

	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 PHONE : 02838-271426/271428 FAX :02838-271425	 आजादी का अमृत महोत्सव
A	File No.	CUS/APR/INV/544/2024-Gr 3-O/o Pr Commr-Cus-Mundra
B	Order-in-Original No.	MCH/ADC/AKM/227/2024-25
C	Passed by	Amit Kumar Mishra Additional Commissioner of Customs Custom House, Mundra.
D	Date of order	18.12.2024
E	Noticee/Party/ Importer/ Exporter	M/s. M R PRODUCTS (IEC No. AAGFM5724R) 9/478, Naya Bazar, Subhash Road, Gandhi Nagar, Delhi-110031
F	DIN No.	20241271MO0000999B3E

1. यह अपील आदेश संबंधित 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, हुड़को 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 ड्रूटि/ ब्याज/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिए।

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 M R Products (IEC: AAGFM5724R), 9/478, Naya Bazar, Subhash Road, Gandhi Nagar, Delhi-110031 (hereinafter referred as 'Importer' for sake of brevity) has filed Bill of Entry No. 5758004 dated 23.09.2024 at Mundra Port through Customs Broker- M/s Continental Shipping Services (CBC-AAEFC9583GCH001) for import of Polyester Knitted Baby Gloves , Polyester Knitted Boy Gloves, Polyester Knitted Girl Leggings, Polyester Knitted Baby Socks , Polyester Knitted Girl Night Suit 2 Pc, Polyester Knitted Girl Socks, Polyester Knitted Girl Neck Scraf, Polyester Knitted Girl Cap, at Mundra Port. The summary of the goods/items have been declared by the importer in the Bill of Entry are as under:

TABLE-1

Item No.	CTH	Description of Item	Unit Price	Quantity	UQC	Amount (in USD)
1	61169300	POLYESTER KNITTED BABY GLOVES	0.35	5300	DOZ	1855
2	61169300	POLYESTER KNITTED BOY GLOVES	0.42	560	DOZ	235.2
3	61159600	POLYESTER KNITTED GIRL LEGGINGS	2.2	537	DOZ	1181.4
4	61159600	POLYESTER KNITTED BABY SOCKS	0.35	2200	DOZ	770
5	61083210	POLYESTER KNITTED GIRL NIGHT SUIT 2 PC	2.5	185	DOZ	462.5
6	61159600	POLYESTER KNITTED GIRL SOCKS	0.5	7525	DOZ	3762.5
7	61178090	POLYESTER KNITTED GIRL NECK SCRAF	0.22	5100	DOZ	1122
8	65050090	POLYESTER KNITTED GIRL CAP	0.25	1300	DOZ	325
9	65050090	POLYESTER KNITTED GIRL CAP	0.35	600	DOZ	210
Total				23307		9923.6

2. An intelligence was developed by the officers of SIIB Section, Customs House, Mundra regarding possible mis-declaration/under-valuation of goods in the said consignment imported by the importer vide Bill of Entry No. 5758004 dated 23.09.2024. The officers of SIIB Section, Customs House, Mundra conducted examination of the said consignment imported vide Bill of Entry No. 5758004 dated 23.09.2024 and stuffed in Container No. CRSU9360853/40' on 23.09.2024 in presence of authorized representative of the importer.

2.1 During examination of the goods imported, the total number of Package/bundle has been found as 488 Packages. Each Package/bundle is marked with some codes. Further, the details of the Goods found during examination are as mentioned here below:

TABLE-2

Sl No	Description of Goods	Mark on Package (Carton)	No of Packages (Carton)	Quantity (Pieces) per Package (Cartoon)	Total Quantity in Pieces	Quantity in Dozen
1	Polyester Knitted Baby Gloves	SG-207	5	600	3000	250
2	Polyester Knitted Baby Gloves	SG-104	10	600	6000	500
3	Polyester Knitted Baby Gloves	SG-105	10	600	6000	500
4	Polyester Knitted Baby Gloves	SG-26	10	720	7200	600
5	Polyester Knitted Baby Gloves	SG-30	10	600	6000	500
6	Polyester Knitted Baby Gloves	SG-32	10	600	6000	500
7	Polyester Knitted Baby Gloves	SG-206	5	600	3000	250
8	Polyester Knitted Baby Gloves	SG-34	10	600	6000	500
9	Polyester Knitted Baby Gloves	SG-201	5	1200	6000	500
10	Polyester Knitted Baby Gloves	SG-202	5	1200	6000	500
11	Polyester Knitted Baby Gloves	SG-203	7	1200	8400	700
TOTAL			87	8520	63600	5300
12	Polyester Knitted Baby Socks	SS-BS-316	4	300	1200	100
13	Polyester Knitted Baby Socks	SS-BS-317	10	360	3600	300
14	Polyester Knitted Baby Socks	SS-KB-302	5	720	3600	300
15	Polyester Knitted Baby Socks	SS-KHR-307	5	1200	6000	500
16	Polyester Knitted Baby Socks	SS-BAT-312	3	1500	4500	375
17	Polyester Knitted Baby Socks	SS-BSN-313	5	1500	7500	625
			32	5580	26400	2200
18	Polyester Knitted Boy Gloves	SG-204	10	120	1200	100
19	Polyester Knitted Boy Gloves	SG-205	10	120	1200	100
20	Polyester Knitted Boy Gloves	SG-L-13	12	240	2880	240
21	Polyester Knitted Boy Gloves	SG-L-14	6	240	1440	120
TOTAL			38	720	6720	560
23	Polyester Knitted Girl Cap	SC-BC-209	6	600	3600	300
24	Polyester Knitted Girl Cap	SC-BC-211	5	600	3000	250
25	Polyester Knitted Girl Cap	SC-BC-212	5	600	3000	250
37	Polyester Knitted Girl Cap	SC-BC-210	5	600	3000	250
38	Polyester Knitted Girl Cap	SC-BC-213	5	600	3000	250
Total			26	3000	15600	1300
26	Polyester Knitted Girls Leggings	ST-L-221	9	180	1620	135
27	Polyester Knitted Girls Leggings	ST-L-304	19	144	2736	228
28	Polyester Knitted Girls Leggings	SST-6	23	80	1840	153
29	Polyester Knitted Girls Leggings	SST-6	1	100	100	8
39	Polyester Knitted Girls Leggings	SST-6	1	96	96	8
43	Polyester Knitted Girls Leggings	SST-6	1	52	52	4
Total			54	652	6444	537
30	Polyester Knitted Girl Night Suit 2PCs	ST-NS-303	10	75	750	63
31	Polyester Knitted Girl Night Suit 2PCs	SST-7	12	60	720	60
36	Polyester Knitted Girl Night Suit 2PCs	ST-NS-302	10	75	750	63

Total			32	210	2220	185
32	Polyester Knitted Girl Socks	SS-LOHR-308	5	1000	5000	417
33	Polyester Knitted Girl Socks	SS-LLHR-309	5	800	4000	333
34	Polyester Knitted Girl Socks	SS-JAR-314	5	1200	6000	500
35	Polyester Knitted Girl Socks	SS-16-RIB	100	600	60000	5000
46	Polyester Knitted Girl Socks	SS-SS-315	15	180	2700	225
47	Polyester Knitted Girl Socks	SS-BL-301	10	480	4800	400
48	Polyester Knitted Girl Socks	SS-LOHR-310	3	1000	3000	250
49	Polyester Knitted Girl Socks	SS-LABHR-311	4	1200	4800	400
Total			147	6460	90300	7525
40	Polyester Knitted Girl Neck Scarf	SC-91-205	20	1200	24000	2000
44	Polyester Knitted Girl Neck Scarf	SC-91-206	30	1200	36000	3000
45	Polyester Knitted Girl Neck Scarf	SC--91-207	2	600	1200	100
Total			52	3000	61200	5100
41	Polyester Knitted Girl Cap	SC-LC-206	10	360	3600	300
42	Polyester Knitted Girl Cap	SC--LC-207	5	360	1800	150
22	Polyester Knitted Girl Cap	SC-LC-208	5	360	1800	150
Total			20	1080	7200	600
Grand Total			488	29,222	2,79,684	23,307

2.2 From table 1 & table 2, it is found that total 488 packages were declared in Bill of Entry and on examination, total 488 packages were found in the consignment. Further, total 23,307/- Dozen quantity has been declared in the Bill of Entry No. 5758004 dated 23.09.2024 and on examination total 23,307/- Dozen quantity has been found. Further, item-wise quantity also matches.

2.3 Further, representative samples were drawn and sent for lab test to CRCL, Kandla to ascertain/confirm the nature of the material used for the said imported items. The test report received from CRCL, Kandla in respect of the Test Memo no. 154/2024-25 to 159/2024-25 in the instant case, are found as under:

Table: 3

Test Memo No	Test Report No & Date	Goods found and reported on examination	Brief of the Test Report received from CRCL Kandla
154/2024-25	6410 dated 08.11.2024	Polyester Knitted Girls Leggings	Found to be polyester knitted readymade textile articles (leggings).
155/2024-25	6411 dated 06.11.2024	Polyester Knitted Girls Night Suits (2PCs)	Found to be polyester knitted readymade textile articles (suit -two pieces).
156/2024-25	6412 dated 29.10.2024	Polyester Knitted Girls Cap	Found to be polyester knitted readymade textile articles (Cap).
157/2024-25	6413 dated 07.11.2024	Polyester Knitted Neck Scarf	Found to be polyester knitted readymade textile articles (Neck Scarf).
158/2024-25	6414 dated 21.11.2024	Polyester Knitted Gloves	Found to be polyester knitted readymade textile articles (gloves).
159/2024-25	6415 dated 21.11.2024	Polyester Knitted Girls Socks	Found to be polyester knitted readymade textile articles (Socks).

2.4 Further, total assessable value of the imported items declared by the importer in B.E was **Rs. 8,48,981.35/-** which appears to be incorrect due to under-valuation of the goods under import as mentioned above. Therefore, value of the consignments declared by the importer under Rule 3 of the Customs Valuation (Determination of value of imported goods) Rules, 2007 ('CV Rules' for sake of brevity) appears to be liable to be rejected in terms of Rule 12 of the Rules, *ibid*. To ascertain the value of cargo, attempts have been made to get

the details from the previous bills of entry filed by the importer and well as NIDB data for similar and identical items during the relevant period, However, due to various items without specification and detail, valuation of identical or similar items cannot be ascertained. Thus, valuation of the item under import could not be determined in terms of Rule 4 to 8 of the CV Rules, *ibid*. Therefore, valuation of the goods was found required to be determined under residual method of valuation provided under Rule 9 of the CV Rules *ibid* and hence, opinion of the empanelled Govt Approved Valuer was sought for determination of the value of the goods under import. The empanelled Govt Approved Valuer, Shri Ajay Jhala has submitted his observations vide report ABJ:INSP:MUN:SIIB:CONT:24-25:01 dated 26.11.2024 and has opined the total value of the cargo to be **USD 13,112.65 (Rs.11,09,330.19/-) instead of USD 9,923 (Rs. 8,48,981.35/-)** as declared in the BE.

2.5 The importer vide their letter 27.11.2024 have given their consent to enhance the value of goods as per certificate issued by the chartered engineer/govt. approved valuer in respect to Bill of Entry No. 5758004 dated 23.09.2024.

2.6 In view of the above, it appears that the importer has undervalued the items under import to the tune of **Rs. 2,60,348.84/-**. The duty liability on the imported items w.r.t. their respective CTH is calculated as under:

Table-4

Item No.	CTH	Description of Item	Unit Price	Quantity	UQC	Amount (in USD) as declared by the importer in Bill of Entry	Unit Price assessed by the Government Approved Valuer	Amount (in USD) evaluated by the Government Approved Valuer	Amount (in USD) short declared by the importer in comparison to Value declared by the Govt Approved valuer
1	61169300	POLYESTER KNITTED BABY GLOVES	0.35	5300	DOZ	1855	0.5	2650	795
2	61169300	POLYESTER KNITTED BOY GLOVES	0.42	560	DOZ	235.2	0.6	336	100.8
3	61159600	POLYESTER KNITTED GIRL LEGGINGS	2.2	537	DOZ	1181.4	2.45	1315.65	134.25
4	61159600	POLYESTER KNITTED BABY SOCKS	0.35	2200	DOZ	770	0.55	1210	440
5	61083210	POLYESTER KNITTED GIRL NIGHT SUIT 2 PC	2.5	185	DOZ	462.5	2.6	481	18.5
6	61159600	POLYESTER KNITTED GIRL SOCKS	0.5	7525	DOZ	3762.5	0.6	4515	752.5
7	61178090	POLYESTER KNITTED GIRL NECK SCRAF	0.22	5100	DOZ	1122	0.35	1785	663
8	65050090	POLYESTER KNITTED GIRL CAP	0.25	1300	DOZ	325	0.4	520	195
9	65050090	POLYESTER KNITTED GIRL CAP	0.35	600	DOZ	210	0.5	300	90
Total				23307		9923.6		13,113	3189.05

TABLE-5

Assessable Value as declared by the importer in Bill of Entry (in INR)	Value of Goods as evaluated by the Govt Approved Valuer (In INR)	BCD Payable as declared by the importer in Bill of Entry	SWS Payable as declared by the importer in Bill of Entry	IGST Payable as declared by the importer in Bill of Entry	BCD Payable as per value ascertained by the Govt Approved Valuer	SWS Payable as per value ascertained by the Govt Approved Valuer	IGST Payable as per value ascertained by the Govt Approved Valuer	Amount Short Paid		
								BCD	SWS	IGST
1,58,699	2,24,190	31740	3174	9681	44,838	4,484	13,676	13,098	1,310	3,995
20,122	28,426	4024	402	1227	5,685	569	1,734	1,661	166	507
1,01,071	1,11,304	20214	2021	6165	22,261	2,226	6,790	2,047	205	624
65,875	1,02,366	13175	1317	4018	20,473	2,047	6,244	7,298	730	2,226
39,568	40,693	7914	791	2414	8,139	814	2,482	225	22	69
3,21,888	3,81,969	64378	6438	19635	76,394	7,639	23,300	12,016	1,202	3,665
95,989	1,51,011	19198	1920	5855	30,202	3,020	9,212	11,004	1,100	3,356
27,804	43,992	2780	278	1543	4,399	440	2,442	1,619	162	898
17,966	25,380	1797	180	997	2,538	254	1,409	741	74	411
8,48,981	11,09,330	1,65,219	16,522	51,536	2,14,929	21,493	67,288	49,710	4,971	15,751

In view of the above, it appears that the importer has short levied/not levied the duty amounting to **Rs. 70,432 /- (BCD- 49,710/- + SWS- 4,971/- + IGST- 15,751/-)** in the Bill of entry filed by the them by way mis declaration of value/ undervaluation of the items under import.

3. LEGAL PROVISIONS:

3.1 As per Section 2 (39), 'smuggling', in relation to any goods, means *any act or omission which will render such goods liable to confiscation under section 111 or section 113;*

3.2 **SECTION 46** of the Act, prescribes that 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, and such other documents relating to the imported goods as may be prescribed.

3.3. Further, **Section 111** of the Act, prescribes the Confiscation of improperly imported goods, etc. as

under

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

(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.

3.4 Further, Section 112 of the Act provides the penal provisions for improper importation of goods, etc. which read as under:

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) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,

shall be liable, -

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is the greater;

(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:

Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined;]

(iii) in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty not exceeding the difference between the declared value and the value thereof or five thousand rupees], whichever is the greater;

(iv) in the case of goods falling both under clauses (i) and (iii), to a penalty not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest;

(v) in the case of goods falling both under clauses (ii) and (iii), to a penalty not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees, whichever is the highest.

3.5 SECTION 124 prescribes the mandatory issuance of show cause notice before confiscation of goods, which read as under:

No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person –

- a. *is given a notice in writing with the prior approval of the officer of Customs not below the rank of an Assistant Commissioner of Customs, informing him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;*
- b. *is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and*

(c) is given a reasonable opportunity of being heard in the matter:

Provided that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person concerned be oral.

Provided further that notwithstanding issue of notice under this section, the proper officer may issue a supplementary notice under such circumstances and in such manner as may be prescribed.

3.6 SECTION 125 provides the Option to pay fine in lieu of confiscation as under:

(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods or, where such owner is not known, the person from whose possession or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit:

Provided that where the proceedings are deemed to be concluded under the proviso to sub-section (2) of section 28 or under clause (i) of sub-section (6) of that section in respect of the goods which are not prohibited or restricted, 3 [no such fine shall be imposed]:

Provided further that, without prejudice to the provisions of the proviso to sub-section (2) of section 115, such fine shall not exceed the market price of the goods confiscated, less in the case of imported goods the duty chargeable thereon.

(2) Where any fine in lieu of confiscation of goods is imposed under sub-section (1), the owner of such goods or the person referred to in sub-section (1), shall, in addition, be liable to any duty and charges payable in respect of such goods.]

(3) Where the fine imposed under sub-section (1) is not paid within a period of one hundred and twenty days from the date of option given thereunder, such option shall become void, unless an appeal against such order is pending.

4 . From the above discussion, it appears that M/s M R Products (IEC: AAGFM5724R), 9/478, Naya Bazar, Subhash Road, Gandhi Nagar, Delhi-110031 has filed Bill of Entry No. 5758004 dated 23.09.2024 at Mundra Port through Customs Broker- M/s Continental Shipping Services (CBC-AAEFC9583GCH001) for import of Polyester Knitted Baby Gloves , Polyester Knitted Boy Gloves, Polyester Knitted Girl Leggings, Polyester Knitted Baby Socks , Polyester Knitted Girl Night Suit 2 Pc, Polyester Knitted Girl Socks, Polyester Knitted Girl Neck Scraf, Polyester Knitted Girl Cap, as detailed at **Table-1**.

4.2 In view the discrepancies noticed during the examination, it appears that the assessable value of the imported items declared by the importer in the BE, i.e. **Rs. 8,48,981.35/-** was incorrect on account of undervaluation of the imported items in terms of valuation (as per Valuation Report of Govt Approved Valuer) as discussed above. Therefore, value of the consignments declared by the importer under Rule 3 of the Customs Valuation (Determination of value of imported goods) Rules, 2007 ('CV Rules' for sake of brevity) appears to be liable to be rejected in terms of Rule 12 of the Rules, *ibid*. To ascertain the value of cargo, attempts have been made to get the details from the previous bills of entry filed by the importer and well as NIDB data for similar and identical items during the relevant period, However, due to various items without specification and detail, valuation of identical or similar items cannot be ascertained. Thus, valuation of the item under import could not be determined in terms of Rule 4 to 8 of the CV Rules, *ibid*. Therefore, valuation of the goods was found required to be determined under residual method of valuation provided under Rule 9 of the CV Rules *ibid* and hence, opinion of the empanelled Govt Approved Valuer was sought for determination of the value of the goods under import. As discussed in foregoing para-2.6, the total assessable value of the goods imported and to be covered under the said Bill of Entry is worked out to total **Rs.11,09,330.19/-** as determined in Govt Approved Valuer . Further, as **detailed in Table-4 above**, it appears that the subjected consignment is under-valued to the extent of **Rs. 2,60,348.84**.

4.3 In view of the above, it appears that the importer has under-valued the goods under import vide BE No. 5758004 dated 23.09.2024. Therefore, it appears that the importer has contravened Section 14 and Section 46 of the Customs Act, 1962 read with Rule 11 of the CVR, 2007 in as much as they failed to declare correct value of the goods as declared in Bill of Entry 5758004 dated 23.09.2024. These acts of omission and commission on the part of importer made the imported goods as mentioned above having re-determined value of **Rs.11,09,330.19/-**

liable for confiscation under Section 111(m) of the Act, *ibid* and has thus rendered themselves liable for penal action under Section 112 (a) (ii) of the Customs Act, 1962.

4.4 Further, it appears that by way of undervaluation of the declared imported goods, the importer has short levied/not levied the duty amounting to **Rs. 70,432 /- (BCD- 49,710/-+ SWS- 4,971/- + IGST- 15,751/-)** in the Bill of entry, as tabulated in **Table-4**) which is required to be recovered from them by way of re-assessment of the Bill of Entry.

5. WAIVER OF NOTICE AND PERSONAL HEARING: -

Importer vide their letter dated 21.11.2024 has submitted that they will accept duty, penalty as determined by the Customs and requested to adjudicate the matter as they do not want any SCN and PH in the matter and ready to pay fine and penalty in the matter.

DISCUSSION AND FINDINGS

6. I have carefully gone through the facts of the case along with submissions of the importer vide letter dated 21.11.2024. I find that importer vide letter dated 21.11.2024 have stated that they are ready to accept the duty, penalty as determined by the customs and requested to adjudicate the case as they do not want any show cause notice and personal hearing in the instant case. In view of the same, I waive the Show Cause Notice and Personal Hearing in the matter and proceed to decide the case on the basis of material available on records.

7. I find that the importer has filed Bill of Entry No. 5758004 dated 23.09.2024 at Mundra Port through their Authorized Customs Broker as mentioned above for import of Polyester Knitted Baby Gloves, Polyester Knitted Boy Gloves, Polyester Knitted Girl Leggings, Polyester Knitted Baby Socks, Polyester Knitted Girl Night Suit 2 Pc, Polyester Knitted Girl Socks, Polyester Knitted Girl Neck Scraf, Polyester Knitted Girl Cap, as detailed at **Table-1 to the said order**.

8. On perusal of examination report, I find that the goods are found to be as declared in terms of description and quantity. Further, I find that total assessable value of the imported items declared by the importer in B.E was **Rs. 8,48,981.35/-** appears to be on the lower side. Therefore, I reject the declared value of the consignments in terms of Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. However, I find that in order to ascertain the value of cargo, attempts have been made to get the details from the previous bills of entry filed by the importer and well as NIDB data for similar and identical items during the relevant period, However, due to various items without specification and detail, valuation of identical or similar items cannot be ascertained. Thus, I find that valuation of the item under import could not be determined in terms of Rule 4 to 8 of the CV Rules, *ibid*. Therefore, I find that the valuation of the goods is required to be determined under residual method of valuation provided under Rule 9 of the CV Rules *ibid* and hence, opinion of the empanelled Govt Approved Valuer was sought for determination of the value of the goods under import. I find that the empanelled Govt Approved Valuer, Shri Ajay Jhala has submitted his observations vide report ABJ:INSP:MUN:SIIB:CONT:24-25:01 dated 26.11.2024 and has opined the total value of the cargo to be **USD 13,112.65 (Rs.11,09,330.19/-) instead of USD 9,923 (Rs. 8,48,981.35/-)** as declared in the BE.

8.1 As discussed in foregoing para-2.4 above, I order for re-determination of the total assessable value of the goods imported and to be covered under the said Bill of Entry to **Rs.11,09,330.19/-** as determined in Govt Approved Valuer. Further, as **detailed in Table-4 above**, I find that the subjected consignment is under-valued to the extent of **Rs. 2,60,348.84**.

8.2 In view of the above, I find that the importer has short levied/not levied the duty amounting to **Rs. 70,432 /- (BCD- 49,710/-+ SWS- 4,971/- + IGST- 15,751/-)** (as calculated in Table-5 above) in the Bill of entry filed by the them by way mis declaration of value/ undervaluation of the items under import.

9. In view of the above, I find that the importer has under-valued the goods under import vide BE No.

5758004 dated 23.09.2024. Therefore, I find that the importer has contravened Section 14 and Section 46 of the Customs Act, 1962 read with Rule 11 of the CVR, 2007 in as much as they failed to declare correct value of the goods as declared in Bill of Entry 5758004 dated 23.09.2024. I hold that these acts of omission and commission on the part of importer has rendered the imported goods as mentioned above having re-determined value of **c/-** liable for confiscation under Section 111(m) of the Act, *ibid* and consequently I hold the importer liable for penal action under Section 112 (a) (ii) of the Customs Act, 1962.

10. In view of the discussions in the foregoing paras, I pass an Order as under:

ORDER

- i. I reject the declared transaction value of the goods imported vide **Bill of Entry no. 5758004 dated 23.09.2024** in terms of Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and order for re-determination of value of the goods to **Rs.11,09,330.19** (As mentioned in Table-4 above) in terms of Rule 9 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.
- ii. I confiscate the goods having re-determined value of **Rs.11,09,330.19/-** under Section 111 (m) of the Customs Act, 1962. However, importer is given an option to redeem the goods on payment of Redemption Fine of Rs. 1,00,000/ (Rs One Lakh only) under Section 125 of the Act, *ibid*.which shall be paid by/recovered from the importer.
- iii. I impose a penalty of Rs. 7,000/ (Rs Seven Thousand only) on the importer under Section 112(a) (ii) of the Customs Act, 1962 which shall be paid by/ recovered from them.
- iv. I order to the Importer to pay the differential duty amounting **Rs. 70,432 /- (BCD- 49,710/-+ SWS- 4,971/- + IGST- 15,751/-)** on account of re-assessment of the Bill of Entry.
- v. I order for re-assessment of bill of entry in terms of value and duty as mentioned above.

Signed by
Amit Kumar Mishra
ADDITIONAL COMMISSIONER
Import Assessment
Customs House, Mundra
Date: 18.12.2024 17:06:41

To,

M/s M R PRODUCTS (IEC No. AAGFM5724R)

9/478, Naya Bazar, Subhash Road, Gandhi Nagar, Delhi-110031

Copy to:

1. The Dy. Commissioner of Customs, SIIB, CH, Mundra
2. The Dy. Commissioner of Customs, RRA, CH, Mundra
3. The Dy. Commissioner of Customs, TRC, CH, Mundra
4. The Dy. Commissioner of Customs, EDI, Mundra.
5. Office Copy