

	आयुक्त सीमाशुल्क का कार्यालय (निर्यात) OFFICE OF THE COMMISSIONER OF CUSTOMS (EXPORT), नवीन सीमाशुल्क भवन, बॉलार्ड एस्टेट मुंबई-४००००१ NEW CUSTOM HOUSE, BALLARD ESTATE, MUMBAI 400 001. फ़ोन नंबर : (022) 22757513/7556 Email: deec.mcell-nch@gov.in
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I/4719915/2026

30-09-2026

आदेश संख्या/Order No. 02/ 2026

जारी करने की तारीख/30-09-2026

141/MAK/DC/DEEC/NCH/2026-27

द्वारा पारित/Passed By

महेश अशोक केनी

उपायुक्त, सीमा शुल्क

डीईईसी (एम. सेल), निर्यात आयुक्तालय, मुंबई, जोन-I

मूल आदेश**Order-in-Original**

- (1) यह प्रति उस व्यक्ति के उपयोग हेतु निःशुल्क प्रदान की जाती है, जिसे यह जारी की गई है।

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

- (2) इस आदेश के विरुद्ध अपील, सीमा शुल्क अधिनियम, 1962 की धारा 128(1) के अंतर्गत, इस आदेश की संसूचना की तारीख से साठ दिनों के भीतर, आयुक्त, सीमा शुल्क (अपील), न्यू कस्टम हाउस, बल्लार्ड एस्टेट, मुंबई-400001 के समक्ष प्रस्तुत की जा सकती है। जहाँ शुल्क अथवा शुल्क और दंड विवादित हो, वहाँ मांग किए गए शुल्क की 7.5% राशि, तथा जहाँ केवल दंड विवादित हो, वहाँ दंड की 7.5% राशि जमा किए जाने पर ही अपील प्रस्तुत की जाएगी।

An appeal against this order shall lie before the Commissioner of Customs (Appeals), New Custom House, Ballard Estate, Mumbai-400001 under Section 128(1) of the Customs Act, 1962 within Sixty days from the date of communication of this order and on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute or penalty where penalty alone is in dispute.

- (3) यह अपील दो प्रतियों (डुप्लीकेट) में प्रस्तुत की जानी चाहिए तथा इसे सीमा शुल्क (अपील) नियम, 1982 में निर्धारित फॉर्म CA-1 में दाखिल किया जाना चाहिए। इस अपील पर केवल ₹1.50/- का कोर्ट फीस स्टाम्प लगाया जाना चाहिए तथा इसके साथ इस आदेश की मूल प्रति अथवा उसकी एक प्रति संलग्न की जानी चाहिए। यदि इस आदेश की प्रति संलग्न की जाती है, तो उस प्रति पर भी कोर्ट फीस अधिनियम, 1970 की अनुसूची-I, मद 6 के अनुसार केवल ₹1.50/- का कोर्ट फीस स्टाम्प लगाया जाना चाहिए।

This appeal should be in duplicate and should be filed in Form CA-1 appeared in Customs (Appeals) Rule, 1982. This appeal should be bear a court fee stamp of Rs. 1.50/- paid only and should be accompanied by this order or a copy thereof. If a copy of this order is enclosed, it should also bear a court fee stamp of Rs.

1.50/- only as prescribed under Schedule 1, item 6 of the Court Fees Act, 1970.

- (4) इस निर्णय अथवा आदेश के विरुद्ध अपील करने वाला प्रत्येक व्यक्ति, अपील लंबित रहने के दौरान, उपर्युक्त पैरा 2 में उल्लिखित राशि को सीमा शुल्क अधिनियम, 1962 की धारा 129E के प्रावधानों के अनुसार जमा करेगा तथा उक्त भुगतान का प्रमाण अपील के साथ प्रस्तुत करेगा। ऐसा न किए जाने पर, सीमा शुल्क अधिनियम, 1962 की धारा 128(1) के प्रावधानों का अनुपालन न करने के कारण अपील अस्वीकार की जा सकती है।

Any person appealing against this decision or order shall, pending the appeal, deposit the amount as per Para 2 above under Section 129E of the Customs Act, 1960 shall 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 128(1) of the Customs Act, 1962.

BRIEF FACTS OF THE CASE

Subject: Show Cause Notice F.No. CUS/DEEC/MISC/1697/2024-DEEC (SCN No. 07/2026-27) dated 24.04.2026 issued to M/s International Homelex Ltd. (IEC No. 0389057525), Mumbai – Case of non-submission of Export Obligation Discharge Certificate (EODC)/Redemption Certificate against Advance Authorisation/DEEC Licence No. 0310305242 dated 03.12.2004 and consequent enforcement of Bond No. S/5-LUT-TH-894/04 GR 7A dated 07.12.2004 for recovery of duty foregone of Rs. 3,06,454/- along with interest – regarding.

1. M/s International Homelex Ltd. (IEC No. 0389057525), having declared address at 401, Sumer Kendra, Pandurang Budhkar Marg, Worli, Mumbai – 400 018 (hereinafter “the Noticee” or “the Licensee”), was issued Advance Authorisation/DEEC Licence No. 0310305242 dated 03.12.2004 by the office of the Director General of Foreign Trade (DGFT). The licence permitted import of inputs free of duty in terms of Customs Notification No. 93/2004-Cus dated 10.09.2004. In terms of the said notification, the Noticee executed Bond No. S/5-LUT-TH-894/04 GR 7A dated 07.12.2004 for Rs. 4,68,875/- against duty foregone of Rs. 3,06,454/- (RUD-1). The particulars are as under:

Sr. No.	Licence No. & Date	Assessable Value (Rs.)	Duty Foregone (Rs.)	Bond No.	Bond Amount (Rs.)
1	0310305242 dated 03.12.2004	7,59,000/-	3,06,454/-	S/5-LUT-TH-894/04 GR 7A dated 07.12.2004	4,68,875/-

- 1.1 As per Annexure-I to the Bond, the goods allowed for import against the licence were “Toweling product (GSM 690 & 750)”, 3,000 kgs., assessable value Rs. 7,59,000/-, duty involved (but for exemption) Rs. 3,06,454/-, interest for 3 years Rs. 1,62,421/-, and total bond amount Rs. 4,68,875/-. The Bond records that the Noticee holds Central Excise Registration No. AABCT1906GXM002 dated 26.02.2004 and Export House Certificate No. 10912 dated 16.11.1999.

2. Notification No. 93/2004-Cus dated 10.09.2004 exempts inputs imported under an Advance Licence issued under paragraph 4.1.3 of the Foreign Trade

Policy from the whole of the duty of customs leviable under the First Schedule to the Customs Tariff Act, 1975 and from additional duty, safeguard duty and anti-dumping duty under Sections 3, 8 and 9A thereof, subject inter alia to the following conditions:

- (i) the importer executes, at the time of clearance, a bond with such surety or security and for such sum as specified by the Deputy/Assistant Commissioner of Customs, binding himself to pay on demand an amount equal to the duty leviable but for the exemption, on the materials in respect of which the conditions have not been complied with, together with interest at 15% per annum from the date of clearance of the said materials;
- (ii) the export obligation, in value and quantity terms, is discharged within the period specified in the licence or such extended period as may be granted by the Licensing Authority; and
- (iii) the importer produces evidence of discharge of export obligation to the satisfaction of the Deputy/Assistant Commissioner of Customs within 30 days of the expiry of the period allowed for fulfilment of the export obligation, or such extended period as may be allowed.

3. In the Bond (**RUD-1**), the Noticee, inter alia, undertook (Condition Nos. 1 to 4) to observe all terms and conditions of the notification and the licence, to fulfil the export obligation and produce evidence thereof within 30 days from expiry of the export obligation period to the satisfaction of the Government and, in the event of failure to fulfil the export obligation in full or in part, to pay the customs duty but for the exemption along with interest at 15% per annum from the date of clearance of the imported goods till the date of payment, without demur. The Bond further declares that the Government may recover sums due from the Obligors in the manner laid down in sub-section (1) of Section 142 of the Customs Act, 1962.

4. As per the records of this office, the Noticee has not submitted the EODC/Redemption Certificate against the said licence. A Bond Enforcement-cum-Demand Notice dated 10.10.2024 (**RUD-2**), issued by the Deputy Commissioner of Customs, DEEC (M-Cell), directed the Noticee to submit the EODC/Redemption letter or to deposit the duty foregone along with admissible interest within 10 days of receipt, failing which action to enforce the Bond under Section 143 of the Customs Act, 1962 would be initiated.

SHOW CAUSE NOTICE

5. Consequently, the Joint Commissioner of Customs (In Situ), DEEC (M-Cell), Export Commissionerate, issued the Show Cause Notice dated 24.04.2026 under Section 124 read with Section 143 of the Customs Act, 1962, alleging that the Noticee had failed to submit the EODC/Redemption Certificate within the prescribed timeline and to fulfil the export obligation; that the imported goods were not utilised for the purposes specified in the notification; and that the Noticee had thereby violated the conditions of the notification and the Bond. The Noticee was called upon to show cause to the Assistant/Deputy Commissioner of Customs, DEEC (Monitoring Cell), Office of the Commissioner of Customs (Export), New

Custom House, Mumbai, as to why:

- (i) the duty benefit claimed under Notification No. 93/2004-Cus dated 10.09.2004 should not be denied;
- (ii) the imported goods having total assessable value of Rs. 7,59,000/- should not be confiscated under Section 111(o) of the Customs Act, 1962 read with the conditions of the Bond executed under Section 143 and the said notification;
- (iii) the customs duty of Rs. 3,06,454/- along with applicable interest should not be recovered under the Bond;
- (iv) penalty should not be imposed under Section 112(a) of the Customs Act, 1962;
- (v) penalty should not be imposed under Section 114AA of the Customs Act, 1962;
- (vi) penalty should not be imposed under Section 117 of the Customs Act, 1962; and
- (vii) the Bond should not be enforced to recover the duty foregone along with applicable interest.

5.1 The Noticee was required to produce all references relied upon in defence and to indicate whether a personal hearing was desired, failing which the case would be decided ex-parte on the basis of records, if no reply was received within 30 days of receipt of the notice.

RELIED UPON DOCUMENTS

6. The Show Cause Notice relies upon **(RUD-1)** copy of the Bond No. S/5-LUT-TH-894/04 GR 7A dated 07.12.2004 with Annexure-I and affidavit dated 07.12.2004 of Shri Vinod Kumar Agrawal, Director, and **(RUD-2)** the Bond Enforcement-cum-Demand Notice dated 10.10.2024.

RECORDS OF PERSONAL HEARING

7. [Personal hearings were granted on 28.08.2026, 31.08.2026, 03.09.2026 and 22.09.2026. All the PH memos were returned undelivered as no such person was present there.

DISCUSSIONS AND FINDINGS

8. I have gone through the Show Cause Notice, the Relied Upon Documents, the records of the case. The Noticee has been given adequate opportunity in accordance with the principles of natural justice, and I proceed to decide the case on merits.

10. The issues for determination are:

- (a) whether the Noticee failed to discharge the export obligation and to produce the EODC/Redemption Certificate against Licence No.

0310305242 dated 03.12.2004 within the time allowed, and whether the exemption under Notification No. 93/2004-Cus is consequently deniable;

(b) whether customs duty of Rs. 3,06,454/- along with interest is recoverable from the Noticee under the Bond executed under Section 143 of the Customs Act, 1962;

(c) whether the goods are liable to confiscation under Section 111(o) of the Customs Act, 1962;

(d) whether penalty is imposable under Sections 112(a), 114AA and/or 117 of the Customs Act, 1962; and

(e) whether the Bond is to be enforced.

11. **Failure to discharge the export obligation / submit EODC.** Notification No. 93/2004-Cus grants the exemption only on fulfilment of the export obligation within the period specified in the licence (or extension by the Licensing Authority) and production of proof thereof to the satisfaction of the Customs authorities within 30 days of expiry of that period. The Noticee itself undertook the same in Condition Nos. 1 to 3 of the Bond. The period for export obligation and for submission of EODC against a licence issued on 03.12.2004 expired many years ago. The Demand Notice dated 10.10.2024 gave the Noticee a further opportunity to produce the EODC/Redemption letter or to pay the duty and interest. The records of this office show that no EODC/Redemption Certificate has been produced. The burden of proving fulfilment of the conditions of an exemption rests on the person claiming it, and the Noticee has not discharged that burden. I therefore find that the conditions of Notification No. 93/2004-Cus and of the Bond have not been complied with and the benefit of the exemption is liable to be denied.

12. **Duty and interest recoverable under the Bond.** On failure to fulfil the export obligation, Condition No. 4 of the Bond and the notification require the Noticee to pay the duty leviable but for the exemption together with interest at 15% per annum from the date of clearance of the imported goods till the date of payment. The duty foregone on the goods cleared under the licence, having assessable value Rs. 7,59,000/-, is Rs. 3,06,454/-, as recorded in the Bond Annexure and in Table-A of the Show Cause Notice, and the liability so undertaken by the Noticee is unconditional and irrevocable. Section 143(1)(B) of the Customs Act, 1962 provides that where the thing is not done within the time specified in the bond, the proper officer is entitled to proceed upon the bond in accordance with law. The duty of Rs. 3,06,454/- is therefore recoverable from the Noticee under the Bond with interest at 15% per annum from the date of clearance of the goods (i.e. the date of the relevant Bill(s) of Entry till the date of payment. I note that the interest of Rs. 1,62,421/- shown in the Annexure to the Bond is only a provision for three years made for fixing the penal sum of the Bond and does not cap the interest actually payable.

13. **Confiscation under Section 111(o).** Section 111(o) makes liable to confiscation any goods exempted from duty subject to a condition, where the

condition is not observed, unless its non-observance was sanctioned by the proper officer. No sanction/extension of the export obligation period or condonation of non-observance by any competent authority is on record. I find that the goods imported duty-free under Licence No. 0310305242 having assessable value Rs. 7,59,000/- have become liable to confiscation under Section 111(o) of the Customs Act, 1962. I note, however, that the goods have already been cleared from Customs control and are not available for seizure or physical confiscation, and the Show Cause Notice does not propose imposition of a redemption fine under Section 125 of the Customs Act, 1962. Since the adjudication cannot travel beyond the show cause notice, no redemption fine is imposed.

14. **Penalty under Section 112(a).** By failing to fulfil the export obligation and to produce the EODC within the prescribed time, the Noticee omitted to do an act which rendered the goods liable to confiscation under Section 111(o). The Noticee has thus rendered itself liable to penalty under Section 112(a) of the Customs Act, 1962. As the goods are dutiable and not prohibited, penalty is governed by clause (ii) of Section 112(a), i.e. up to ten per cent of the duty sought to be evaded or Rs. 5,000/-, whichever is higher, which in this case works out to a maximum of Rs. 30,645/-. Taking into account the gravity of the default, the long period of non-compliance and I consider it appropriate to impose penalty of Rs. [30,645/-] under Section 112(a).

15. **Penalty under Section 114AA.** This section applies where a person knowingly or intentionally makes, signs or uses a false or incorrect declaration, statement or document in the transaction of business for the purposes of the Customs Act. The Show Cause Notice alleges a "false declaration regarding EODC/Redemption certificate in the submitted bond". However, the Bond is a forward-looking undertaking to fulfil the export obligation and to produce evidence thereof; the Show Cause Notice does not bring on record any declaration, statement or document made or used by the Noticee that was false or incorrect in a material particular when made, nor any evidence of knowledge or intent. Failure to fulfil an undertaking is a breach of condition, which is squarely covered by Sections 111(o) and 112(a) and by recovery under the Bond; it does not by itself amount to making a false declaration. I therefore hold that penalty under Section 114AA is not sustainable and the proposal in this regard is dropped.

16. **Penalty under Section 117.** Section 117 is a residuary provision applicable only where no express penalty is elsewhere provided for the contravention or failure. Since the failure to comply with the conditions of the exemption and the Bond has been held to attract the express penalty under Section 112(a), the residuary penalty under Section 117 is not attracted for the same default, and the proposal in this regard is not pressed.

17. **Enforcement of Bond.** The Bond was executed under Section 143 of the Customs Act, 1962 and states that the Government may recover the sums due from the Obligors in the manner laid down in Section 142(1) of the Act. Having found that the export obligation has not been discharged, I hold that the Department is entitled to proceed upon the Bond for recovery of the duty and interest confirmed in this order, the Bond amount being Rs. 4,68,875/-. The Bond shall be kept in

force until the dues confirmed in this order are paid in full, whereupon it shall be cancelled/discharged in accordance with Section 143(1)(A).

ORDER

18. In view of the above, I pass the following order:

18.1 I deny the benefit of the exemption under Notification No. 93/2004-Cus dated 10.09.2004 on the goods having total assessable value of Rs. 7,59,000/- imported against Advance Authorisation/DEEC Licence No. 0310305242 dated 03.12.2004.

18.2 I confirm the demand of customs duty amounting to Rs. 3,06,454/- (Rupees Three Lakh Six Thousand Four Hundred Fifty Four only), being the duty foregone on the said goods, and order its recovery from M/s International Homelex Ltd. in terms of the Bond No. S/5-LUT-TH-894/04 GR 7A dated 07.12.2004 executed under Section 143 of the Customs Act, 1962 read with Notification No. 93/2004-Cus dated 10.09.2004 (as amended), along with interest at the rate of 15% per annum from the date of clearance of the goods till the date of payment.

18.3 I hold the said goods having total assessable value of Rs. 7,59,000/- (Rupees Seven Lakh Fifty Nine Thousand only) liable to confiscation under Section 111(o) of the Customs Act, 1962 read with the conditions of the Bond and the said notification. As the goods are not available for confiscation and no redemption fine was proposed in the Show Cause Notice, I do not impose any redemption fine under Section 125 of the Customs Act, 1962.

18.4 I impose a penalty of Rs. ...1,00,000/- (One Lakh)..... on M/s International Homelex Ltd. under Section 112(a) of the Customs Act, 1962.

18.5 I refrain from imposing any penalty on M/s International Homelex Ltd. under Section 114AA of the Customs Act, 1962.

18.6 I refrain from imposing any penalty on M/s International Homelex Ltd. under Section 117 of the Customs Act, 1962.

18.7 I order that the Bond No. S/5-LUT-TH-894/04 GR 7A dated 07.12.2004 for Rs. 4,68,875/- be enforced, and the dues confirmed at paragraphs 20.2 and 20.4 above be recovered under the said Bond and in the manner laid down in Section 142 of the Customs Act, 1962, in case the Noticee does not pay the same within [30] days of receipt of this order. The Bond shall be discharged only on full payment of such dues.

19. This order has been passed without prejudice to any other action that may be taken against the above-mentioned firm or any person under the provisions of the Customs Act, 1962 and/or any other law for the time being in force in India.

Digitally signed by
Mahesh Ashok Keny
Date: 30-09-2026
17:56:46

Mahesh Ashok Keny
Deputy Commissioner of Customs,
DEEC, Export, NCH.

To,

M/s International Homelex Ltd. (IEC No. 0389057525),
401, Sumer Kendra, Pandurang Budhkar Marg, Worli, Mumbai – 400 018.

Copy to:

1. The Chief Commissioner of Customs, Mumbai Zone-I, New Custom House, Mumbai.
2. The Deputy/Assistant Commissioner of Customs, DEEC (M-Cell), New Custom House, Mumbai – for necessary action and enforcement of the Bond.
3. The Deputy/Assistant Commissioner, CHS (I/c Notice Board), New Custom House, Mumbai – for display on the Notice Board.
4. The Deputy/Assistant Commissioner, EDI – for uploading on the website.
5. Office Copy.
6. Guard File.