

	<p>प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, एमपी और एसईजेड, मुंद्रा, कच्छ-गुजरात -370421</p> <p>OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOMS HOUSE, MP & SEZ MUNDRA, KUTCH-GUJARAT</p> <p>EMAIL: group1-mundra@gov.in</p>	
---	---	---

A	File No.	CUS/SHED/OBJ/59/2025
B	Order-in-Original No.	MCH/ADC/ZDC/405/2025-26
C	Passed by	<p>Dipak Zala</p> <p>Additional Commissioner of Customs, Custom House, Mundra.</p>
D	Date of order	01.12.2025
E	Noticee/Party/ Importer/ Exporter	<p>M/s. Monarch International (IEC- ASIPH5496H)</p> <p>Near SJS School, Dikadla , Hathwala Road, Samalkha, Panipat , Haryana-132101</p>
F	DIN No.	20251171MO00000000CEE

-

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, 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 सं०-6 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. Monarch International (IEC- ASIPH5496H), having its registered office at Near SJS School, Dikadla , Hathwala Road, Samalkha, Panipat , Haryana-132101, (hereinafter referred to as “the Importer” for brevity) had imported a consignment of (1) RTD Drink 1976 CAS CTI-22029930 (2) Rice Vermicilli 250 CAS CTI-19024090 (3) Oreo Waffer roll 400 CAS CTI-19059030 (hereinafter referred to as “the impugned Goods”) at Mundra Port vide Bill of Entry No. 8330672 dated 13.02.2025. The said BoE was produced by the representative of CHA M/s. D S Logistics before Docks Examination for seal cutting permission only for FSSAI. Further, the said bill of entry is verified from the system and observed that said bill of entry is under RMS (no examination order) but selected for scanning. Thereafter, the CSD section marked the container as ‘scanning mismatch’. Accordingly, seal cutting was carried out for examination of goods. The examination of the above said consignment was carried out by the Docks officers of Custom House, Mundra in the presence of representative of Customs Broker at All Cargo CFS, Mundra. The details of the goods as declared in the said Bill of Entry are as follows:

Table-I

Sr. No.	BoE No & Date	Container No.	Gross Weight (in Kgs)	Declared Goods	Declared Assessable Value (In Rs.)	Duty at declared Ass. Value (In Rs.)
1	8330672 dated 13.02.2025	REGU5117868	26,839 kg	(1) RTD Drink 1976 CAS CTI-22029930 (2) Rice Vermicilli 250 CAS CTI-19024090 (3) Oreo Waffer roll 400 CAS CTI-19059030	7,09,005/-	3,50,006/-

2. During examination, it was observed that quantity of declared cargo was found undeclared and mis-declared. The goods were found as per inventory, are as under:

Table-II

S. No.	Item	Category	No. of total Carton	No. of pkg in each carton	Volume
1	Schwepps	Soft Drink	297	24	320 ML

2	Cocacola	Soft Drink	65	24	320 ML
3	Schwepps (2)	Soft Drink	150	24	320 ML
4	7 UP	Soft Drink	30	24	320 ML
5	Thumsup	Soft Drink	77	24	320 ML
6	Fanta	Soft Drink	25	24	320 ML
7	Red Fanta	Soft Drink	25	24	320 ML
8	Nescafe	Milk based beverage	25	24	170 ML
9	Red Bull	Energy Drink	49	24	250 ML
10	Red Bull (2)	Energy Drink	22	50	145 ML
11	Pepsi	Soft Drink	281	24	320 ML
12	Red Schwepes	Carbonated water	250	24	320 ML
13	Milo	Milk based beverage	25	24	240 ML
14	Nescafe	Milk based beverage	49	30	170 ML
15	Fanta	Soft Drink	40	24	300 ML
16	Red Cocacola	Soft Drink	65	24	320 ML
17	Thumsup	Soft Drink	73	24	320 ML
18	Fanta	Soft Drink	100	24	320 ML
19	Ritz	Salted Biscuit	26	10	247 GRM
20	7 Lob	Chewing Gum	5	12	324 GRM
21	Perfetti	Sugar candy	12	30	90 Gram
22	Vermicelli	thin noodles	62	30	400 GRM
23	Chupachups	Sugar candy	19	6	192 GRM
24	Chupachups	Chewing Gum	35	9	251.6 GRM
25	Oreo	Chocolate Wafer	436	20	54 GRM
26	Mentos	Sugar candy	6	6	420 GRM
27	Rice	Non-basmati	366	25Kg	-
28	Trident	Chewing Gum	10	4	453.6 GRM

INVESTIGATION:**Valuation:**

3. Further, as goods found during examination (Rice, Soft Drink, Energy Drink, Milk based beverages, Carbonated water, Biscuits, Sugar Candy, Chewing Gum etc.) were not declared in the subject bill of entry and also the value of the declared goods 'Vermicelli & Oreo Wafer Rolls' (CTH-19024090 & 19059030), were appears to be undervalued. Therefore, value of the goods need to be determined.

3.1 Rejection of declared value & Redetermination of Assessable Value:

The 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. The 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. The Rule 3(4) *ibid* states that "if the 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 CVR, 2007". Whereas, 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 by the importer. Whereas, it further appears that, there is a reasonable doubt regarding the truth and accuracy of the value declared, and hence it appears liable to be rejected in terms of Rule 12 of the CVR, 2007.

3.2 Whereas, it appears that, if actual transaction value which means price paid or payable cannot be ascertained on the basis of Rule 3 of the CVR, 2007, the value shall be decided proceeding to subsequent rules. Thus, recourse is to be taken to the Rule 9 of the CVR, 2007 which provides for determination of value where the value of the imported goods cannot be determined under the provisions of the any of the preceding rules, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules and on the basis of data available in India.

3.3 Whereas, it appears that, the value of the impugned goods could not be determined under Rule 4 and 5 *ibid* since the goods have been undeclared/mis-declared by means of description, the value of contemporaneous imports of identical and similar goods of same quality and composition was not

found. Proceeding sequentially, it is stipulated under Rule 6 ibid that where the value is not determinable under Rule 3, 4 and 5, the value is to be determined under Rule 7 or when the value cannot be determined under that Rule, under Rule 8. Whereas, Rule 7 provides for 'Deductive Value' i.e. the value is to be determined on the basis of valuation of identical goods or similar imported goods sold in India, in the condition as imported at or about the time at which the declaration for determination of value is presented, subject to deductions stipulated under the rule. Whereas, for the reasons detailed above, the values also cannot be determined as per the said Rule 7 ibid. Likewise, for application of Rule 8 of the CVR, 2007, the cost of production or processing involved in the imported goods are not available. In the absence of requisite data, the value cannot be determined by taking recourse to these rules either.

3.4 Whereas, it appears that, the provisions of Rule 4 to 8 ibid, are not applicable in the instant case, the value of the impugned goods is required to be determined under the provisions of Rule 9 of the CVR 2007, which reads as under: -

“Rule 9: Residual method – (1) Subject to the provisions of Rule 3, where the value of the imported goods cannot be determined under the provisions of any of the preceding rules, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules and on the basis of data available in India:”

3.5 Whereas, as per the provisions of Rule 9 ibid, the assessable value of the goods actually found during examination are required to be re-determined under Rule 9 ibid, i.e. as per the residual method. Whereas, the impugned goods were inspected by Shri Ajayrajsingh B. Jhala, Chartered Engineer & Government approved valuer, who submitted the Valuation report vide reference No. BJ:INSP:CE:SIIB:MONARCH: MX:25-26:01 dated 24.07.2025, Wherein, he has reported the value of the cargo as tabulated below:

Table-III

S. No.	Items	Categor y	Volume in m ³	No of cartons	No of pkgs each carton	Total Quantity (in Pcs)	Unit	Per Unit Average Market Value in INR (Approx.)	Total Average Market Value in INR (Approx.)	Per Unit C&F Average Value in USD (Approx.)	Total C&F Average Value in USD (Approx.)
1	Sc	Soft	32	297	24		P	125	891000	0.35	

	hw ep ps	Drin k	0 Ml			7128	C S				2494.8
2	Co cac ola	Soft Drin k	32 0 Ml	65	24	1560	P C S	74	115440	0.21	327.6
3	Sc hw ep ps (2)	Soft Drin k	32 0 Ml	150	24	3600	P C S	149	536400	0.42	1512
4	7 UP	Soft Drin k	32 0 Ml	30	24	720	P C S	199	143280	0.55	396
5	Th um su p	Soft Drin k	32 0 Ml	77	24	1848	P C S	115	212520	0.32	591.36
6	Fa nta	Soft Drin k	32 0 Ml	25	24	600	P C S	199	119400	0.55	330
7	Re d F ant a	Soft Drin k	32 0 Ml	25	24	600	P C S	199	119400	0.55	330
8	Ne sca fe	Milk base d be vera ge	17 0 M L	25	24	600	P C S	45	27000	0.15	90
9	Re d B ull	Ene rgy Drin k	25 0 M L	49	24	1176	P C S	100	117600	0.29	341.04
10	Re d B ull (2)	Ene rgy Drin k	14 5 M L	22	50	1100	P C S	75	82500	0.22	242

1	Pe psi	Soft Drin k	32 0 M L	281	24	6744	P C S	145	977880	0.41	2765.04
1 2	Re d S ch we pp es	Car bon ated water r	32 0 M L	250	24	6000	P C S	149	894000	0.42	2520
1 3	Mil o	Milk base d be vera ge	24 0 M L	25	24	600	P C S	90	54000	0.25	150
1 4	Ne sca fe	Milk base d be vera ge	17 0 M L	49	30	1470	P C S	45	66150	0.15	220.5
1 5	Fa nta	Soft Drin k	30 0 M L	40	24	960	P C S	199	191040	0.55	528
1 6	Re d C oca col a	Soft Drin k	32 0 M L	65	24	1560	P C S	40	62400	0.15	234
1 7	Th um su p	Soft Drin k	32 0 M L	73	24	1752	P C S	33	57816	0.15	262.8
1 8	Fa nta	Soft Drin k	32 0 M L	100	24	2400	P C S	199	477600	0.55	1320
1	Rit	Salt	24	26	10		P	200	52000	0.46	

9	z	ed Biscuit	7 GRM			260	CS				119.6
20	7 L ob	Che wing Gum	324 GRM	5	12	60	PCS	300	18000	0.85	51
21	Per fett i	Sug arc and y	90 GRM	12	30	360	PCS	90	32400	0.26	93.6
22	Ver mi cell i	thin noo dles	400 GRM	62	30	1860	PCS	200	372000	0.5	930
23	Ch up ac hu ps	Sug arc and y	192 GRM	19	6	114	PCS	90	10260	0.26	29.64
24	Ch up ac hu ps	Che wing Gum	251.6 GRM	35	9	315	PCS	99	31185	0.28	88.2
25	Or eo	Cho cola te W afer	54 GRM	436	20	8720	PCS	100	872000	0.29	2528.8
26	Me nto s	Sug arc and y	420 GRM	6	6	36	PCS	199	7164	0.6	21.6

27	Rice	Non basmati	-	366	25Kg	9150	KGS	45	411750	0.13	1189.5
28	Trident	Chewing Gum	453.6 GRM	10	4	40	PCS	110	4400	0.55	22
Total											19729.08

1 USD = 88.4 INR

3.6 As per Table III, the total C & F value is re-evaluated as Rs. 17,44,051/-. Therefore, considering the Insurance amount as 1.125%, as per BE, the total Assessable value (CIF) is re-evaluated as Rs. 17,63,672/- (Rs. Seventeen lakh sixty three thousand six hundred seventy two only), after adding the insurance amount Rs. 19,621/- (Rs. 53,42,916*1.125%) on the basis of valuation report submitted by the CE for the purpose of valuation under provisions of Rule 9 of the CVR, 2007 read with note 2 of the interpretative notes for Rule 9 of the CVR, 2007. However, the assessable value (C&F) of Rs. 7,09,005/- declared by the importer in the Bill of Entry No. 8330672 dated 13.02.2025 is liable to be rejected in terms of Rule 12 of the CVR, 2007.

4. As foreign language was written on the goods, google translator was used to read the instructions written on different mis-declared energy drink and it read as “Exclusively for Sale in Vietnam. Exports are not authorized.”

4.1 As, from the markings etc. available on the Soft Drink, Energy Drink, Milk based beverages, Carbonated water, Biscuits, Sugar Candy, Chewing Gum as goods Coca-Cola (Zero sugar), Pepsi, Red Bull, Nescafe Espresso roast, Schweppes, Nestle Milo, Fanta, thumps up in Table-II above appeared to be of brands as per IPR Portal registered with Customs. Accordingly, authorized representative of IPR right holders of the brands tabulated below have been informed about the imported consignment and suspicion of being branded. The IPR right holders were also requested to join the proceedings of the suspected IPR violation in terms of Rule 7 of the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007 (hereinafter referred to as “the IPR Rules, 2007”). The IPR Right Holders of above said Brand are as under:

Table-IV

S. No.	Brand Name	Respective Right Holder
1	Nescafe	Nestle India Pvt. Ltd.
2	Nestle Milo	Nestle India Pvt. Ltd.
3	Perfetti/Chupachups/Trident Chewing Gums/Mentos	Perfetti Van Melle Spa
4	Red Bull	Red Bull AG
5	Coca Cola/ Red Coca Cola	The Coca Cola Company
6	Thums Up	The Coca Cola Company
7	Fanta/ Red Fanta	The Coca Cola Company

4.2 Whereas, M/s. Inttla Advocare (on behalf of Nescafe & Milo Brand), the authorized representative of the IPR Right holders of the brand “Nescafe & Nestle Milo” joined the proceedings and after due examination/inspection, they have informed that they have inspected the suspended goods and confirm that the goods do not seem to be compliant with the laws and regulations of India specifically the Food Safety and Standards (Labelling and Display) Regulations, 2020 and The Legal Metrology (Packaged Commodities) Rules, 2011. They have also requested to suspend the release of the aforesaid consignment of goods. M/s. ZeusIP Advocates LLP, the authorized representative of the IPR Right holders of the brand “Red Bull”, joined the proceedings and after due examination/inspection, they have confirmed that the subject goods are unauthorised for sale in India. Red Bull AG is the exclusive trademark owner of the RED BULL trademarks in India. They have also requested to take all necessary steps towards seizing the impugned goods. M/s. Lall & Sethi (on behalf of Coca Cola), the authorized representative of the IPR Right holders of the brand “Coca Cola/ Red Coca Cola, Thums Up, Fanta/ Red Fanta” joined the proceedings and after due examination/inspection, they have submitted that the goods are in violation of the Intellectual Property Rights registered in the name of the Right Holder, and not authorised for sale in India, must not be released to the importer, M/s. Monarch Enterprises, under any circumstances. M/s. Perfetti Van Melle SpA, the authorized representative of the IPR Right holders of the brand “Perfetti/Chupachups/Trident Chewing Gums/Mentos” informed that they have decided not to join the proceedings in this matter. Further, from the above mentioned IPR Right Holders, only M/s. ZeusIP Advocates LLP, the authorized representative of the IPR Right holders of the brand “Red Bull” has submitted surety bond and Bank Guarantee under Rule

5(a) of the IPR Rules, 2007 for the goods of brands and requested to initiate the IPR proceedings against the importer, M/s. Monarch International.

4.3 Whereas, it appears that, the impugned goods of the brand mentioned above in para 4.1 is allegedly infringing IPR and are required to be deemed as "Prohibited" within the meaning of Section 11 of the Customs Act, 1962 read with Rule 6 of the IPR Rules, 2007, which reads as under:

"6. Prohibition for import of goods infringing intellectual property rights. - *After the grant of the registration of the notice by the Commissioner on due examination, the import of allegedly infringing goods into India shall be deemed as prohibited within the meaning of Section 11 of the Customs Act, 1962."*

4.4 Further, the non-basmati rice, Soft Drink, Energy Drink, Milk based beverages, Carbonated water, Salted Biscuits, Sugar Candy, Chewing Gum were also found during examination, which were also undeclared, as mentioned at Table-II above.

4.5 Since the Import of Rice is allowed through Food Corporation of India subject to Para 2.21 of the Foreign Trade Policy.

Provision of Para 2.21 of the Foreign Trade Policy 2023 are as under:

(a) State Trading Enterprises (STEs) are governmental and non-governmental enterprises, including marketing boards, which deal with goods for export and /or import. Any good, import or export of which is governed through exclusive or special privilege granted to State Trading Enterprise (STE), may be imported or exported by the concerned STE as per conditions specified in ITC(HS). The list of STEs notified by DGFT is in Appendix-2J.

(b) Such STE(s) shall make any such purchases or sales involving imports or exports solely in accordance with commercial considerations, including price, quality, availability, marketability, transportation and other conditions of purchase or sale in a non- discriminatory manner and shall afford enterprises of other countries adequate opportunity, in accordance with customary business practices, to compete for participation in such purchases or sales.

(c) DGFT may, however, grant an authorisation to any other person to import or export any of the goods notified for exclusive trading through STEs.

4.6 The importer has imported rice which is undeclared. It appears that the importer was not entitled to import and couldn't submit any authorization as prescribed under the Foreign Trade Policy, 2023. Thus, it appears that Rice was imported in violation of the provisions of Foreign Trade Policy, 2023 and is liable to be confiscated. Further, It is to mention that Coca-Cola (Zero sugar), Pepsi, Red Bull, Nescafe Espresso roast, Schweppes, Nestle Milo, Fanta, thumps up, energy drink which has been imported in guise of mis-declaration seems to be in violation of FSSAI, 2011 norms and well as infringement of IPR. Accordingly, it seems that there is a possibility of counterfeit goods. The labelling on the goods was in Vietnamese Language and not in English or Devnagari Hindi. It is also to mention that the goods also not compliance with the FSSAI regulation.

Further, as per Food Safety and Standards (Packaging and Labelling) Regulation, 2011, S. No. 2.2.1 (2) Labelling of the goods to be sold in India shall be in English or Devnagiri Hindi.

As per 2.2.2 (4)(iv) declaration regarding Veg or Non-Veg food has also not been declared on the label.

As per 2.2.2 (9) of Food Safety and Standards (Packaging and Labelling) Regulation, 2011, the date, month and year in which the commodity is manufactured, packed or pre-packed shall be given on the label, which is also not been fulfil by the imported goods.

Further, there is also violation of DGFT Notification No. 44(RE-2000)/1997-2002- The Name and Address of the importer, Generic and common name on the packages, maximum Retail Price Label, Dated of Manufacturing, date of expiry, marks and no.

4.7 Therefore, in view of the above, it is cleared that the goods found during the examination which were not declared in the subject bill of entry, are covered under Mandatory FSSAI, 2011 & 2020 norms and well as infringement of IPR, the Legal Metrology (Packaged Commodities) Rules, 2011 and DGFT Notification no. 44(RE-2000)/1997-2002.

However, as neither marking of FSSAI nor authorization as prescribed under the Foreign Trade Policy, 2023 was produced by the importer, these goods are liable for confiscation under Section 111(d), 111(l) & 111(m) of the Customs Act, 1962.

Further, as Energy Drink, were reported as Counterfeit goods by the IPR right holders of Redbull Brand, therefore, these goods (2,276 units) are also liable for confiscation under Section 111(d) of the Customs Act, 1962 read with the IPR, Rules 2007.

5. Therefore, in view of the above, as importer had not declared goods in subject Bill of entry and also not provided the documents as per mandatory compliance of FSSAI, authorization as prescribed under the Foreign Trade Policy, 2023 and Legal Metrology Act, 2009, therefore, these goods are liable for confiscation under Section 111(d), 111(l) & 111(m) of the Customs Act, 1962.

6. Whereas, the goods 'Rice Vermicelli & Oreo Waffer Roll' found during examination, was declared in the subject Bill of entry. The details of quantity declared and found during examination are as under:-

Table-V

Sr. no.	Item Description	Qty declared in Bill of entry	Qty found during examination	Difference in Qty
1.	Rice Vermicelli	3000 KG	744 KG	-2,256 KG (Short)
2.	Oreo Waffer Roll	448 KG	470.88 KG	22.88 KG (Excess)

6.1 As the goods 'Rice Vermicelli & Oreo Waffer Roll' were found mis-declared w.r.to Quantity and valuation (as per Table-V above). The details of applicable duty w.r.to the mis-declaration are as under:

Table-VI

Sr. no.	Item Description	CTH Declared in Bill of entry	Quantity declared in Bill of entry	Declared Assessable Value i.e. CIF (in Rs.)	Total Declared Duty (In Rs.)	Quantity found during examination	Suggestive Present CIF value(as per CE) in Rs.	Total applicable Duty Including BCD, SWS & IGST (in Rs.)
	Ric							

1	e V erm icell i	19024 090	3000 K G	2,68,184	1,31,3 03	744 KG	83,137	40,704
2	Ore o W affe r R oll	19059 030	448 KG	36,044	20,523	470.88 K G	226056	1,28,717
	Tot al			3,04,228	1,51,8 26		3,09,193	1,69,421

6.2 In view of the above, as the goods 'Rice Vermicelli & Oreo Waffer Roll' were found mis-declared w.r.to Quantity and valuation, therefore, these goods are liable for confiscation under Section 111(l) & 111(m) of the Customs Act, 1962.

7. Outcome of the Investigation:

The investigation conducted by the Special Intelligence and Investigation Branch (SIIB), Customs House, Mundra, based on Docks Officers revealed significant irregularities in the import consignment of M/s. Monarch International (IEC- ASIPH5496H), SJS School, Dikadla , Hathwala Road, Samalkha, Panipat , Haryana-132101, under Bill of Entry No. 8330672 dated 13.02.2025, covering container REGU5117868. The examination uncovered deliberate mis-declaration, undervaluation, and non-compliance with regulatory requirements, indicating intent to evade Customs duties and violate import regulations. The outcomes of the investigation are as follows:

7.1 Mis-declaration

The examination of container REGU5117868 revealed significant discrepancies in the goods declared under Bill of Entry No. 8330672 dated 13.02.2025. The importer declared RTD Drink, Rice Vermicelli & Oreo Waffer Roll. However, during the examination, goods found as per Table-II of Para 2. This indicates deliberate mis-declaration of the description and quantity of goods, violating Section 46(4) of the Customs Act, 1962.

7.2 Undervaluation

The declared assessable value (C&F) of the goods was Rs. 7,09,005/-, with

a total declared duty of Rs. 3,50,006/-, as per Table-I. The Chartered Engineer's Valuation Report vide Reference No. BJ:INSP:CE:SIIB:MONARCH: MX:25-26:01 dated 24.07.2025 re-evaluated the assessable value at Rs. 17,63,672, as detailed in Table-III, under Rule 9 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (residual method), due to the lack of comparable data for identical or similar goods under Rules 3 to 8.

7.3 Duty Evasion

The importer's mis-declaration and undervaluation resulted in a significant differential duty liability. The total duty liability for 'Rice Vermicelli & Oreo Waffer Roll', based on the re-determined value is Rs. 1,69,421/-, compared to the declared duty of Rs. 1,51,826/-, as per Table-VI. The undeclared goods non-basmati rice, Soft Drink, Energy Drink, Milk based beverages, Carbonated water, Salted Biscuits, Sugar Candy, Chewing Gum being prohibited goods due to non-compliance with FSSAI, authorization as prescribed under the Foreign Trade Policy, 2023 and Legal Metrology Act, 2009, further exacerbate the duty evasion.

7.4 Intellectual Property Rights (IPR) Violation

The 2,276 units of branded energy drink i.e. Rdbull were examined by the authorized representative of the IPR right holder, M/s. ZeusIP Advocates LLP, who confirmed them as counterfeit goods, as per Para 4.2. These goods infringe IPR and are deemed prohibited under Section 11 of the Customs Act, 1962, read with Rule 6 of the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007. The IPR right holder submitted a surety bond and security under Rule 5(a) of the IPR Rules, 2007, requesting absolute confiscation and destruction of these goods.

7.5 Non-Compliance with FSSAI and Legal Metrology

The undeclared goods Soft Drink, Energy Drink, Milk based beverages, Carbonated water, Biscuits, Sugar Candy, Chewing Gum and 9.15 MTS rice are subject to mandatory FSSAI compliance, Legal Metrology Act, 2009 and authorization as prescribed under the Foreign Trade Policy, 2023 as no authorization was produced, rendering these goods prohibited.

7.6 Confiscation of Goods and Penal Action

In view of the above, it is evident that the importer, M/s. Monarch

International (IEC- ASIPH5496H), has engaged in un-declaration, mis-declaration, undervaluation, and non-compliance with FSSAI, DGFT's authorisation and Legal Metrology requirements. Therefore, the goods are liable for confiscation under Sections 111(d), 111(l) and 111(m) of the Customs Act, 1962, due to being in excess of the declared quantities, not corresponding to the declared value and for non-compliance of BIS, Legal Metrology Act, 2009. The importer's actions indicate intent to evade customs duty, violating Section 46(4) of the Customs Act, 1962 (false declaration in Bill of Entry). Consequently, the importer is liable for penalties under Sections 112(a)(i), 112(a)(ii) and 114AA of the Customs Act, 1962, for knowingly submitting false documents and attempting to evade duties.

8. RELEVANT LEGAL 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 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.*

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 17. Assessment of duty. –

(1) An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on

such goods.

..

(4) Where it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.

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:-*

(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

--

(l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;

(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. *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:*

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 particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.

Relevant Provisions of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007:

“Rule 4. Transaction value of identical goods. - (1) (a) *Subject to the provisions of rule 3, the value of imported goods shall be the transaction*

value of identical goods sold for export to India and imported at or about the same time as the goods being valued;

.....

(3) In applying this rule, if more than one transaction value of identical goods is found, the lowest such value shall be used to determine the value of imported goods.

“Rule 5. Transaction value of similar goods . - *(1) Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of similar goods sold for export to India and imported at or about the same time as the goods being valued:*

Provided that

(2) The provisions of clauses (b) and (c) of sub-rule (1), sub-rule (2) and sub-rule (3), of rule 4 shall, mutatis mutandis, also apply in respect of similar goods.

Rule 7. Deductive value.-

(1) Subject to the provisions of rule 3, if the goods being valued or identical or similar imported goods are sold in India, in the condition as imported at or about the time at which the declaration for determination of value is presented, the value of imported goods shall be based on the unit price at which the imported goods or identical or similar imported goods are sold in the greatest aggregate quantity to persons who are not related to the sellers in India, subject to the following deductions : -

(i) either the commission usually paid or agreed to be paid or the additions usually made for profits and general expenses in connection with sales in India of imported goods of the same class or kind;

(ii) the usual costs of transport and insurance and associated costs incurred within India;

(iii) the customs duties and other taxes payable in India by reason of importation or sale of the goods.

(2) If neither the imported goods nor identical nor similar imported goods are sold at or about the same time of importation of the goods being valued, the value of imported goods shall, subject otherwise to the provisions of sub-rule (1), be based on the unit price at which the imported goods or identical or similar imported goods are sold in India, at the earliest date after importation but before the expiry of ninety days after such importation.

(3) (a) If neither the imported goods nor identical nor similar imported goods are sold in India in the condition as imported, then, the value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons who are not related to the seller in India.

(b) In such determination, due allowance shall be made for the value added by processing and the deductions provided for in items (i) to (iii) of sub-rule (1).

Rule 8. Computed value.-

Subject to the provisions of rule 3, the value of imported goods shall be based on a computed value, which shall consist of the sum of:-

(a) the cost or value of materials and fabrication or other processing employed in producing the imported goods;

(b) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to India;

(c) the cost or value of all other expenses under sub-rule (2) of rule 10.

Rule 9. Residual method:-

(1) Subject to the provisions of rule 3, where the value of imported goods cannot be determined under the provisions of any of the preceding rules, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules and on the basis of data available in India;

Provided that the value so determined shall not exceed the price at which such or like goods are ordinarily sold or offered for sale for delivery at the time and place of importation in the course of international trade, when the seller or buyer has no interest in the business of other and price is the sole consideration for the sale or offer for sale.

(2) No value shall be determined under the provisions of" this rule on the basis of –

(i) the selling price in India of the goods produced in India;

(ii) a system which provides for the acceptance for customs purposes of the highest of the two alternative values;

(iii) the price of the goods on the domestic market of the country of

exportation; (iv) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of rule 8;

(v) the price of the goods for the export to a country other than India;

(vi) minimum customs values; or

(vii) arbitrary or fictitious values.

Rule 12. Rejection of declared value . - (1) *When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, he may ask the importer of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such importer, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such imported goods cannot be determined under the provisions of sub-rule (1) of rule 3.*

Waiver of Notice and Personal Hearing:

9. In response of summons dated 14.10.2025, the statement of Importer M/s. Monarch International has been recorded on 24.10.2025 and submitted that they have agreed with the excess quantity and un-declared items. They want to re-export the whole cargo. Further, they don't want any SCN and PH in this matter.

10. In view of the above facts, it appears that

i. The declared description, quantity, classification, and value of goods in Bill of Entry No. 8330672 dated 13.02.2025, filed by the Importer M/s. Monarch International, are liable to be rejected due to mis-declaration, mis-classification, and undervaluation, as detailed in Paras 7.1, 7.2, and 7.3 and the same are to be re-determined as per Tables II, III, & VI above and to be re-assessed accordingly.

ii. The total declared assessable value (C&F) of Rs. 7,09,005/- for the goods under Bill of Entry No. 8330672 dated 13.02.2025 is liable to be rejected and re-determined (CIF) as Rs. 17,63,672/- (Para 3.6, Table-III), as per the Chartered Engineer's valuation report BJ:INSP:CE:SIIB:MONARCH: MX:25-

26:01 dated 24.07.2025, under Rule 9 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, read with Section 14 of the Customs Act, 1962.

iii. The counterfeit goods 2,276 units of branded energy drink (Redbull) are liable for confiscation under Sections 111(d), 111(l), and 111(m) of the Customs Act, 1962, for being prohibited goods under Section 11, read with Rule 6 of the IPR Rules, 2007, due to infringement of intellectual property rights. As per Rule 7 of the IPR Rules, 2007, the clearance of the counterfeit goods has been suspended and the right holder's request for destruction of these goods, in accordance with the Disposal Manual, 2019, is to be acted upon.

iv. 39,327 units of Soft Drink, Energy Drink, Milk based beverages, Carbonated water, Biscuits, Sugar Candy, Chewing Gum and 9.15 MTS rice, which were not declared in the subject Bill of entry, are liable for confiscation under Sections 111(d), 111(l), and 111(m) of the Customs Act, 1962, as discussed in foregoing paras.

v. The goods i.e. 'Rice Vermicelli & Oreo Waffer Roll' (1,860 & 8720 pcs. respectively), which were found mis-declared in terms of quantity and valuation, are liable for confiscation under Sections 111(l), and 111(m) of the Customs Act, 1962, as discussed in foregoing paras.

vi. The importer, M/s. Monarch International (IEC- ASIPH5496H), is liable for penalties under Sections 112(a)(i), 112(a)(ii), and 114AA of the Customs Act, 1962.

WRITTEN SUBMISSION AND PERSONAL HEARING

11. Importer M/s. Monarch International, during statement recorded on 24.10.2025 under Section 108 of the Customs Act, 1962 that they have agreed with the excess quantity and un-declared items. They want to re-export the whole cargo. Further, they don't want any SCN and PH in this matter.

DISCUSSION AND FINDINGS

12. I have carefully gone through the case records. The importer in his statement dt. 24.10.2025 under Section 108 of the Customs Act, 1962, has requested for waiver of the Show Cause Notice and Personal Hearing in the matter. Thus, I find that principles of natural justice as provided in Section

122A of the Customs Act 1962 has been complied with and therefore, I proceed to decide the case on the basis of the documentary evidence available on records. I find that the following main issues are involved in the subject case, which is required to be decided:

i. Whether the declared description, quantity, classification, and value of goods in Bill of Entry No. 8330672 dated 13.02.2025, filed by the Importer M/s. Monarch International, be rejected due to mis-declaration, mis-classification, and undervaluation, as detailed in Paras 7.1, 7.2, and 7.3 and the same to be re-determined as per Tables II, III, & VI above and to be re-assessed accordingly.

ii. Whether the total declared assessable value (C&F) of Rs. 7,09,005/- for the goods under Bill of Entry No. 8330672 dated 13.02.2025 be rejected and re-determined (CIF) as Rs. 17,63,672/- (Para 3.6, Table-III), as per the Chartered Engineer's valuation report BJ:INSP:CE:SIIB:MONARCH: MX:25-26:01 dated 24.07.2025, under Rule 9 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, read with Section 14 of the Customs Act, 1962.

iii. Whether the counterfeit goods 2,276 units of branded energy drink (Redbull) be liable for confiscation under Sections 111(d), 111(l), and 111(m) of the Customs Act, 1962, for being prohibited goods under Section 11, read with Rule 6 of the IPR Rules, 2007, due to infringement of intellectual property rights. Whether, as per Rule 7 of the IPR Rules, 2007, the clearance of the counterfeit goods to be suspended and the right holder's request for destruction of these goods, in accordance with the Disposal Manual, 2019, be acted upon.

iv. Whether 39,327 units of Soft Drink, Energy Drink, Milk based beverages, Carbonated water, Biscuits, Sugar Candy, Chewing Gum and 9.15 MTS rice, which were not declared in the subject Bill of entry, be liable for confiscation under Sections 111(d), 111(l), and 111(m) of the Customs Act, 1962, as discussed in foregoing paras.

v. Whether the goods i.e. 'Rice Vermicelli & Oreo Waffer Roll' (1,860 & 8720 pcs. respectively), which were found mis-declared in terms of quantity and valuation, be liable for confiscation under Sections 111(l), and 111(m) of the Customs Act, 1962, as discussed in foregoing paras.

vi. Whether the importer, M/s. Monarch International (IEC- ASIPH5496H), is liable for penalties under Sections 112(a)(i), 112(a)(ii), and 114AA of the Customs Act, 1962.

13. I find that M/s. Monarch International had imported a consignment with declared goods as (1) RTD Drink 1976 CAS CTI-22029930 (2) Rice Vermicilli 250 CAS CTI-19024090 (3) Oreo Waffer roll 400 CAS CTI-19059030 (hereinafter referred to as “the impugned Goods”) at Mundra Port vide Bill of Entry No. 8330672 dated 13.02.2025. The said BoE was produced by the representative of CHA M/s. D S Logistics before Docks Examination for seal cutting permission only for FSSAI. Further, the said bill of entry is verified from the system and observed that said bill of entry is under RMS (no examination order) but selected for scanning. Thereafter, the CSD section marked the container as ‘scanning mismatch’. Accordingly, seal cutting was carried out for examination of goods. The examination of the above said consignment was carried out by the Docks officers of Custom House, Mundra in the presence of representative of Customs Broker at All Cargo CFS, Mundra. The details of the goods as declared in the said Bill of Entry are as follows:

Table-VII

Sr. No.	BoE No & Date	Container No.	Gross Weight (in Kgs)	Declared Goods	Declared Assessable Value (In Rs.)	Duty at declared Ass. Value (In Rs.)
1	8330672 dated 13.02.2025	REGU5117868	26,839 kg	(1) RTD Drink 1976 CAS CTI-22029930 (2) Rice Vermicilli 250 CAS CTI-19024090 (3) Oreo Waffer roll 400 CAS CTI-19059030	7,09,005/-	3,50,006/-

13.1 I find that during examination, the goods were found undeclared and mis-declared. The goods were found as per inventory, are as under:

Table-VIII

S. No.	Item	Category	No. of total Carton	No. of pkg in each carton	Volume
1	Schwepps	Soft Drink	297	24	320 ML
2	Cocacola	Soft Drink	65	24	320 ML

3	Schwepps (2)	Soft Drink	150	24	320 ML
4	7 UP	Soft Drink	30	24	320 ML
5	Thumsup	Soft Drink	77	24	320 ML
6	Fanta	Soft Drink	25	24	320 ML
7	Red Fanta	Soft Drink	25	24	320 ML
8	Nescafe	Milk based beverage	25	24	170 ML
9	Red Bull	Energy Drink	49	24	250 ML
10	Red Bull (2)	Energy Drink	22	50	145 ML
11	Pepsi	Soft Drink	281	24	320 ML
12	Red Schwepes	Carbonated water	250	24	320 ML
13	Milo	Milk based beverage	25	24	240 ML
14	Nescafe	Milk based beverage	49	30	170 ML
15	Fanta	Soft Drink	40	24	300 ML
16	Red Coca Cola	Soft Drink	65	24	320 ML
17	Thumsup	Soft Drink	73	24	320 ML
18	Fanta	Soft Drink	100	24	320 ML
19	Ritz	Salted Biscuit	26	10	247 GRM
20	7 Lob	Chewing Gum	5	12	324 GRM
21	Perfetti	Sugar candy	12	30	90 Gram
22	Vermicelli	thin noodles	62	30	400 GRM
23	Chupachups	Sugar candy	19	6	192 GRM
24	Chupachups	Chewing Gum	35	9	251.6 GRM
25	Oreo	Chocolate Wafer	436	20	54 GRM
26	Mentos	Sugar candy	6	6	420 GRM
27	Rice	Non-basmati	366	25Kg	-
28	Trident	Chewing Gum	10	4	453.6 GRM

-

-

Valuation:

14. I find that as goods found during examination (Rice, Soft Drink, Energy Drink, Milk based beverages, Carbonated water, Biscuits, Sugar Candy, Chewing Gum etc.) were not declared in the subject bill of entry and also the value of the declared goods 'Vermicelli & Oreo Wafer Rolls' (CTH-19024090 & 19059030), were appears to be undervalued. Therefore, value of the goods was determined as below:

14.1 Rejection of declared value & Redetermination of Assessable Value:

The 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. The 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. The Rule 3(4) *ibid* states that "if the 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 CVR, 2007". Whereas, 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 by the importer. Whereas, it further appears that, there is a reasonable doubt regarding the truth and accuracy of the value declared, and hence it appears liable to be rejected in terms of Rule 12 of the CVR, 2007.

14.2 Whereas, it appears that, if actual transaction value which means price paid or payable cannot be ascertained on the basis of Rule 3 of the CVR, 2007, the value shall be decided proceeding to subsequent rules. Thus, recourse is to be taken to the Rule 9 of the CVR, 2007 which provides for determination of value where the value of the imported goods cannot be determined under the provisions of the any of the preceding rules, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules and on the basis of data available in India.

14.3 Whereas, it appears that, the value of the impugned goods could not be determined under Rule 4 and 5 *ibid* since the goods have been undeclared/mis-declared by means of description, the value of contemporaneous imports of identical and similar goods of same quality and composition was not found. Proceeding sequentially, it is stipulated under Rule 6 *ibid* that where the

value is not determinable under Rule 3, 4 and 5, the value is to be determined under Rule 7 or when the value cannot be determined under that Rule, under Rule 8. Whereas, Rule 7 provides for 'Deductive Value' i.e. the value is to be determined on the basis of valuation of identical goods or similar imported goods sold in India, in the condition as imported at or about the time at which the declaration for determination of value is presented, subject to deductions stipulated under the rule. Whereas, for the reasons detailed above, the values also cannot be determined as per the said Rule 7 *ibid*. Likewise, for application of Rule 8 of the CVR, 2007, the cost of production or processing involved in the imported goods are not available. In the absence of requisite data, the value cannot be determined by taking recourse to these rules either.

14.4 Whereas, it appears that, the provisions of Rule 4 to 8 *ibid*, are not applicable in the instant case, the value of the impugned goods is required to be determined under the provisions of Rule 9 of the CVR 2007, which reads as under: -

"Rule 9: Residual method – (1) Subject to the provisions of Rule 3, where the value of the imported goods cannot be determined under the provisions of any of the preceding rules, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules and on the basis of data available in India:"

14.5 Whereas, as per the provisions of Rule 9 *ibid*, the assessable value of the goods actually found during examination are required to be re-determined under Rule 9 *ibid*, i.e. as per the residual method. Whereas, the impugned goods were inspected by Shri Ajayrajsingh B. Jhala, Chartered Engineer & Government approved valuer, who submitted the Valuation report vide reference No. BJ:INSP:CE:SIIB:MONARCH: MX:25-26:01 dated 24.07.2025, Wherein, he has reported the value of the cargo as tabulated below:

Table-IX

S. No.	Item	Cat egory	V ol u m e	No o f tot al C arto n	No of pkg each carto n	Total Quan tity (in PC S)	U n it	Per Unit A verage Mar ket Value in INR (App rox.)	Total Aver age Marke t Value in INR (Appr ox.)	Per Unit C &F Averag e Value in USD (Appr ox.)	Total C&F Average V alue in U SD (Appro x.)
1	Sc hw	Soft Drin	32 0	297	24	7128	P C	125	891000	0.35	2494.8

[illegible]

1	1	Pe psi	Soft Drin k	32 0 M L	281	24	6744	P C S	145	977880	0.41	2765.04
1	2	Re d S ch we pp es	Car bon ated wate r	32 0 M L	250	24	6000	P C S	149	894000	0.42	2520
1	3	Mil o	Milk base d be vera ge	24 0 M L	25	24	600	P C S	90	54000	0.25	150
1	4	Ne sca fe	Milk base d be vera ge	17 0 M L	49	30	1470	P C S	45	66150	0.15	220.5
1	5	Fa nta	Soft Drin k	30 0 M L	40	24	960	P C S	199	191040	0.55	528
1	6	Re d C oca col a	Soft Drin k	32 0 M L	65	24	1560	P C S	40	62400	0.15	234
1	7	Th um su p	Soft Drin k	32 0 M L	73	24	1752	P C S	33	57816	0.15	262.8
1	8	Fa nta	Soft Drin k	32 0 M L	100	24	2400	P C S	199	477600	0.55	1320
1		Rit	Salt	24	26	10		P	200	52000	0.46	

[illegible]

27	Rice	Non basmati	-	366	25Kg	9150	KGS	45	411750	0.13	1189.5
28	Trident	Chewing Gum	453.6 GRM	10	4	40	PCS	110	4400	0.55	22
Total											19729.08

1 USD = 88.4 INR

14.6 I find that as per above table, the total C & F value is re-evaluated as Rs. 17,44,051/-. Therefore, considering the Insurance amount as 1.125%, as per BE, the total Assessable value (CIF) is re-evaluated as Rs. 17,63,672/- (Rs. Seventeen lakh sixty three thousand six hundred and seventy two only), after adding the insurance amount Rs. 19,621/- (Rs. 53,42,916*1.125%) on the basis of valuation report submitted by the CE for the purpose of valuation under provisions of Rule 9 of the CVR, 2007 read with note 2 of the interpretative notes for Rule 9 of the CVR, 2007. However, the assessable value (C&F) of Rs. 7,09,005/- declared by the importer in the Bill of Entry No. 8330672 dated 13.02.2025 is liable to be rejected in terms of Rule 12 of the CVR, 2007.

15. I further find that foreign language was written on the goods and to understand that language, google translator was used to read the instructions written on different mis-declared energy drink and it read as "Exclusively for Sale in Vietnam. Exports are not authorized."

15.1 As, from the markings etc. available on the Soft Drink, Energy Drink, Milk based beverages, Carbonated water, Biscuits, Sugar Candy, Chewing Gum as goods Coca-Cola (Zero sugar), Pepsi, Red Bull, Nescafe Espresso roast, Schweppes, Nestle Milo, Fanta, thumps up in Table-VIII above appeared to be of brands as per IPR Portal registered with Customs. Accordingly, authorized representative of IPR right holders of the brands tabulated below have been informed about the imported consignment and suspicion of being branded. The IPR right holders were also requested to join the proceedings of the suspected IPR violation in terms of Rule 7 of the Intellectual Property Rights (Imported

Goods) Enforcement Rules, 2007 (hereinafter referred to as “the IPR Rules, 2007”). The IPR Right Holders of above said Brand are as under:

Table-X

S. No.	Brand Name	Respective Right Holder
1	Nescafe	Nestle India Pvt. Ltd.
2	Nestle Milo	Nestle India Pvt. Ltd.
3	Perfetti/Chupachups/Trident Chewing Gums/Mentos	Perfetti Van Melle Spa
4	Red Bull	Red Bull AG
5	Coca Cola/ Red Coca Cola	The Coca Cola Company
6	Thums Up	The Coca Cola Company
7	Fanta/ Red Fanta	The Coca Cola Company

15.2 However, I find that various IPR Right holder of Brands through their Authorized representatives joined the proceedings and after due examination/inspection, they have confirmed that the subject goods are unauthorised for sale in India and also requested to suspend the release of the aforesaid consignment of goods. Further, from the above mentioned IPR Right Holders, only M/s. ZeusIP Advocates LLP, the authorized representative of the IPR Right holders of the brand “Red Bull” has submitted surety bond and Bank Guarantee under Rule 5(a) of the IPR Rules, 2007 for the goods of brands and requested to initiate the IPR proceedings against the importer, M/s. Monarch International.

15.3 From above, I find that the impugned goods of the brand mentioned above in para 15.1 is allegedly infringing IPR and are required to be deemed as “Prohibited” within the meaning of Section 11 of the Customs Act, 1962 read with Rule 6 of the IPR Rules, 2007, which reads as under:

“6. Prohibition for import of goods infringing intellectual property rights. - After the grant of the registration of the notice by the Commissioner on due examination, the import of allegedly infringing goods into India shall be deemed as prohibited within the meaning of Section 11 of the Customs Act, 1962.”

15.4 Further, I find that the non-basmati rice, Soft Drink, Energy Drink, Milk

based beverages, Carbonated water, Salted Biscuits, Sugar Candy, Chewing Gum were also found during examination, which were also undeclared, as mentioned at Table-VIII above. Since the Import of Rice is allowed through Food Corporation of India subject to Para 2.21 of the Foreign Trade Policy and the same is produced below:

“2.21 State Trading Enterprises (STEs)

(a) State Trading Enterprises (STEs) are governmental and non-governmental enterprises, including marketing boards, which deal with goods for export and /or import. Any good, import or export of which is governed through exclusive or special privilege granted to State Trading Enterprise (STE), may be imported or exported by the concerned STE as per conditions specified in ITC(HS). The list of STEs notified by DGFT is in Appendix-2J.

(b) Such STE(s) shall make any such purchases or sales involving imports or exports solely in accordance with commercial considerations, including price, quality, availability, marketability, transportation and other conditions of purchase or sale in a non-discriminatory manner and shall afford enterprises of other countries adequate opportunity, in accordance with customary business practices, to compete for participation in such purchases or sales.

(c) DGFT may, however, grant an authorisation to any other person to import or export any of the goods notified for exclusive trading through STEs.”

15.5 From above, I find that the importer has imported rice which was undeclared and as per para 2.21 of FTP, the said importer was not entitled to import and couldn't submit any authorization as prescribed under the Foreign Trade Policy, 2023. Thus, rice was imported in violation of the provisions of Foreign Trade Policy, 2023 and is liable to be confiscated. Further, it is to mention that Coca-Cola (Zero sugar), Pepsi, Red Bull, Nescafe Espresso roast, Schweppes, Nestle Milo, Fanta, thumps up, energy drink which has been imported in guise of mis-declaration that too in violation of FSSAI, 2011 norms as well as infringement of IPR.

15.6 Further, as per Food Safety and Standards (Packaging and Labelling) Regulation, 2011, S. No. 2.2.1 (2) Labelling of the goods to be sold in India shall be in English or Devnagiri Hindi but I find that the labelling on the goods was in Vietnamese Language and not in English or Devnagari Hindi.

15.7 Further, as per 2.2.2 (4)(iv) declaration regarding Veg or Non-Veg food need to be declared on the label but no such label regarding Veg or Non-Veg food was mentioned on the goods.

15.8 As per 2.2.2 (9) of Food Safety and Standards (Packaging and Labelling) Regulation, 2011, the date, month and year in which the commodity is manufactured, packed or pre-packed shall be given on the label, which is also not been fulfilled by the impugned goods.

15.9 Further, as per DGFT Notification No. 44(RE-2000)/1997-2002, there is need to mention the Name and Address of the importer, Generic and common name on the packages, maximum Retail Price Label, Dated of Manufacturing, date of expiry, marks and numbers but these details are not mentioned on the impugned goods.

15.10 Therefore, in view of the above, it is clear that the goods found during the examination which were not declared in the subject bill of entry, are covered under Mandatory FSSAI, 2011 & 2020 norms and well as infringement of IPR, the Legal Metrology (Packaged Commodities) Rules, 2011 and DGFT Notification no. 44(RE-2000)/1997-2002. However, as no marking of different FSSAI guidelines, violation of IPR infringement and no authorization as prescribed under the Foreign Trade Policy, 2023 was produced by the importer, these goods are liable for confiscation under Section 111(d), 111(l) & 111(m) of the Customs Act, 1962.

15.11 Further, I find that the Energy Drink was reported as Counterfeit goods by the IPR right holders of Redbull Brand, therefore, these goods (2,276 units) are also liable for confiscation under Section 111(d) of the Customs Act, 1962 read with the IPR, Rules 2007.

15.12 Therefore, in view of the above, as importer had not declared goods in subject Bill of entry and also not provided the documents as per mandatory compliance of FSSAI, authorization as prescribed under the Foreign Trade Policy, 2023 and Legal Metrology Act, 2009, therefore, these goods are liable for confiscation under Section 111(d), 111(l) & 111(m) of the Customs Act, 1962.

16. Whereas, the goods 'Rice Vermicelli & Oreo Waffer Roll' found during examination, was declared in the subject Bill of entry but the same were also

found mis-declared. The details of quantity declared and found during examination are as under:-

Table-XI

Sr. no.	Item Description	Qty declared in Bill of entry	Qty found during examination	Difference in Qty
1.	Rice Vermicelli	3000 KG	744 KG	-2,256 KG (Short)
2.	Oreo Waffer Roll	448 KG	470.88 KG	22.88 KG (Excess)

16.1 As the goods 'Rice Vermicelli & Oreo Waffer Roll' were found mis-declared w.r.to Quantity and valuation (as per above table). The details of applicable duty w.r.to the mis-declaration are as under:

Table-XII

Sr. no.	Item Description	CTH Declared in Bill of entry	Quantity declared in Bill of entry	Declared Assessable Value i.e. CIF (in Rs.)	Total Declared Duty (In Rs.)	Quantity found during examination	Suggestive Present CIF value(as per CE) in Rs.	Total applicable Duty Including BCD, SWS & IGST (in Rs.)
1	Rice Vermicelli	19024 090	3000 KG	2,68,184	1,31,303	744 KG	83,137	40,704
2	Oreo Waffer Roll	19059 030	448 KG	36,044	20,523	470.88 KG	226056	1,28,717
	Total			3,04,228	1,51,826		3,09,193	1,69,421

16.2 In view of the above, as the goods 'Rice Vermicelli & Oreo Waffer Roll' were found mis-declared w.r.to Quantity and valuation, therefore, these goods are liable for confiscation under Section 111(l) & 111(m) of the Customs Act, 1962.

From above discussion, I conclude findings as below:

17. The investigation conducted by the Special Intelligence and Investigation Branch (SIIB), Customs House, Mundra, based on Docks Officers report, revealed significant irregularities in the import consignment of M/s. Monarch International under Bill of Entry No. 8330672 dated 13.02.2025, covering container REGU5117868. The examination uncovered deliberate mis-declaration, undervaluation, and non-compliance with regulatory requirements, indicating intent to evade Customs duties and violate import regulations.

17.1 Mis-declaration

The examination of container REGU5117868 revealed significant discrepancies in the goods declared under Bill of Entry No. 8330672 dated 13.02.2025. The importer declared RTD Drink, Rice Vermicelli & Oreo Waffer Roll. However, during the examination, goods found as per Table-VIII above. This indicates deliberate mis-declaration of the description and quantity of goods, violating Section 46(4) of the Customs Act, 1962.

17.2 Undervaluation

The declared assessable value (C&F) of the goods was Rs. 7,09,005/-, with a total declared duty of Rs. 3,50,006/-, as per Table-I. The Chartered Engineer's Valuation Report vide Reference No. BJ:INSP:CE:SIIB:MONARCH: MX:25-26:01 dated 24.07.2025 re-evaluated the assessable value at Rs. 17,63,672, as detailed in Table-IX, under Rule 9 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (residual method), due to the lack of comparable data for identical or similar goods under Rules 3 to 8.

17.3 Duty Evasion

The importer's mis-declaration and undervaluation resulted in a significant differential duty liability. The total duty liability for 'Rice Vermicelli & Oreo Waffer Roll', based on the re-determined value is Rs. 1,69,421/-, compared to the declared duty of Rs. 1,51,826/-, as per Table-XII above. The undeclared goods non-basmati rice, Soft Drink, Energy Drink, Milk based beverages, Carbonated water, Salted Biscuits, Sugar Candy, Chewing Gum being prohibited goods due to non-compliance with FSSAI, authorization as prescribed under the Foreign Trade Policy, 2023 and Legal Metrology Act, 2009, further exacerbate the duty evasion.

17.4 Intellectual Property Rights (IPR) Violation

The 2,276 units of branded energy drink i.e. Rdbull were examined by the authorized representative of the IPR right holder, M/s. ZeusIP Advocates LLP, who confirmed them as counterfeit goods, as per Para 4.2. These goods infringe IPR and are deemed prohibited under Section 11 of the Customs Act, 1962, read with Rule 6 of the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007. The IPR right holder submitted a surety bond and security under Rule 5(a) of the IPR Rules, 2007, requesting absolute confiscation and destruction of these goods.

17.5 Non-Compliance with FSSAI and Legal Metrology

The undeclared goods Soft Drink, Energy Drink, Milk based beverages, Carbonated water, Biscuits, Sugar Candy, Chewing Gum and 9.15 MTS rice are subject to mandatory FSSAI compliance, Legal Metrology Act, 2009 and authorization as prescribed under the Foreign Trade Policy, 2023 as no authorization was produced, rendering these goods prohibited.

17.6 Confiscation of Goods and Penal Action

In view of the above, it is evident that the importer, M/s. Monarch International (IEC- ASIPH5496H), has engaged in un-declaration, mis-declaration, undervaluation, and non-compliance with FSSAI, DGFT's authorisation and Legal Metrology requirements. Therefore, the goods that fail to fulfil mandate of FSSAI, legal metrology, IPR and DGFT are liable for confiscation under Sections 111(d), 111(l) and 111(m) of the Customs Act, 1962 and the goods that are mis-declared by way of quantity and not corresponding to the declared value resulted in differential duty are liable for confiscation under Section 111(l) and 111(m) of the Customs Act, 1962.

17.6.1 As per above, different goods contravene the different acts and rules, confiscation and the conditions for their redemption need to be decided accordingly.

- The un-declared 2,276 units of branded energy drink i.e. Redbull infringe IPR and deemed prohibited under Section 11 of the Customs Act, 1962, read with Rule 6 of the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007. Brand through his Authorized representative, M/s. ZeusIP Advocates LLP, submitted a surety bond and security under Rule 5(a) of the IPR Rules, 2007, requesting absolute confiscation and destruction of these goods. Accordingly, I find it appropriate to absolute confiscate the goods for destruction purpose. Assessable Value of these goods is **Rs. 52,121/-** as per Table-IX above.

- Further, the un-declared goods Soft Drink, Energy Drink, Milk based beverages, Carbonated water, Salted Biscuits, Sugar Candy, Chewing Gum, as mentioned in Table-VIII above, were also found during examination, contravene the provisions of IPR but no security was being submitted by brand owner, therefore as per Para 7(4) of IPR rules, 2007 the said goods cannot be consider for absolute confiscation and destruction but as these goods also contravene the guidelines of FSSAI, Legal Metrology, the goods to be confiscated under 111(d) of the Customs Act, 1962. Further, import of rice is allowed through Food Corporation of India or by any entity with licence from DGFT, Importer is not in possession of said licence, therefore the same is to be confiscated under 111(d) of the Customs Act, 1962. However, the importer during statement recorded on 24.10.2025 under Section 108 of the Customs Act, 1962 requested to re-export the whole cargo, therefore, I find it appropriate to give option to redeem the said goods for re-export only on payment of redemption fine under Section 125 of the Customs Act, 1962. Assessable Value of all these goods is **Rs. 14,02,353/-** as per Table-IX above.
- Further, the goods 'Rice Vermicelli & Oreo Waffer Roll', were misdeclared in quantity and value, the same to be confiscated under Section 111(l) & 111(m) of the Customs Act, 1962. As these goods are freely importable, redemption of these goods to be allowed for home consumption on payment of redemption fine but as the importer during statement recorded on 24.10.2025 under Section 108 of the Customs Act, 1962 requested to re-export the whole cargo, therefore, I find it appropriate to give option to redeem the said goods for re-export on payment of redemption fine under Section 125 of the Customs Act, 1962. Assessable Value of these goods is **Rs. 3,09,193/-** as per Table-IX above.

18. The importer's actions indicate intent to evade customs duty and to import goods not fit for importation due to FSSAI, IPR, Legal Metrology etc violating Section 46(4) of the Customs Act, 1962 (false declaration in Bill of Entry). Consequently, the importer is liable for penalties under Sections 112(a) (i), 112(a)(ii) and 114AA of the Customs Act, 1962, for knowingly submitting false documents and attempting to evade duties. Differential duty for quantification of penalty under Section 112(a)(ii) is **Rs. 17,595/-** as per Table-XII above.

19. In view of the aforesaid discussions and findings, I pass the following order:

ORDER

- i. I reject the declared description, quantity, classification, and value of goods in Bill of Entry No. 8330672 dated 13.02.2025, filed by the Importer M/s. Monarch International, due to mis-declaration, mis-classification, and undervaluation, as detailed in Paras 7.1, 7.2, and 7.3 and the same to be re-determined as per Tables II, III, & VI above and to be re-assessed accordingly.
- ii. I reject the total declared assessable value (C&F) of Rs. 7,09,005/- for the goods under Bill of Entry No. 8330672 dated 13.02.2025 and allow the same to be re-determined (CIF) as Rs. 17,63,672/- (Para 3.6, Table-III), as per the Chartered Engineer's valuation report BJ:INSP:CE:SIIB:MONARCH: MX:25-26:01 dated 24.07.2025, under Rule 9 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, read with Section 14 of the Customs Act, 1962.
- iii. I confiscate the counterfeit goods 2,276 units of branded energy drink (Redbull) under Sections 111(d), 111(l), and 111(m) of the Customs Act, 1962, for being prohibited goods under Section 11, read with Rule 6 of the IPR Rules, 2007, due to infringement of intellectual property rights. Further, as per Rule 7 of the IPR Rules, 2007, I order to suspend the clearance of the counterfeit goods and accept the right holder's request for destruction of these goods, in accordance with the Disposal Manual, 2019.
- iv. I confiscate 39,327 units of Soft Drink, Energy Drink, Milk based beverages, Carbonated water, Biscuits, Sugar Candy, Chewing Gum and 9.15 MTS rice, which were not declared in the subject Bill of entry, under Sections 111(d), 111(l), and 111(m) of the Customs Act, 1962, as discussed in foregoing paras. However, I give an option to the importer to redeem the said confiscated goods for re-export only on payment of redemption fine of **Rs. 1,40,000** (Rupees One Lakh Forty Thousand Only) under Section 125 of the Customs Act, 1962.
- v. I confiscate the goods i.e. 'Rice Vermicelli & Oreo Waffer Roll' (1,860 & 8720 pcs. respectively), which were found mis-declared in terms of quantity and valuation, under Sections 111(l), and 111(m) of the Customs Act, 1962, as discussed in foregoing paras. However, on request of importer, I give an option to the importer to redeem the said confiscated goods for re-export on payment of redemption fine of **Rs. 30,000** (Rupees Thirty Thousand Only) under Section 125 of the Customs Act, 1962.
- vi. I impose penalty of Rs.50,000 (Rupees.Fifty Thousand Only) on importer M/s. Monarch International under Sections 112(a)(i), of the Customs Act, 1962.
- vii. I impose penalty of Rs.5,000/- (Rupees.Five Thousand Only) on importer M/s. Monarch International under Sections 112(a)(ii), of the Customs Act, 1962.

viii. I impose penalty of Rs.25,000 (Rupees Twenty Five Thousand) on importer M/s. Monarch International under Sections 114AA of the Customs Act, 1962.

20. This order is issued without prejudice to any other action which may be required to be taken against any person as per the provision of the Customs Act, 1962 or any other law for the time being in force.

Additional Commissioner (Import)
Custom House, Mundra

F.No. CUS/SHED/OBJ/59/2025

To,

M/s. Monarch International (IEC- ASIPH5496H),
Near SJS School, Dikadla , Hathwala Road,
Samalkha, Panipat , Haryana-132101

Copy to:

1. The Deputy Commissioner (SIIB), Customs House, Mundra.
2. The Deputy Commissioner (RRA), Customs House, Mundra.
3. The Deputy Commissioner (TRC), Customs House, Mundra.
4. The Deputy Commissioner (EDI), Customs House, Mundra.
5. Guard file.