plated Steel Secondary sheets/coils as Tin Free Secondary sheets & MSCR defective sheets and undervaluation by declaring the value as US\$ 315 per MT (C&F/CIF) and US\$ 300 per MT (C&F) instead of US\$ 545 per MT, and misdeclaration of Tin Plate Prime

¹⁶ Kolhapur Cane Sugar Co. Ltd. Vs. Union of India-2000 (119) ELT 257

in coil misdeclared as MSCR defective sheets in coil with a uniform C & F value of US\$ 300 per M.T instead of US\$ 720 per MT. Thus, I find that the noticees have committed multiple offences as listed below.

- i. Misdeclaring Tin Plate Secondary sheets as Tin Free Secondary sheets and MSCR defective sheets; Tin Plate Prime as MSCR defective sheets.
- ii. Misdeclaring the quantity (weight) of goods.
- iii. Using some quantity of Tin Free Secondary Sheets to camouflage and cover Tin Plate Secondary sheets.
- iv. Declaring a lower value for the Tin Plate Secondary sheets and Tin Plate Prime than the minimum floor prices set in the DGFT notifications, making the goods prohibited as they were without a valid DGFT license.

24.5 The first three offences are independent offences under the Customs Act 1962 and fourth one is an offence under the Foreign Trade Regulation Act, 1992 read together with the Customs Act, 1962. Hence, I find that the above defence taken by the noticees that the FTDR Act, 1992 not having a saving clause, will not save the present adjudication proceedings, is without legal basis and lacking proper understanding of the case. The FTDR Act, 1992 is an allied Act of the Customs Act, 1962. Section 159A is the saving clause under the Customs Act, 1962. Since the offences in this case are joint offences under the FTDR Act, 1992 and the Customs Act, 1962 read together, therefore section 159A will be applicable to the present case. In this regard, I rely upon the case of **Shah Diagnostic Institute Pvt. Ltd.**¹⁷, wherein the Hon'ble Bombay High Court observed :

"33. That Section 159A is deemed to have been inserted on and from 1st February, 1963 cannot be questioned. it, therefore, has to be held that Section 159A was operating on 1st April, 1994 when the Notification No. 64/88-Cus was rescinded. In other words, rescission of the Notification No. 64/88 does not affect the liability acquired, accrued or incurred by the petitioners with regard to fulfillment of clause 2(b) of the said notification".

24.6 In light of the above discussion, I conclude that the Kolhapur Cane Sugar case dealt with a different issue, where a specific rule contradicted a changed main law, a situation different from the present case. So, Section 6 of the General Clauses Act will still apply to the withdrawn DGFT Notifications. Given the joint nature of the violations and offences related to both the FTDR Act, 1992 and the Customs Act, 1962, the safeguard provided by the saving clause under section 159A of the Customs Act 1962 remains applicable in favour of the Department's case.

25. The consequences of abandonment of the goods as regards to the demand of differential duty, confiscation and penal action in respect to the act of the noticees.

25.1 The noticees have argued that since the imported goods have been abandoned, the adjudication proceedings and proposal to demand duty, confiscate goods and impose penalty are

¹⁷ *Shah Diagnostic Institute Pvt. Ltd. Vs. Union of India*, 2008(222) E.L.T.12(Bom.)

bad in law as the import has not been completed and the department has no control over the goods. The noticees have placed reliance upon the case laws of **Ajay Industrial Corporation**¹⁸, **M/s. Nalakath Spices Trading Co.**¹⁹, **Garima Trade Services Ltd.**²⁰, **Sewa Ram & Bros**²¹, **Cooper Pharma**²² and **Classic Colour Photo**²³. Now let me deal with these case laws one by one.

25.2 In the case of **Ajay Industrial Corporation** supra, the issue involved was that the Department had proposed confiscation of the imported goods on the ground that the goods were imported under advance licence whose validity was till 31.07.1999. The Customs Department alleged that the goods were actually shipped on 17.09.1999 and the Bill of Lading was manipulated to be shown as of 31.07.1999 to take benefit of the licence. The Hon'ble Tribunal held that even if the Bill of Lading was mis-declared it was not a ground for confiscation under Section 111 (m) as there was no direct offence under the Customs Act. In the present case, gross mis-declaration of nature of goods and their quantity is clearly established by the test reports and therefore, Section 111 (l) and (m) are clearly attracted which distinguishes the present case from the case of **Ajay Industrial Corporation**, supra.

25.3 The case law of **Nalakath Spices Trading** supra, is based on the ratio of **Garima Trade Services** supra, which in turn relies upon the case law of **Peirce Leslie India**²⁴. In the case of **Peirce Leslie India** supra, the appellants were the steamer agents and 3 pieces of timber logs were found to be in excess of the manifested quantity of goods in the vessel at the Mangalore Port. The appellants themselves applied for permission to unload the same for clearance subsequently. Therefore, there was no fraud or suppression was involved. Hence, again the facts of **Peirce Leslie India** are starkly different from the facts of the present case.

25.4 In the case of **Sewa Ram & Bros** supra, also no suppression of facts was involved and the SCN was issued to the importer for not clearing the rags from the port. In the case of **Cooper Pharma** supra, the importers were not able to clear the goods due to heavy demurrage and the Single Member Bench of the Hon'ble Tribunal allowed the refund of the Customs duty paid by the importer. Both these cases were of irregularities without involving fraud or suppression. The present case being a case of fraud and misdeclaration with intent to bypass the DGFT imposed minimum floor price of tin plated sheets is clearly different.

25.5 As already discussed in detail above the noticees grossly mis-declared the 'TinPlate Secondary sheets/coils' and 'Tin Plate Prime coils' contained in the consignments of the 60 impugned Bills of Entry by declaring them as 'Tin Free Secondary sheets' and 'MSCR defective sheets' and also understating their quantity. They also undervalued the goods with the intent to bypass the minimum floor price notified in the said DGFT Notifications. Hence the acts of

¹⁸ **Ajay Industrial Corporation Vs. CC** — 2006 (201) ELT 410 (T)

¹⁹ **M/s. Nalakath Spices Trading Co. Vs. Commissioner of Customs**, reported in 2007(213)ELT283(Tri.-Bang.)

²⁰ **Garima Trade Services Ltd. Vs. Commissioner of Customs**, reported in 2002(146)ELT150(Tri.-Chennai)

²¹ **Commissioner of Customs, ICD, New Delhi Vs. Sew Ram & Bros.**, reported in 2003(151)ELT344(Tri.-Del.)

²² **Cooper Pharma v. Commissioner of Customs (Import), Nhava Sheva**, reported in 2009(243)ELT199(Tri.Mumbai)

²³ **Classic Colour Photo V. Collector of Customs, Delhi**, reported in 1994(70)E.L.T.750(Tribunal)

²⁴ **Peirce Leslie India Ltd. v. CC, Bangalore**- 1995(77) E.L.T. 161 (T)

omission and commission of the noticees have rendered the imported goods liable for confiscation under Section 111(d), 111(l) and 111(m). The noticees also used 'Tin Free Secondary sheets' for concealing in Plated Steel Sheets Secondaries rendering the goods liable for confiscation under Section 119. The excess quantity of smuggled 'Tin Free Secondary sheets' and 'Tin Plate secondary strips' are liable for confiscation under Section 120(2). 'Secondary Tin Plate sheet (Misprint)' concealed in the excess quantity of declared 'Tin Plate Secondary strips' are liable for confiscation under Section 111(e). Since the importer has abandoned the goods, the goods deserve to be absolutely confiscated. In this regard, I place reliance on the case law of **HRB Boarding & Lodging Pvt. Ltd.**²⁵, wherein Hon'ble Madras High Court held that

"in para-21, when the DGFT Notification dated 04-08-2011 allowed free import of marble blocks/tiles provided the CIF value is US \$60 per sq. mt., the petitioners were expected to declare the same, however, contrary to the same, they have declared below the US \$60 and thereby, the authority has rightly confiscated the same and therefore, confiscation of the goods is justified." (emphasis added)

25.6 Since the goods have been abandoned by the importer, I agree with the noticees that there cannot be any demand for duty.

25.7 On the noticees' argument that no penalty should be imposed on them as the consequence of the abandonment of the goods, I find that all the case laws relied upon by the noticees were cases involving technical irregularities like the importer was not able to clear the goods on time, importer was not able to clear the goods due to heavy demurrage charges, importer voluntarily applied for permission for clearance of goods found in excess of the manifested quantity, mis-declaration of the date of Bill of Lading, etc. There was no fraud or suppression or intention to evade Customs Duty in these cases. The present case is a case where the intention of the importer to evade Customs Duty is evident and various acts of omission and commission on his part amount to fraud and suppression. The abandonment of goods has also taken place after initiation of investigation by DRI. Hence, the action of abandonment does not undo the fact that the goods have been improperly imported in the present case. Hence, the penalty under Section 112(a) for improper importation of goods is imposable on the noticees even though they might have abandoned the goods.

25.8 Further, I concur with my predecessor's observation at para 21.6 of 2nd round OIO dated 16.12.2005 that *"Noticee No. 2, as Director of Noticee No.1 has consciously and willfully misdeclared goods imported in the name of Noticee No.1 and has therefore, in relation to the goods done and also omitted to do acts which have rendered the goods liable for confiscation under Section 111 (d), 111(e), 111 (l), 111 (m) of the Act. The Noticee No. 1 would have directly benefited out of the acts of omissions and commissions of Noticee No. 2 which have rendered the*

²⁵ HRB Boarding & Lodging Pvt. Ltd. Vs. Union of India, reported in 2015 (322) E. L.T. 452 (Mad.)

impugned goods liable for confiscation. Noticee No. 1 is therefore also liable for penal action under Section 112 (a) of the Act”.

26. It is also relevant to point out here the evasive and non-transparent behaviour of the noticees observed during the adjudication. When the personal hearing notices were sent to the registered offices of the Noticee firm at 1511, Makers Chamber V, Nariman Point, Mumbai – 21; it was found that the Noticee had sold out this registered office premises long back without informing the Customs Department. Despite specific requests, Sh. Atul Bhatia, Director never appeared in the personal hearing. The Advocate of the noticees was again requested during the PH on 26.05.2023 to provide details of other Directors of the firm, their latest financial statements, documents relating to sale of its registered office; but the same was not submitted till date. The stand of the advocates of the noticees namely Sh. Akhilesh Kangsia, Mrs. Apoorva Parishar and Sh. Vishwanathan was evasive and non-transparent on the issue of the present status of the Noticee firm.

27. Accordingly, I pass the following order:-

ORDER

27.1 I order absolute confiscation of 2473.132 MTs of TinPlate Secondary Sheets (except for goods under Bill of Entry No. 5967 dated 14.06.1999 at Sr. No. 29, as detailed in **Annexure-I** to the Show Cause Notice), 84.440 MTs of TinPlate Secondary Sheets (covered by Bill of Entry No. 307 dated 1.04.99 as detailed in **Annexure-III** to the the Show Cause Notice) under Section 111 (d), 111 (e), 111 (l) and 111(m) of the Customs Act, 1962.

27.2 I order absolute confiscation of 109.905 MTs of TinPlate Prime in coils (except for goods under Bill of Entry No. 5967 dated 14.06.1999 at Sr. No. 29, as detailed in **Annexure-I** to the Show Cause Notice) under Section 111 (d), 111 (l) and 111(m) of the Customs Act, 1962.

27.3 I order absolute confiscation of 462.233 MTs of Tin Free Steel Secondaries (as detailed in **Annexure-II** to the Show Cause Notice) under Section 111 (l) and Section 120 (2) of the Customs Act, 1962.

27.4 I order absolute confiscation of 11.017 MTs (covered by Bill of Entry No. 303 dated 01.04.1999 listed at Sr. No. 26 of **Annexure-I** to the Show Cause Notice) of Tin Free Steel Secondaries under Section 119 of the Customs Act, 1962.

27.5 I order absolute confiscation of 100.607 MTs (as detailed in **Annexure-IV** to the Show Cause Notice) of Tin Plate Secondary Strip under Section 111 (l) and Section 120 (2) of the Act.

27.6 I order confiscation of the goods in provisionally released consignment under Bill of Entry No. 5967 dated 14.06.1999 (as detailed at Sr. No. 29 of **Annexure-I** to the Show Cause Notice) under Section 111 (d), 111 (l) and 111(m) of the Customs Act, 1962, however, I allow for

redemption of the same on payment of redemption fine of Rs. 6,00,000/- (Rs. Six Lakhs Only) in lieu of the confiscation under Section 125(1) of the Customs Act, 1962.

27.7 The sum of Rs. 31,43,612/- ((Rs. Thirty-One Lakhs Forty-Three Thousand Six Hundred and Twelve only) deposited by the Noticee -I at the time of provisional release of goods covered by Bill of Entry No. 5967 dated 14.06.1999 shall be adjusted against customs duty of Rs 14,57,461/- ((Rs. Fourteen Lakhs Fifty-Seven Thousand Four Hundred and Sixty-One only). The remaining amount shall be adjusted against the fine and penalties being imposed on the noticees. The said provisional Bill of Entry may be finalised accordingly.

27.8 I impose a penalty of Rs. 25,00,000/- (Rs. Twenty-Five Lakhs only) on M/s. Aryan Overseas Ltd. (Noticee-1) under Section 112 (a) of the Customs Act, 1962.

27.9 I impose a penalty of Rs. 25,00,000/- (Rs. Twenty-Five Lakhs only) on Shri Atul Bhatia (Noticee-2) under Section 112 (a) of the Customs Act, 1962.

27.10 Other proposals in the Show Cause Notice are dropped on account of abandonment of the goods by the importer.



Vivek

31.08.23

(Vivek Pandey)

अयुक्त सीमा शुल्क (आयात-1)
Commissioner of Customs (Import-1),
नवीन सीमा शुल्क भवन मुंबई-01
New Custom House, Mumbai-01

To,

1. M/s. Aryan Overseas Ltd,
1511, Maker Chamber V, Nariman Point,
Mumbai-21
2. M/s. Aryan Overseas Ltd.,
A-209, Steel Chamber Towers, Kalamboli,
Mumbai-410218.
3. Shri Atul Bhatia
1/24, Nanik Nivas, Bhulabhai Desai Road,
Mumbai-36.

Copy to:

- 1) The Pr. Chief Commissioner of Customs,
New Customs House, Mumbai Customs Zone-I,
Mumbai-400001.

- 2) The Principal ADG,
Directorate of Revenue Intelligence, Mumbai Zonal Unit,
13, Vithaldas Thackersay Marg, Opp. Patkar Hall,
New Marine Lines, Mumbai - 400 020.
- 3) The Additional Director General,
Central Economic Intelligence Bureau,
A-Wing, 1st Floor, Janpath Bhawan, Janpath, New Delhi-
- 4) The Deputy Director (INV),
Unit-II, Income Tax,
Department Aayakar Bhavan, New Marine Lines, Mumbai-20.
- 5) The Deputy Commissioner of Customs,
Appraising Group IV, Import-I, Mumbai
New Customs House, Mumbai Customs Zone-I,
- 6) Office copy.