CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 60559 of 2024

[Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-202-2024 dated 08.05.2024 passed by the Commissioner (Appeals), CGST, Ludhiana]

M/s Fortune Metals Ltd. **……Appellant**
Talwara Road, Adjecent PSEB Grid
Mandi Gobindgarh,
Fatehgarh Sahib,
Punjab 147001

VERSUS

Commissioner of Customs, Ludhiana **……Respondent**
Customs House, ICD GRFL Complex,
G T Road, Sahnewal, Ludhiana,
Punjab 141120

APPEARANCE:

Shri Vinay Goyal, Advocate for the Appellant

Shri Anurag Kumar, Authorized Representative for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)

FINAL ORDER NO. 60353/2026

DATE OF HEARING: 19.05.2026
DATE OF DECISION: 19.05.2026

The present appeal is directed against the impugned order dated 08.05.2024 passed by the Commissioner (Appeals), whereby the learned Additional Commissioner has ordered for confiscation of 105.720 M.T. of 'LMS Bundle Scrap' valued at Rs. 35,55,805/- under Section 111(d) of the Customs Act, 1962; but gave an option to the importer to redeem the said goods on payment of Redemption Fine

of Rs.80,000/- in lieu of confiscation under Section 125 of the Customs Act, 1962 and also imposed penalty of Rs.20,000/- upon the importer under Section 112(a) (i) of the Customs Act, 1962 for violations of the provisions of law.

2. Briefly the facts of the present case are that the appellant imported LMS Bundle Scrap from UAE and filed bill of entry No. 5769531 dated 02.05.2023 for import clearance of LMS Bundle Scrap as per ISRI 200-206' from M/s Tradeway International UK Ltd. showing the country of origin to be 'United Arab Emirates'. As per the allegations by the Custom Department, the imported goods had been declared to be of UAE origin but since the export of ferrous scrap under CTH 7204 from United Arab Emirates was prohibited, therefore, on the reasonable belief that the goods imported were liable for confiscation under Section 111 of the Customs Act, 1962 as they had mis-declared the country of origin in contravention of the provisions of Section 46(4) of the Act, the same were seized under Section 110 of the Act. Thereafter, as per the custom, the importer dispensed with the show cause notice and the matter was heard on merits. During the hearing, the defense of the appellant was that they have not violated any provisions of Foreign Trade Policy.

3. Heard both the parties and perused the material on record.

4. Learned counsel for the appellant submits that they were not aware of the Dubai Customs Notification, but as per the Indian law, the import of Ferrous Waste & Scrap, and Re-melting Scrap from

Dubai/UAE is freely allowed and there is no statutory ban on such imports. He further submits that the appellant imported scrap originated from Dubai, and all the documents namely, Commercial Invoice, Packing List, Certificate of Origin, Bill of Lading, PSIC and the Container Tracking was produced and and there is absolutely no mis-declaration on the part of the importer. He further submits that the OM issued by DGFT cannot retrospectively invalidate the valid and legal PSICs issued by the PSIA. He also submits that neither OM issued by DGFT is a formal statutory document, nor it suggests any specific policy violation by the PSIA, nor has the adjudicating authority mentioned any statuary customs provision or foreign trade policy provision under which a valid certificate issued by the PSIA became invalid.

4.1 He also submits that the PSIA is not regulated by the directives of the Customs Department of Dubai; that, at the material time there was no injunction from DGFT, hence its Certificate was very much valid, that, the Dubai Customs Notice 08/2022 dated 05.10.2022 was effective only till 19.03.2023. The next Notice 05/2023 was issued only on 19.04.2023; therefore, as on 12.04.2023, the date of inspection, there was not even an order of Dubai Customs banning the export from Dubai. Though the notice 05/2023 was made retrospective from 20.03.2023, the fact remains that as on date of inspection on 12.04.2023 there was no ban on import of the said goods. He further submits that there was no effective circular of Dubai Customs banning the export; that, when the PSIC is very much valid, and there is no question of any

violation of any condition of the Foreign Trade Policy. He also submits that all the conditions of import as per Indian Law have been duly complied with, and there is no mis-declaration on the part of the appellant.

5. On the other hand, learned authorized representative for the Department reiterated the findings of the impugned order and submits that the import of the impugned goods was banned by Custom Department retrospectively w.e.f. 20.03.2023 and subsequently vide office memorandum issued by DGFT dated 13.06.2023 stated that any certificate issued by PSIA will not be valid as the Dubai Customs has banned the export of scrap.

6. I have considered the submissions of both the parties and perused the material on record, the only issue before me is whether the appellant has violated any conditions of Foreign Trade Policy and has imported the impugned goods in violation of the regulation for the provision of Foreign Trade Policy. Further, I find that as per the Indian law, the import of Ferrous Waste & Scrap, and Re-melting Scrap from Dubai/UAE is freely allowed and there is no statutory bar on such imports. Further, I find that when the appellant imported the said material, they have filed all the documents, namely, the Commercial Invoice, Packing List, Certificate of Origin, Bill of Lading, PSIC and the Container Tracking and there is absolutely no mis-declaration on the part of the appellant. Further, I find that when MO issued by DGFT cannot retrospectively invalidate the valid and legal PSICs issued by the PSIA.

7. Further, I find that at the time when the goods were inspected by PSIA at that point of time, there was no ban on the export because as per Dubai Customs notice 08/2022 dated 05.10.2022 was effective only till 19.03.2023 and the next Notice 05/2023 was issued only on 19.04.2023; but the impugned goods were inspected on 12.04.2023 and on that date, there was not even an order of Dubai Customs banning the export from Dubai. Further, I find that the retrospective ban by the UAE on export of scrap will not effect the import made by the appellant after complying with the conditions of Foreign Trade Policy. Further, I find at the time of import the PSIC was very much valid and there is no question of violation of any conditions of Foreign Trade Policy.

8. Therefore, holding that there is a mis-declaration on the part of the appellant is not legally sustainable in law; therefore, imposition of redemption fine of Rs. 80,000 under Section 125 of the Customs Act and imposition of penalty of Rs. 20,000 under Section 112(a)(i) of the Customs Act, is not sustainable in law, therefore I set aside the same by allowing the appeal of the appellant.

(Operative part of the order pronounced in the open court)

(S. S. GARG)
MEMBER (JUDICIAL)

Kailash