

	<p>प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, एमपी और एसईजेड, मुंद्रा, कच्छ-गुजरात -370421 OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOMS HOUSE, MP & SEZ MUNDRA, KUTCH-GUJARAT EMAIL: group3-mundra@gov.in</p>	
A	File No.	CUS/APR/ASS/1740/2025-Gr 3
B	Order-in-Original No.	MCH/ADC/ZDC/255/2025-26
C	Passed by	Dipak Zala Additional Commissioner of Customs Custom House, Mundra.
D	Date of order	23.09.2025
E	Noticee/Party/ Importer/ Exporter	M/s. Oriental Impex (IEC: BCLPA7757C) 1-2, 3rd Floor, Kirti Nagar, New Delhi-110015
F	DIN No.	20250971MO000000A3FC

1. यह अपील आदेश संबन्धित को निःशुल्क प्रदान किया जाता है।

This Order - in - Original is granted to the concerned free of charge.

2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 128 A के अंतर्गत प्रपत्र सीए- 1- में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

Any person aggrieved by this Order - in - Original may file an appeal under Section 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

“ सीमा शुल्क आयुक्त (अपील),
चौथी मंजिल, हुडको बिल्डिंग, ईश्वर भुवन रोड, नवरंगपुरा, अहमदाबाद-380 009”
“THE COMMISSIONER OF CUSTOMS (APPEALS), MUNDRA
Having his office at 4th Floor, HUDCO Building, Ishwar Bhuvan Road,
Navrangpura, Ahmedabad-380 009.”

3. उक्त अपील यह आदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए ।

Appeal shall be filed within sixty days from the date of communication of this order.

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-

Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must accompanied by –

(i) उक्त अपील की एक प्रति और

A copy of the appeal, and

(ii) इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं.-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए ।

This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.

5. अपील ज्ञापन के साथ ड्यूटी/ ब्याज/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये ।

Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo.

6. अपील प्रस्तुत करते समय, सीमा शुल्क (अपील) नियम, 1982 और सीमा शुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए ।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.

7. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (A) के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।

An appeal against this order shall lie before the Commissioner (A) 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.

BRIEF FACTS OF THE CASE

M/s. Oriental Impex (IEC: BCLPA7757C) (hereinafter referred to as 'the importer' for the sake of brevity) having address at 1-2, 3rd Floor, Kirti Nagar, New Delhi-110015, had filed Bill of Entry (for SEZ Import Z Type) No. 8174411 dated 04.02.2025, for import of the following declared goods having gross weight of 27550 kgs under Bill of Lading No. WP20241204 dated 30.12.2024 through Container No. SKHU6302341:

Table-A

CTH	Description of Goods	Unit Price (in USD)	Quantity	Assessable Value (in Rs.)	Duty (in Rs.)
59039090	Woven Fusible Interlining Fabric Width 58”+/-10%	0.135/SQM	70560 SQM	8,39,014/-	3,07,415/-

2. The above said consignment was put on hold by **DRI**, Ahmedabad Zonal Unit for examination on the basis of intelligence on suspected misdeclaration/mis-classification in import of fabrics through Mundra SEZ. The consignment was examined by the **DRI** officers under Panchnama dated 21.02.2025 in the SEZ Unit - M/s. Shoolin Trade Link LLP, APSEZ, Mundra in the presence of the Panchas and Shri Pranjal Singh, Operations Manager of M/s. Shoolin Trade Link LLP, APSEZ, Mundra. During the examination, container was found in sound and proper condition and the seal nos. were found to be matching with the details mentioned in the Bill of Lading.

3. Net weight of the container was found as 31100 kgs as per Computerised Weighment Slip against declared gross weight of 27550 kgs. After seal cutting and opening of the container, it was found that the goods are fabric rolls wrapped in HDPE bags. The goods were then de-stuffed and placed in front of the container. Total no. of rolls was counted and length and width of few rolls were randomly checked with a measuring tape, detailed as follows:

Table-B

Container No.	Description of goods	Total No. of Rolls	Length of each roll	Width of each roll
SKHU6302341	Woven Fusible Interlining Fabric Width 58”+/-10%	1838	50 meter	58 inch

4. Thereafter, to ascertain the exact identity of goods, representative sample of the goods was drawn for testing. Sample was then sent by DRI, AZU to Central Revenues Control Laboratory, New Delhi for Testing:

Table-C

Sr. No.	Query	Lab No.: CRCL/59/1390 (DRI) dt 03.03.2025
1.	Description of the sample as received	Cut piece of dyed (black coloured) woven fabric having dots on one side
2.	Composition	Polyester
3.	%age composition	Wholly made of polyester
4.	Whether coated/ impregnated	NA
5.	Whether staple spun yarn/ filament yarn/ staple fibre	Filament yarn
6.	Whether Texturized/ Non-Texturized	Textured
7.	Whether fabric is bleached/unbleached/ dyed/yarns of different colours	Dyed
8.	GSM	141
9.	Tenacity of yarn	NA
10.	Bonded fabric or not	Other
11.	Whether pile fabric or not	Other

5. Bill of Entry (for SEZ Import Z Type) No. 8174411 dated 04.02.2025 was then referred by **DRI**, AZU to SIIB, Custom House, Mundra vide their letter dated 01.04.2025 for further investigation/recovery under the Customs Act, 1962.

6. The above said Test Report was shared with the importer vide email dated 09.05.2025 who vide their email dated 17.05.2025 and letter dated 19.05.2025 agreed with the test report and submitted that they don't want any SCN or PH in this regard.

7. As per the above said Test Report, it appears that the importer has misdeclared the goods in terms of description and classification as Woven Fusible Interlining Fabric under CTH: 59039090 whereas they have been found to be Dyed Woven Fabric wholly made of Textured Polyester Filaments rightly classifiable under CTH: 54075290. Relevant entries under the CTH: 5407 are as under:

5407

Woven fabrics of synthetic filament yarn, including woven fabrics obtained from materials of heading 5404

- Other woven fabrics, containing 85% or more by weight of textured polyester filaments :

5407	52	-- Dyed :
5407	52	--- Polyester shirtings
5407	52	--- Polyester suitings
5407	52	--- Terylene and dacron sarees
5407	52	--- Polyester sarees
5407	52 90	--- Other

8. As per the test report received from CRCL, New Delhi, goods are dyed (black coloured) woven fabric having dots on one side and wholly made of polyester textured filament yarn having 141 GSM. Since the subject goods contain more than 85% by weight of dyed textured polyester filament yarn, it is covered under double dash entry (--) 540752; on going through sub-headings of CTH: 540752, it is observed that the subject goods are covered the last single dash entry (---) i.e. Other category. Hence, the goods are rightly classifiable under CTH: 54075290.

9. For further investigation, summons dated 30.05.2025 and 09.06.2025 were issued to the importer and subsequently, statement of Shri Pranjal Singh, Authorised Representative of the importer M/s. Oriental Impex was recorded on 12.06.2025 during which he inter alia stated that:

- He has been authorized by the importer M/s. Oriental Importer to tender statement in the matter and their SEZ Unit M/s. Shoolin Trade Link LLP, APSEZ, Mundra had filed the above said SEZ Bill of Entry for the importer on the basis of import documents provided by them;
- Net weight in the Weighment Slip issued by M/s. Shoolin Trade Link LLP, APSEZ, Mundra comprises weight of the container as well. In the instant case, container is 40 feet which weighs around 3700 kgs on average adjusting which the weight of the goods come to 27400 kgs against the declared gross weight of goods i.e. 27550 kgs;
- He agrees with the Test Report of the subject consignment;

- The importer had provided the import documents for import of Woven Fusible Interlining Fabric for which CTH: 59039090 was suggested by the importer and accordingly, subject Bill of Entry was filed. Woven Fusible Interlining Fabric is generally coated on one side and hence, appear to be classifiable under the declared CTH. They agree with the above said test report and are ready to pay differential Customs duty, if any, that may arise due to change in classification along with applicable fine and penalty; They don't want any Show Cause Notice or Personal Hearing in the matter.

10. As per the packing list, Net weight of the goods is 26460 kgs and as per the Test Report of CRCL, New Delhi, GSM of the subject goods is 141. Based on the same, quantity of the goods (in SQM) comes to 1,87,659.57 SQM against declared quantity of 70,560 SQM, detailed as below:

Table-D

Net Weight of the Goods as per Packing List	GSM of the Goods as per the Test Report of CRCL, New Delhi	Quantity (in SQM)	Declared Quantity (in SQM)	Differential Quantity (in SQM)
(a)	(b)	(c) = (a)x1000/(b)	(d)	(e) = (c)-(d)
26460	141	1,87,659.57	70,560	1,17,099.57

11. Rejection of transaction value of the imported goods covered under the subject Bill of Entry and determination of its value

11.1. Rule 3 of the Customs Valuation (Determination of Price of Imported Goods) Rules, 2007 (hereinafter referred to as "the CVR, 2007") provides the method of valuation. Rule 3(1) of the CVR, 2007 provides that subject to Rule 12, the value of imported goods shall be the transaction value adjusted in accordance with provisions of Rule 10. Rule 3(4) ibid states that if value cannot be determined under the provisions of sub-rule (1), the value shall be determined by proceeding sequentially through Rule 4 to 9 of the CVR, 2007. It appears that transaction value in terms of Rule 3 of the CVR, 2007, is to be accepted only where there are direct evidences with regard to the price actually paid or payable in respect of the imported goods. In the present case, it appears that there is reasonable doubt regarding the truth and accuracy of the declared

goods as the same have been found to be misdeclared in terms of description, classification and quantity; hence, their transaction value appears liable to be rejected in terms of Rule 12 of the CVR, 2007.

11.2 The assessable value of the cargo is required to be re-determined as per the contemporary import data available on NIDB for identical/similar goods sold for export to India (from China) and imported at or about the same time in view of Rule 4 and 5 of the CVR, 2007. Value of the imported goods could not be determined under Rule 4 ibid since the value of contemporaneous imports of identical goods could not be found on NIDB. Proceeding sequentially to Rule 5 ibid, as per contemporaneous import data available on NIDB, the CIF value of similar goods viz. Polyester Dyed Fabric (GSM-150+/-10%) (Width-58V') (96568.5 MTR) imported under CTH: 54075290 has been found to be Rs. 38.91/SQM (Reference Bill of Entry No. 9842338 dated 02.05.2025 filed at INCPL6). Accordingly, considering the CIF unit price of Rs. 38.91/SQM i.e. USD 0.4467279/SQM (Exchange rate: 1 USD=87.1 INR) the re-determined assessable value of the subject goods comes to Rs. 73,01,834/-.

12.1 In view of the foregoing paras, Panchnama dated 21.02.2025 and investigation conducted in the instant case, it is observed that the goods have been found misdeclared in terms of description, classification, quantity and valuation. Accordingly, applicable Customs duty is calculated as under:

Table-E

Exchange Rate: 1 USD = 87.1 INR

Customs Duty	Duty under declared CTH: 59039090 (BCD: 20%, SWS: 2%, IGST: 12%)	Duty under Appropriate CTH: 54075290 (BCD: 20% or Rs. 23 per sq. mtr., whichever is higher, SWS: 0%, IGST: 5%)
Quantity (in Sq.Mtr.)	70,560	1,87,659.57
Unit Price (in USD)	0.135 USD (CF Value) + 1.125% Insurance	0.4467279 (CIF value)
Assessable Value	8,39,014/-	73,01,834/-
BCD	1,67,803/-	43,16,170/- (Rs. 23 x Qty in sq. mtr)
SWS	16,780/-	0
IGST	1,22,832/-	5,80,900/-
Total duty	3,07,415/-	48,97,070/-
Differential duty		45,89,655/-

12.2 In view of the above, prima facie, it appears that the importer M/s. Oriental Impex has misdeclared the goods in terms of description, classification, valuation and quantity. Goods were declared as Woven Fusible Interlining Fabric under CTH: 59039090 having quantity of 70560 SQM and CF unit price of USD 0.135/SQM. However, as per the Test Report of CRCL, New Delhi, goods have been found to be Dyed Woven Fabric wholly made of Textured Polyester Filaments rightly classifiable under CTH: 54075290. Since the goods have been found to be misdeclared in terms of description, classification and quantity, their transaction value appears liable to be rejected in terms of Rule 12 of the CVR, 2007 and the same has been re-determined as Rs. 73,01,834/- considering CIF unit price of Rs. 38.19/SQM ascertained in view of Rule 5 of the CVR, 2007 on which applicable duty comes to Rs. 48,97,070/- resulting in differential duty of Rs. 45,89,655 /-.

13. Therefore, it appears that the importer has contravened the provisions of Section 17 and Section 46 of the Customs Act, 1962 and the CVR, 2007 in as much as they failed to declare correct description, classification, quantity and value of the subject goods in the Customs document filed by them. These acts of omission and commission on the part of importer has made the subject goods having re-determined assessable value of Rs. 73,01,834/- liable for confiscation under Section 111(1) and 111(m) of the Custom Act, 1962 which has rendered the importer liable for penal action under Section 112(a)(ii) of the said Act.

14. It further appears that the importer has presented false and incorrect documents before the Customs Department for import of the subject consignment by misdeclaring the goods in terms of description, classification, quantity and valuation in order to evade differential duty of Rs. 45,89,655/-. This act of omission and commission on part of the importer has rendered them liable for penal action under Section 114AA of the Customs Act, 1962.

15. Summary of Investigation Conducted:

15.1 The importer M/s. Oriental Impex (IEC: BCLPA7757C) had filed Bill of Entry (for SEZ Import Z Type) No. 8174411 dated 04.02.2025 for import of

70560 SQM of Woven Fusible Interlining Fabric under CTH: 59039090 at the CF unit price of USD 0.135/SQM. On the basis of examination, CRCL Test Reports and investigation carried out, goods have been found to be Dyed Woven Fabric wholly made of Textured Polyester Filaments falling under CTH: 54075290 and having quantity of 1,87,659.57 SQM. Since the goods have been found to be misdeclared in terms of description, classification and quantity, their transaction value appears liable to be rejected in terms of Rule 12 of the CVR, 2007 and the same has been re-determined as Rs. 73,01,834/- as per the contemporary import data available on NIDB for similar goods in view of Rule 5 of the CVR, 2007 on which applicable duty comes to Rs. 48,97,070/- resulting in differential duty of Rs. 45,89,656/- as detailed in Table-E above.

15.2 The importer has thus contravened Section 17 and Section 46 of the Customs Act, 1962 and the CVR, 2007 in as much as they failed to make correct declarations in the subject Bill of Entry filed by them and correctly assess their duty liability. It further appears that the importer has presented false and incorrect documents before the Customs Department for import of the subject consignment by misdeclaring the goods in terms of description, classification, quantity and valuation in order to evade differential duty of Rs. 45,89,655/-. These acts of omission and commission on the part of importer has made the subject goods having re-determined assessable value of Rs. 73,01,834/- liable for confiscation under Section 111(1) and 111(m) of the Custom Act, 1962 and rendered the importer liable for penal action under Section 112(a)(ii) and 114AA of the said Act.

16. RELEVANT LEGAL PROVISIONS:

(A) RELEVANT PROVISIONS OF CUSTOMS ACT, 1962:

Section 2(22): "goods" includes (a) vessels, aircrafts and vehicles; (b) stores; (c) baggage; (d) currency and negotiable instruments; and (e) any other kind of movable property;

Section 2(23): "import", with its grammatical variations and cognate expressions, means bringing into India from a place outside India;

Section 2(25): "imported goods", means any goods brought into India from a place outside India but does not include goods which have been cleared for home consumption;

Section 2(26): "importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes [any owner, beneficial owner] or any person holding himself out to be the importer;
Section 11A: "illegal import" means the import of any goods in contravention of the provisions of this Act or any other law for the time being in force.

Section 46. Entry of goods on importation:

.....
(4) The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, relating to the imported goods.

(4A) the importer who presents a bill of entry shall ensure the following, namely:

- (a) The accuracy and completeness of the information given therein;
- (b) The authenticity and validity of any document supporting it; and
- (c) Compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

Section 111. Confiscation of improperly imported goods, etc. –

The following goods brought from a place outside India shall be liable to confiscation: -

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(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54;

Section 112. Penalty for improper importation of goods, etc. –

Any person,-

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or

(b)

shall be liable,-

(i)

(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher:

Section 114AA: Penalty for use of false and incorrect material :-

If a person knowingly or intentionally makes, signs or uses, or causes to be made signed or used, any declaration, statement or document which is false or incorrect in any material shall be liable to a penalty not exceeding five times the value of goods.

17. In view of the above facts, it appears that —

- i. The description, classification and quantity of the goods declared as Woven Fusible Interlining Fabric under CTH: 59039090, quantity: 70,560 SQM in the Bill of Entry (for SEZ Import Z Type) No. 8174411 dated 04.02.2025 are liable to be rejected and the goods are liable to be described as Dyed Woven Fabric wholly made of Textured Polyester Filaments under CTH: 54075290 having quantity of 1,87,659.57 SQM.
- ii. The declared assessable value of the goods in the above said Bill of Entry i.e. Rs. 8,39,014/- is liable to be rejected under Rule 12 of the CVR, 2007 and the same is required to be re-determined at Rs. 73,01,834/- in view of Rule 5 of the CVR, 2007 as detailed in Table-E above;
- iii. The above said Bill of Entry is liable to be re-assessed accordingly under Section 17(4) of the Customs Act, 1962;
- iv. The impugned goods having re-determined assessable value of Rs. 73,01,834/- have been misdeclared by the importer in terms of description, classification, quantity and valuation and therefore, liable for confiscation under Section 111(1) and 111(m) of the Customs Act, 1962;
- v. The importer M/s. Oriental Impex (IEC: BCLPA7757C) is liable for penalty under Section 112(a)(ii) and 114AA of the Customs Act, 1962.

18. WAIVER OF SHOW CAUSE NOTICE AND PERSONAL HEARING:-

The importer M/s. Oriental Impex vide their letter dated 19.05.2025 has accepted the test reports and submitted that they don't require any SCN or PH in the matter.

DISCUSSION AND FINDINGS

19. I have carefully gone through the Investigation report No. 89/2025-26 dated 28.08.2025 issued by the Deputy Commissioner of Customs (SIIB), Mundra and I

find that authorised representative of the importer vide letter dated 19.05.2025 has requested for waiver of the Show Cause Notice and personal hearing in the matter and have accepted the Test Reports. Therefore I find that the principle of natural justice as provided in section 122A of the Customs Act, 1962 has been completed. Hence I proceed to decide the case on the basis of the documentary evidence available on records.

20. Ongoing through the facts of the case, I find that the following issues needed to be decided in the present proceedings:

- (i) Whether the declared value of the goods is liable to be rejected and redetermined or otherwise.
- (ii) The Classification of goods under Question.
- (iii) Whether the goods imported vide impugned Bill of Entry are liable for confiscation under Section 111(m) of the Customs Act, 1962.
- (iv) Whether the Importer is liable for penalty under Section 112(a) (ii) and Section 114 AA of the Customs Act, 1962.

21. In the instant case, I find that the importer has filed SEZ Bill of Entry Z Type vide No. 8174411 dated 04.02.2025 for clearance of goods viz. Woven Fusible Interlining Fabric Width 58"+/-10% classifying the same under CTH 59039090 having declared unit price of 0.135 USD Per Sqm. Further, I find that the said consignment was examined by the DRI Officers and it was observed that Net weight of the container was found as 31100 kgs as per Computerised Weighment Slip against declared gross weight of 27550 kgs. Further, I find that the representative sample was drawn for testing in order to ascertain the exact identity of goods.

22. On perusal of Test Report mentioned at Table-C of the said order, I find that the importer has misdeclared the goods in terms of description and classification as Woven Fusible Interlining Fabric under CTH: 59039090 whereas the goods have been found to be Dyed Woven Fabric wholly made of Textured Polyester

Filaments rightly classifiable under CTH: 54075290. Relevant entries under the CTH: 5407 are as under:

5407

Woven fabrics of synthetic filament yarn, including woven fabrics obtained from materials of heading 5404

- Other woven fabrics, containing 85% or more by weight of textured polyester filaments :

5407	52	-- Dyed :
5407	52	--- Polyester shirtings
5407	52	--- Polyester suitings
5407	52	--- Terylene and dacron sarees
5407	52	--- Polyester sarees
5407	52 90	--- Other

23. Now, with respect to classification of said goods, I find that as per the test report received from CRCL, New Delhi, goods are dyed (black coloured) woven fabric having dots on one side and wholly made of polyester textured filament yarn having 141 GSM. Since the subject goods contain more than 85% by weight of dyed textured polyester filament yarn, I find that it is covered under double dash entry (--) 540752; However, ongoing through sub-headings of CTH: 540752, I find that the subject goods are covered the last single dash entry (---) i.e. Other category. Hence, I find that the goods under the subject Bill of Entry are rightly classifiable under CTH: 54075290.

24. I find that as per the packing list, Net weight of the goods is 26460 kgs. However, I find that as per the Test Report of CRCL, New Delhi, GSM of the subject goods is 141. Relying on the same, I find that quantity of the goods (in SQM) comes to 1,87,659.57 SQM against declared quantity of 70,560 SQM, as detailed in Table-D of the said order.

25. I find that the goods under import are mis-declared in terms of Description and Quantity and Classification, Hence, I refrain from considering the value declared by importer to be true transaction value under the provisions of Section 14 of the Customs Act, 1962 read with the provisions of the Customs Valuation

(determination of Value of Imported Goods) Rules, 2007 and therefore, I reject the declared transaction value in terms of Rule 12 of CVR, 2007.

Further, I find, that the value is required to be re-determined by sequentially proceeding in terms of Rules 4 to 9 of CVR, 2007. I find that the assessable value of the cargo is required to be re-determined as per the contemporary import data available on NIDB for identical/similar goods sold for export to India (from China) and imported at or about the same time in view of Rule 4 and 5 of the CVR, 2007. However, I find that the value of the imported goods could not be determined under Rule 4 *ibid* since the value of contemporaneous imports of identical goods could not be found on NIDB. Therefore, I proceed sequentially to Rule 5 *ibid*, wherein I find that as per contemporaneous import data available on NIDB, the CIF value of similar goods viz. Polyester Dyed Fabric (GSM-150+/- 10%) (Width-58V') (96568.5 MTR) imported under CTH: 54075290 has been found to be Rs. 38.91/SQM (Reference Bill of Entry No. 9842338 dated 02.05.2025 filed at INCPL6). Accordingly, I consider the CIF unit price of Rs. 38.91/SQM i.e. USD 0.4467279/SQM (Exchange rate: 1 USD=87.1 INR) and re-determine the assessable value of the subject goods to Rs. 73,01,834/-.

26. Accordingly, the total duty payable in respect of goods covered under said Bill of Entry is calculated to Rs. 48,97,070/- as represented in Table-E of the said order. Therefore, I find that the importer is liable to pay differential duty amounting to INR. 45,89,655/-

27. In view of the discussions above, I find that that the importer has contravened the provisions of Section 17 and Section 46 of the Customs Act, 1962 and the CVR, 2007 as they failed to declare correct description, classification, quantity and value of the subject goods in the Customs document filed by them. I find that these acts of omission and commission on the part of importer has made the subject goods having re-determined assessable value of Rs. 73,01,834/- liable for confiscation under Section

111(1) and 111(m) of the Custom Act, 1962 and therefore, rendering the importer liable for penal action under Section 112(a)(ii) of the said Act.

28. I also find that the importer has presented false and incorrect documents before the Customs Department for import of the subject consignment by misdeclaring the goods in terms of description, classification, quantity and valuation in order to evade differential duty of Rs. 45,89,655/. I find that this act of omission and commission on part of the importer has rendered them liable for penal action under Section 114AA of the Customs Act, 1962.

29. In view of discussions in the foregoing Paras, I pass an order as under:

ORDER

- i. I reject the description, classification and quantity of the goods declared as Woven Fusible Interlining Fabric under CTH: 59039090, quantity: 70,560 SQM in the Bill of Entry (for SEZ Import Z Type) No. 8174411 dated 04.02.2025 and order for amendment of Description, Quantity and CTH as Dyed Woven Fabric wholly made of Textured Polyester Filaments, CTH: 54075290 and quantity 1,87,659.57 SQM.
- ii. I reject the declared assessable value of the goods in the above said Bill of Entry i.e. Rs. 8,39,014/- under Rule 12 of the CVR, 2007 and order for re-determination of the same at Rs. 73,01,834/- in view of Rule 5 of the CVR, 2007 as detailed in Table-E above;
- iii. I order for re-assessment of the above said Bill of Entry under Section 17(4) of the Customs Act, 1962;
- iv. I order for confiscation of the impugned goods under Bill of Entry no. 8174411 dated 04.02.2025 having re-determined assessable value of Rs. 73,01,834/- under Section 111(1) and 111(m) of the Customs Act, 1962 having been mis-declared by the importer in terms of description, classification, quantity and

valuation However, considering facts of the case and provisions of the Section 125 of the Customs Act, 1962, I give an option to the importer to re-deem the same for home consumption on payment of Redemption Fine of Rs. 7,50,000/- (Rs. Seven Lakh Fifty Thousand only) in lieu of confiscation.

(v) I impose penalty of Rs 4,50,000/- (Rs. Four Lakh Fifty Thousand only) on the importer under Section 112(a)(ii) of the Customs Act, 1962;

(vi) I impose penalty of Rs 2,00,000/- (Rs. Two Lakhs only) on the importer under Section 114 AA of the Customs Act, 1962;

(Dipak Zala)
Addl. Commissioner of Customs
Customs House, Mundra

BY Speed Post A.D / E-mail

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To

M/s. Oriental Impex (IEC: BCLPA7757C),
1-2, 3rd Floor, Kirti Nagar, New Delhi-110015

Copy to:

1. The Addl. Commissioner (SIIB), Customs House, Mundra.
2. The Deputy/Assistant Commissioner, TRC Mundra
3. The Deputy Commissioner, RRA Customs House, Mundra.
4. The Notice Board.