कार्यालय: प्रधान आयुक्त सीमाशुल्क, मुन्द्रा,
सीमाशुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS: CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT- 370421.

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A. File No.	GEN/ADJ/COMM/326/2025-Adjn-O/o Pr Commr-Cus-mundra
B. Order-in-Original No.	**MUN-CUSTM-000-COM-11-2026-27**
C. Passed by	Nitin Saini, Commissioner of Customs, Customs House, AP & SEZ, Mundra.
D. Date of order and Date of issue:	09.06.2026 09.06.2026
E. SCN No. & Date	15/2025-26/COMM/NS/ADJ/MCH Dated 17.06.2025
F. Noticee	Shri Jarnail Singh, Proprietor of M/s Stylish Group of Company

1. यहअपीलआदेश संबन्धित को नि:शुल्क 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 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 129A(1) के अंतर्गत प्रपत्र सीए3-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 129 A (1) (a) of Customs Act, 1962 read with Rule 6 (1) of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. - 3 to:

   “केन्द्रीय उत्पाद एवं सीमा शुल्क और सेवाकर अपीलीय प्राधिकरण, पश्चिम जोनल पीठ, 2nd फ्लोर, बहुमाली भवन, मंजुश्री मील कंपाउंड, गिर्धनगर ब्रिज के पास, गिर्धनगर पोस्ट ऑफिस, अहमदाबाद-380 004”

   “Customs Excise & Service Tax Appellate Tribunal, West Zonal Bench, 2nd floor, Bahumali Bhavan, Manjushri Mill Compound, Near Girdharnagar Bridge, Girdharnagar PO, Ahmedabad 380 004.”

3. उक्त अपील यह आदेश भेजने की दिनांक से तीन माह के भीतर दाखिल की जानी चाहिए।
   Appeal shall be filed within three months from the date of communication of this order.

4. उक्त अपील के साथ -/ 1000रूपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज, दंड या शास्ति रूपये पाँच लाख या कम माँगा हो5000/- रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज, शास्ति या दंड पाँच लाख रूपये से अधिक किंतु पचास लाख रूपये से कम माँगा हो

10,000/- रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, दंड व्याज या शास्ति पचास लाख रूपये से अधिक माँगा हो। शुल्क का भुगतान खण्ड पीठ बेंचआहरितट्रिब्यूनल के सहायक रजिस्ट्रार के पक्ष में खण्डपीठ स्थित जगह पर स्थित किसी भी राष्ट्रीयकृत बैंक की एक शाखा पर बैंक ड्राफ्ट के माध्यम से भुगतान किया जाएगा।

Appeal should be accompanied by a fee of Rs. 1000/- in cases where duty, interest, fine or penalty demanded is Rs. 5 lakh (Rupees Five lakh) or less, Rs. 5000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 5 lakh (Rupees Five lakh) but less than Rs.50 lakh (Rupees Fifty lakhs) and Rs.10,000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 50 lakhs (Rupees Fifty lakhs). This fee shall be paid through Bank Draft in favour of the Assistant Registrar of the bench of the Tribunal drawn on a branch of any nationalized bank located at the place where the Bench is situated.

5. उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत 5/- रूपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मदसं°-6 के तहत निर्धारित 0.50 पैसे की एक न्यायालय शुल्क स्टाम्प वहन करना चाहिए।

   The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paisa only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.

6. अपील ज्ञापन के साथ ड्यूटि/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये। Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.

7. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और CESTAT (प्रक्रिया) नियम, 1982 सभी मामलों में पालन किया जाना चाहिए।

   While submitting the appeal, the Customs (Appeals) Rules, 1982 and the CESTAT (Procedure) Rules 1982 should be adhered to in all respects.

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

An appeal against this order shall lie before the Tribunal 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

An intelligence was received that some importers of screws are importing screws at very low price, lower than the price of raw material. To ascertain the manufacturing cost of drywall screws & self-drilling screws, data from the local market was analyzed and it was gathered that the manufacturing cost of drywall screws varies from Rs. 110 per Kg to Rs. 114 per kg whereas the manufacturing cost of self-drilling screw varies from Rs. 120 per kg to Rs. 130 per kg. It was further gathered that at contemporary steel wire price (which is a basic raw material for manufacturing screws) of Rs. 72/kg, it is not possible to manufacture drywall screws below Rs. 100 per kg and self-drilling screw below Rs. 110 per kg. Further, in the year 2022-2023, the steel wire prices have not fluctuated much, being in the range of Rs. 70/kg to Rs. 75/kg.

2. From the import data analysis, it appeared that M/s Stylish Group of company, 5, New Cloth Market, Brown Road, Ludhiana (hereinafter referred to as "M/s Stylish" in short) is a proprietorship trading firm and is engaged in the import of 'screws' under CTH 7318 of Customs Tariff Act, 1975 by way of under-valuation and thereby indulging in evasion of Customs duty. The investigation was initiated against the importer and search was conducted at the business premises of M/s Stylish group of company on 31.01.2024. The entire search proceeding was recorded under panchnama dated 31.01.2024 (**RUD-1**). For the further investigation a summons dated 22.02.2024 was issued to the proprietor of the firm, Sh. Jarnail Singh to furnish the documents and to tender his statement.

3. In response to the summons, Sh. Jarnail Singh S/o Sardar Maneet Singh, Proprietor of M/s Stylish Group of Company appeared before SIO, DRI, Ludhiana and his statement was recorded on 22.02.2024 **(RUD-2)** under the provisions of Section 108 of the Customs Act, 1962 wherein he inter alia stated that: -

(i) M/s Stylish Group of Company is a trading firm engaged in trading of the imported goods mainly furniture, screws and hardware items and mostly the imported goods after Customs clearance are sent directly to the buyers as per their pre-orders. He is the sole proprietor of the firm and looks after all day-to-day business activity of said firm including policy decisions.

(ii) The major suppliers of their firm are M/s Tianjin Sinsum Import and Export Co. Ltd., Minghui Industrial Trading Co. Ltd. and Tianjin Yufeng Screw Making Co. Ltd. all based in China. Last year, they have imported one screw consignment from Tianjin Giant Star Hardware Products Co Ltd, China.

(iii) He submitted the copies of 6 Bills of Entry along with commercial invoices, packing lists and bank SWIFT copies. The brief details of Bills of Entry filed by them from 2022 onwards are as below:

Table 1- B/Es details as provided by M/s Stylish

Sl. No.	Custom House Code	B/E Number	B/E Date	Supplier Details
1	INMUN1	8853532	27.05.2022	TIANJIN YUFENG SCREW MAKING CO. LTD
2	INNSAI	9462555	29.12.2023	MINGHUI INDUSTIRAL TRADING CO. LTD
3	INNSAI	6465450	17.06.2023	MINGHUI INDUSTIRAL TRADING CO. LTD
4	INNSAI	6292851	06.06.2023	TIANJIN SINSUN IMPORT & EXPORT CO.LTD
5	INNSAI	8742725	19.05.2022	TIANJIN HYUFENG SCREW MAKING CO. LTD
6	INNSAI	9460172	08.07.2022	TIANJIN SINSUN IMPORT & EXPROT CO. LTD.

(iv) He did not have agreement/purchase orders in regard to his all import consignments because most of his consignments are stereotypic and of routine trade purpose, so the prices were negotiated verbally and the prices more or less remains the same.

(v) On being asked that from the perusal of the data of Bills of Entry filed by him and comparison data of other import in India, it appears that he has mis declared the value of “screw” imported from China; he agreed that there is difference in the value declared by them in the import documents and as declared by other importers.

(vi) He admitted the undervaluation of imported goods and also deposited differential duty by taking the value of screw @0.9. USD/kg for the bills of entry in question.

4. MS (mild steel) wire being the prime raw material for manufacturing of any kind of screw, the import data of MS wire during the years 2022 and 2023 has been analyzed. From the analysis of the MS wire import data, it comes to notice that the MS steel wire has been imported into India from China at the average price of USD 0.96/kg in 2022.

Table 2: Import of MS wire during 2022

Sr. No.	B/E No.	Date	Quantity (in Kg)	Assessable value (in Rs.)	Unit Price/kg (in Rs.)	Conversion Rate	Unit Price/Kg (in USD)
1	3107067	31-10-2022	33186	2185679.74	65.86	83.36	0.79
2	3944698	28-12-2022	21044	2179420.42	103.56	87.76	1.18
Total			**54230**	**4365100.16**	**80.49**	**83.36**	**0.96**

5. Now therefore, for the further investigation in the matter, summons was issued to M/s Stylish Group of Company to appear on 25.04.2025. In response to summons Sh. Jarnail Singh, Proprietor of M/s Stylish Group of Company appeared and tendered his statement dated 25.04.2025 **(RUD-3)**. In his statement, he inter alia stated that: -

(i) He has imported various types of screws, including drywall screws, chipboard screws, CSK headed screws, and SDS headed screws during the calendar year 2020 to 2023. The chipboard screws are similar to drywall screws but differ in threading, and their prices are similar. CSK and SDS headed screws are types of self-drilling screws that differ mainly in the shape of the head and have a slightly higher price than drywall screws.

(ii) Drywall screws are primarily used to securely fasten drywall sheets to both wood and metal studs. They are also employed in various interior wood and fixture fastening applications, as well as for securing suspended ceilings and light fixtures. He also stated that chipboard screws are similar to drywall screws having only difference in threading of the screw and the price of the chipboard screw is similar to drywall screw.

A self-drilling screw is a type of self-tapping screw that features a drill point. The self-drilling screw has a point that acts as a drill bit and sharp cutting threads that tap the hold during installation. Self-drilling screws are commonly used for quick drilling into both metal and wood. A self-drilling screw can be identified by its notch like a tip. The notch area in the tip acts as a reservoir to receive wood chips or metal fillings. This creates the space that is necessary to drill the screw all the way into the place.
It is also stated that CSK and SDS headed screws are very much similar to self-drilling screws but have different head shapes. Both types of screws are priced similarly to self-drilling screws.

(iii) Screws are mostly made from medium to high-carbon steel wire rods, chosen for their strength, durability, and flexibility. Drywall screws often have additional coatings for corrosion resistance and better paint adhesion. The manufacturing process of screws begins with wire drawing, where steel rods are pulled through smaller dies to achieve the desired diameter. Following this, the wire is straightened and cut into lengths for screw blanks. Cold heading machines then form the head shape, with visible outcomes like flat or round heads. Thread rolling follows, where blanks are rolled between specialized dies to create threads.

(iv) Next is the heat treatment process, where screws are heated and then rapidly cooled to harden the material. This involves heating to transform the steel structure, rapidly cooling to lock it in position, and then tempering to reduce brittleness. Coating processes include Phosphating and electroplating, which provide corrosion resistance. Quality control measures are taken to check dimensions, hardness, and coating thickness, using tools like micrometers and hardness testers.
Finally, the screws are sorted, counted, and packaged according to specific customer requirements. This may involve automatic sorting and counting before packaging into labeled boxes or bags. Overall, the manufacturing process is complex, ensuring durable and reliable screws for various applications.

(v) The general prices of different types of Screws fluctuates between 0.85 to 0.90 USD per kg. Also, since Covid-19 period, the prices of the Screws are almost similar, there is a slight change in the prices of screws varying from 2-3 rupees per year. Further, Self-drilling screws are generally more expensive than drywall screws as for manufacturing of Self-drilling screws two more operations were required as compared to drywall screw.

(vi) He was shown the invoices of import data of MS wire, as detailed in Table 2 of Para 4 above. He put his dated signature in token of having seen the same. Further, he did not offer any comments on the rate as the price of MS wire depends on the grade and thickness of the MS Wire.

(vii) He further stated that the value addition in manufacturing of MS Screw from MS Wire depends on number of machines installed, in his case he has installed 5 header and 4 thread rolling and one set of hardening and tempering machine. Overall value addition in India is ranging from

30-35% however, in case of manufacturing process in China, it is quite low in respect of India. This is due to advanced technology of machine i.e. automated machine which leads to low labour cost, and electricity charges. However, the minimum value addition in the manufacturing of screw from MS Wire would be from 10 to 15% in China.

(viii) He was shown the four invoices, as detailed in Table-III below, pertaining to the import data of Drywall Screws. He placed his dated signature on them as a token of having seen the documents **(RUD-4 to RUD-7)**. Further, he stated that he was unable to offer any comments on the rates, as the imported screws may be of different quality and/or branded.

Table -3: Invoice of Drywall screws imported into India from China.

Sr. No.	Name of the Importer	Name of the Supplier	BE No.	Date	Quantity (in Kg)	Assessable value (in USD)	Unit Price/Kg (in USD)
1	Metron Impex LLP	Jiaxing Newland Building Materials Co., LTD	7300658	30-01-2022	11300	20340	1.80
2	Metron Impex LLP	--do--	7057841	12-01-2022	12000	21600	1.80
3	Prince Impex	Linkweld Industry Co., Ltd	4736242	21-02-2023	26304.40	38456.90	1.46
4	ONEDIME	Jiaxing Chaoyi Trade Co., LTD	8764789	20-05-2022	13769.68	24785.42	1.75

(ix) He was shown **Annexure–I & II** summarized in Table–4 below, containing import data of Drywall Screws for the years 2022 and 2023. He was unable to offer any comments on the rates, stating that the price range depends on various factors such as quality, specifications, brand, and packaging of the goods.

Table -4: Summary of contemporary import of drywall screws during 2022 and 2023

Year	Screw Type	Quantity (In Kg)	Assessable Value (In Rs.)	Unit Price (In Rs.)	Unit Price (in USD)
2022	Drywall	17,36,324	20,47,68,199	117.93	1.41
2023	Drywall	5,14,763	5,88,42,315	114.31	1.37

	Total	**22,51,087**	**26,36,10,514**	**117.10**	**1.40**

(x) He was shown the invoices of the following BEs **(RUD-8 to RUD-11)**, as tabulated below, through which Self-Drilling Screws were imported into India from China during the years 2022 and 2023.

Table-5 : Contemporary import of self-drilling screws

Sr. No.	Name of the Importer	Name of the Supplier	BE No.	Date	Quantity (in Kg)	Assessable value (in USD)	Unit Price/Kg (in USD)
1	Indian Steel Corporation	Cixi Zhencheng Machinery Co., Ltd	2631985	27-09-2022	19353.60	33660.14	1.73
2	Marvel Machine Tools Pvt. Ltd.	Handan Shuang Zi Metal Products Co., Ltd.	7467102	12-02-2022	48915.60	83517.65	1.70
3	Bhumi Associates	Tianjin Realize Import and Export Trading Co., Ltd	8819667	25-05-2022	27500	47875.90	1.79
4	Kahan Fastners	Handan Shuang Zi Metal Products Co., Ltd.	9361836	18.05.2022	24927	44410	1.78

He put his dated signature as a token of having seen the documents. Further, he stated that he was unable to offer any comments on the rates, as the imported screws may be of different quality and/or may be branded.

(xi) He was shown **Annexure–III & IV** summarized below in Table–6, containing import price data of Self-Drilling Screws as declared by various importers from China.

Table -6: Summary of contemporary import of self-drilling screws during 2022 and 2023

Sr. No.	Year	Screw Type	Quantity (in Kg)	Assessable Value (In Rs.)	Unit Price (In Rs.)	Unit Price (in USD/KG)
1	2022	Self-drilling	27,04,093	33,64,40,210	124.42	1.49
2	2023	Self-drilling	24,79,153	29,92,51,537	120.71	1.45
		Total	**51,83,246**	**63,56,91,747**	**122.64**	**1.47**

In this regard, he stated that he was unable to offer any comments on the rates, as the price range depends on various factors such as quality, specifications, brand, and packaging of the goods.

(xii) He stated that he was unable to offer any comments on whether the prices of Drywall Screws and Self-Drilling Screws declared by him were mis-declared in comparison to the average prices detailed at Sr. No. ix and xi of the statement, as the price range depends on various factors such as quality, specifications, brand, and packaging of the goods. He has already paid the differential duty along with the applicable interest and penalties.

(xiii) He was shown Notification No. 55/2023 dated 3rd January 2024, through which the Government of India amended the import policy and policy conditions for screws covered under HS Code 7318 of Chapter 73 of Schedule–I (Import Policy) of the ITC (HS) 2022. He was already aware of the circular, which fixed the minimum import price (MIP) of screws at Rs. 129 per kg. The MIP set by the Government of India for HS Code 7318 is intended to support the Indian iron and steel industry, as Indian manufacturers are unable to compete with Chinese producers, who benefit from highly automated and cost-efficient machinery. He mentioned that after the introduction of the MIP, Indian industries could survive, and that is the reason he started manufacturing drywall screws in 2024. He further stated that the raw material cost, specifically MS wire, in India is around Rs. 71–75 per kg, and after including all other expenses and profit margin, he sells the finished product at Rs. 122 per kg.

6. <u>Analysis of Import Data of Drywall Screw & Self-drilling Screw</u>

6.1 Manufacturing cost of screws from raw materials includes the cost of raw materials (MS wire), manufacturing processes, labor and machinery cost etc. Sh. Jarnail Singh during his statement dated 25.04.2025 stated that a typical screw manufacturing process includes cutting, heading, threading, and finishing. He further stated that the value addition in manufacturing of MS Screw from MS wire depends on number of machines installed and, in his case, he has installed 5 header and 4 thread rolling and one set of hardening and tempering machine. Overall value addition in India is ranging from 30-35% however, in case of manufacturing process in China, it is quite low in respect of India. This is due to advanced technology of machines i.e. automated machines which lead to low labour cost, and electricity charges. However, the minimum value addition in the manufacturing of screw from MS Wire would be from 10 to 15% in China. Further considering a minimum profit margin of 5%, at least 20% value addition to the value of raw material (0.96 USD/kg) is considered to arrive at a reasonable and conservative base price for analyzing the contemporary import prices of the screws. The base price thus turns out to be 1.15 USD/kg. This base unit price of 1.15 USD/kg is used as lower cut off for analyzing the contemporary import prices. The average declared price w.r.t. import of drywall screws for contemporary imports during 2022-23 from China turns out to be USD 1.40/kg as detailed in Annexure-I and II and summarized at table 4 above).

6.2 He also stated that chipboard screws are similar to drywall screws, with the only difference being in the threading, and that the price of chipboard screws is similar to that of drywall screws. During the import period 2020 to 2024 the importer has imported 341176 Kgs of drywall and chipboard screw with average import price of USD 0.70/kg. B/E wise import details of drywall /chipboard screws are tabulated as under: -

Table 7: Bill of Entry wise import of Drywall & Chipboard Screws by M/s Stylish

Sr. No.	CUSTOM HOUSE CODE	BE NUMBER	BE DATE	ITEM DESCRIPTION	UNIT PRICE (USD)	Declared assessable Value (In Rs.)
1	INFBD6	8006818	26-06-2020	DRYWALL SCREW DETAILS AS PER INV AND P/LIST	0.8	1676769.81
2	INMUN1	2149003	28-12-2020	BLACK DRYWALL SCREW DETAILS AS PER INV AND P/LIST	0.75	1507633.44
3	INMUN1	2659856	06-02-2021	BLACK DRYWALL SCREW 38MM (DETAILS AS PER INVOICE & P. LIST)	0.7	94452.04
4	INMUN1	2659856	06-02-2021	BLACK DRYWALL SCREW 19MM (DETAILS AS PER INVOICE & P. LIST)	0.75	790614.21
5	INMUN1	2659856	06-02-2021	BLACK DRYWALL SCREW 25MM (DETAILS AS PER INVOICE & P. LIST)	0.7	375457.32
6	INMUN1	2659856	06-02-2021	BLACK DRYWALL SCREW 32MM (DETAILS AS PER INVOICE & P. LIST)	0.7	127207.26
7	INMUN1	2659856	06-02-2021	BLACK DRYWALL SCREW 50MM (DETAILS AS PER INVOICE & P. LIST)	0.7	37613.65
8	INMUN1	2659856	06-02-2021	BLACK DRYWALL SCREW 75MM (DETAILS AS PER INVOICE & P. LIST)	0.7	18284.41

9	INMUN1	3266853	23-03-2021	BLACK DRYWALL SCREW (DETAILS AS PER INVOICE & P. LIST)	0.75	1449197.73
10	INMUN1	4108952	28-05-2021	SCREW 13MM (DETAILS AS PER INVOICE & P. LIST)	0.75	217494.85
11	INMUN1	4108952	28-05-2021	BLACK DRYWALL SCREW 19MM (DETAILS AS PER INVOICE & P. LIST)	0.75	1143674.45
12	INMUN1	4108952	28-05-2021	BLACK DRYWALL SCREW 75MM (DETAILS AS PER INVOICE & P. LIST)	0.7	12064.31
13	INMUN1	4961310	07-08-2021	CHIP BOARD SCREW (DETAILS AS PER INVOICE & P. LIST).	0.7	569358.73
14	INMUN1	4961310	07-08-2021	BLACK DRYWALL SCREW (DETAILS AS PER INVOICE & P. LIST).	0.7	431617.51
15	INMUN1	5770451	09-10-2021	BLACK DRYWALL SCREW (DETAIL AS PER INVOICE & PACKING LIST)	0.65	1221074.97
16	INMUN1	6623999	10-12-2021	BLACK DRYWALL SCREW (DETAILS AS PER INVOICE & PACKING LIST)	0.65	1190026.62
17	INMUN1	6623999	10-12-2021	CHIPBOARD SCREW (DETAILS AS PER INVOICE & PACKING LIST)	0.75	112828.20
18	INMUN1	8853532	27-05-2022	BLACK DRYWALL SCREW (DETAILS AS PER INVOICE & PACKING LIST)	0.65	1193662.67
19	INMUN1	8742725	19-05-2022	BLACK DRYWALL SCREW (DETAILS AS PER INVOICE & PACKING LIST)	0.65	960753.26
20	INMUN1	7198615	23-01-2022	BLACK DRYWALL SCREW (DETAILS AS PER INVOICE & PACKING LIST)	0.65	1069600.59
21	INMUN1	9460173	08-07-2022	SCREW (SIZE: 3.5*19) (DETAIL AS PER INVOICE & PACKING LIST)	0.65	1102904.64
22	INMUN1	9460173	08-07-2022	SCREW (SIZE: 4.8*20) (DETAIL AS PER INVOICE & PACKING LIST)	0.75	148467.93
23	INMUN1	6292851	06-06-2023	DRYWALL SCREWS (DETAIL AS PER INVOICE & PACKING LIST)	0.65	1493018.96
24	INMUN1	9462555	29-12-2023	DRYWALL SCREW (DETAIL AS PER INVOICE AND PACKING LIST)	0.65	1481726.98
				Total	**0.70**	**18425504.54**

6.3 Similarly, the average import price of self-drilling screw declared by various contemporary importers importing the screws form China turns out to be 1.47 USD/kg as detailed in Annexure –III and IV and summarized at table 6 above. To arrive at the average import price of self-drilling screws, the contemporary imports with unit price above 1.15 USD/kg only are considered. The importer during the year 2020 to 2024 has imported 23212 kg of Self drilling screw @ average price of USD 0.75/kg. BEs wise import details of self-drilling screws are tabulated as under: -

Table 8: Bill of Entry wise Import of Self-Drillings Screw by M/s Stylish

Sr. No.	CUSTOM HOUSE CODE	BE NUMBER	BE DATE	ITEM DESCRIPTION	QUANTITY (In Kg)	UNIT PRICE (In USD)	Declared assessable Value (In Rs)
1	INMUN1	4961310	07-08-2021	SDS SCREW WITH EPDM WASHER (DETAILS AS PER INVOICE & P. LIST).	6750	0.75	384470.93
2	INMUN1	8853532	27-05-2022	SDS CSK HEAD SCREW (DETAILS AS PER INVOICE & PACKING LIST)	3648	0.75	217468.91
3	INMUN1	8742725	19-05-2022	SDS CSK HEAD SCREW (DETAILS AS PER INVOICE & PACKING LIST)	8025	0.75	468961.82
4	INMUN1	7198615	23-01-2022	SDS SCREW (DETAILS AS PER INVOICE & PACKING LIST)	4789	0.75	273501.44
	Total				**23212**	**0.75**	**1344403.09**

6.4 From above, it is noticed that the unit price of 0.70 USD and 0.75 USD declared by the importer is only 50% of contemporary import price of drywall/chipboard screw (1.40 USD/kg) and 51% of contemporary import price of self-drilling screw (1.47 USD/kg). Further, the Government of India has revised the import policy for screws under ITC (HS) codes 73181110, 73181190, 73181200, 73181300, 73181400, 73181500 and 73181900 through DGFT notification no. 55/2023 dated January 3, 2024 **(RUD-12).** This amendment changes the status of these goods from "Free" to "Prohibited." However, importation will remain free if the CIF value equals or exceeds Rs. 129 per kg. The said notification also emphasizes that the price declared by the importer is quite low and it appears that the importer has deliberately mis-declared the value of imported goods to evade the customs duty. Considering exchange rate of Rs 85/USD, minimum import price prescribed vide above notification turns out to be 1.52 USD/kg. Thus, it appears that contemporary average unit prices of 1.40 USD/kg for drywall & chipboard screws and 1.47 USD/kg for self-drilling screw during 2022 and 2023 are logical and reasonable.

7. Summary of the investigation

7.1 Investigation as briefed above has revealed that M/s Stylish appears to have imported screws during the Calendar year 2020 to 2023 vide 14 Bills of Entries from Chinese suppliers at substantially undervalued unit prices, even lower than the value of the MS wire which is used as raw material in the manufacturing of the screws.

7.2 Average unit price declared by the noticee for various drywall/chipboard and self-drilling screws are 0.70 USD/kg and 0.75 USD/Kg respectively which is much lower than the average contemporary import price for drywall/chipboard screws of 1.40 USD/kg and 1.47 USD/kg for the self-drilling screws. Thus, unit price declared by the noticee is around 50-51% of the actual value of goods. Average contemporary import prices of 1.40 USD/kg and 1.47 USD/kg appear to be logical and justified when compared to the minimum import price of 129 Rs/kg (1.52 USD/kg) prescribed vide DGFT notification no. 55/2023 dated January 3, 2024 for import of screws.

7.3 In his statement dated 22.02.2024, Sh. Jarnail Singh, Proprietor M/s Stylish admitted that his firm is engaged in trading of the imported goods mainly furniture, Screws and Hardware items and mostly the imported goods after Customs clearance are sent directly to the buyers as per their pre-orders. In the said statement, Sh. Jarnail Singh also admitted that they imported goods only from China, and did not have agreement/purchase orders in regard to import consignments. He agreed that there is difference in the value declared by them in the import documents and as declared by other importers. He admitted the undervaluation of imported goods and also voluntarily deposited differential duty by taking the value of screw @0.9. USD/kg for the bills of entry in question. This admission and voluntary payment of differential duty @0.9USD/kg itself justifies that the importer had not made correct declaration at the time of filing of bills of entry.

7.4 In his statement dated 25.04.2025, Sh. Jarnail Singh, Proprietor of M/s Stylish, was shown the invoices and annexures related to the import of drywall screws and self-drilling screws and was asked to offer his comments. He did not provide any comments on these matters, which suggests that he did not have a plausible explanation. Furthermore, he admitted to the undervaluation of the goods and deposited the differential duty by declaring the value of screws at USD 0.90/kg for the bills of entry in question.

7.5 Screws imported by M/s Stylish at unit price of 0.70 USD/kg and 0.75 USD/Kg appear to be substantially undervalued as compared to contemporary average import prices of 1.40USD/kg for drywall/chipboard screws & 1.47 USD/kg for self-drilling screws and also the minimum import price of 129 Rs/kg (1.52 USD/kg). It therefore, appears that the importer has willfully mis-declared the value of the imported goods and suppressed true unit price of the screws before the Customs Authority, with intention to evade Customs duty and has rendered the goods imported vide 14 Bills of Entries liable for confiscation and penalty under the Customs Act, 1962 and rules made there under. Further, the differential duty is also liable to recovered along with penalty under the provisions of the Customs Act, 1962 and Rules made there under.

8. <u>Relevant Legal provisions</u>

The relevant provisions of law relating to the import of goods in general, the Policy and Rules relating to the import of Screw, the liability of the goods to confiscation and the liability of the persons concerned to penalty for attempting and effecting improper/illegal imports under the provisions of Customs Act, 1962 read with other allied laws for the time being in force are summarized as under:

8.1 <u>The Customs Act, 1962</u>

(i) Section 2(39) of the Customs Act, 1962 defines "smuggling", in relation to any goods, as any act or omission which will render such goods liable to confiscation under section 111 or section 113;

(ii) Section 14 for valuation of the goods
(1) For the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, the value of the imported goods and export goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, or as the case may be, for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf:

Provided further that the rules made in this behalf may provide for, -
(iii) the manner of acceptance or rejection of value declared by the importer or exporter, as the case may be, where the proper officer has reason to doubt the truth or accuracy of such value, and determination of value for the purposes of this section.

(iii) 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.

(iv) Section 28. Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded –
....
(4) Where any duty has not been levied or not paid or has been short-levied or short-paid] or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of, —
(a)collusion; or
(b)any willful mis-statement; or
(c)suppression of facts,
by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or not paid or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

(v) Section 28AA of the Customs Act, 1962 provides that Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2), whether such payment is made voluntarily or after determination of the duty under that section.

(vi) Section 46(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, [and such other documents relating to the imported goods as may be prescribed

(vii) Section 46(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 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.

(viii) Section 110 of the Customs Act, 1962: -Seizure of Goods, documents & things

(1) If the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods.

(ix) Section 111 of the Customs Act, 1962: -Confiscation of improperly imported goods, etc.

The following goods brought from a place outside India shall be liable to 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 trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-section (1) of section 54;

(x) Section 112 of the Customs Act, 1962: -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: 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.

(xi) Section 114A: Penalty for short-levy or non-levy of duty in certain cases. Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any willful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-section (8) of section 28 shall, also be liable to pay a penalty equal to the duty or interest so determined:
Provided that where such duty or interest, as the case may be, as determined under sub-section Provided also that where any penalty has

been levied under this section, no penalty shall be levied under section 112 or section 114.

(xii) SECTION 114AA. Penalty for use of false and incorrect material. —If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material 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.

(xiii) Section 125. Option to pay fine in lieu of confiscation. –

(1) Whenever confiscation of any goods is authorized 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, the provisions of this section shall not apply

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.

8.2 <u>The Customs Valuation (Determination of Value of Import Goods) Rules, 2007</u>

(i) Rule 3. Determination of the method of valuation.

(1) Subject to rule 12, the value of imported goods shall be the transaction value adjusted in accordance with provisions of rule 10;

....

(4) 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.

(ii) 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;

(iii) 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:

(iv) Rule 6. Determination of value where value cannot be determined under rules 3, 4 and 5. - If the value of imported goods cannot be determined under the provisions of rules 3, 4 and 5, the value shall be determined under the provisions of rule 7 or, when the value cannot be determined under that rule, under rule 8. Provided that at the request of the importer, and with the approval of the proper officer, the order of application of rules 7 and 8 shall be reversed.

(v) 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.

(vi) 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.

(vii) 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;

(viii) 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.

8.3 <u>The Foreign Trade (Development and Regulation) Act, 1992</u>

(i) Section 11 (1) of the Foreign Trade (Development and Regulation) Act, 1992 states that no export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and the foreign trade policy for the time being in force;

8.4 <u>Foreign Trade (Regulation) Rules, 1993</u>

(i) Rule 11 of the Foreign Trade (Regulation) Rules, 1993 stipulates, inter alia, that on the importation into any custom port of any goods, whether liable to duty or not, the owner of such goods shall in the bill of entry or any other documents prescribed under the Customs Act, 1962 state the value, quality and description of such goods to the best of his knowledge and belief and shall subscribe a declaration of the truth of such statement at the foot of such bill of entry or any other document;

(ii) Rule 14 (2) of the Foreign Trade (Regulation) Rules, 1993 stipulates, inter alia, that no person shall employ any corrupt or fraudulent practice for the purposes of importing or exporting any goods

9. <u>Rejection of declared value and Re-determination of value and duty</u>

9.1 <u>Rejection of declared value & re-determination of value</u>

9.1.1 Average unit price declared by the noticee for drywall /chipboard and for self-drilling screws is 0.70 and 0.75 USD/kg respectively which is much lower than the average contemporary import price for drywall/chipboard screws of 1.40 USD/kg and 1.47 USD/kg for the self-drilling screws. Thus, unit price declared by the noticee is only 50-51% of the actual value of goods. Average contemporary import prices of 1.40 USD/kg and 1.47 USD/kg appear to be logical and justified when compared to the minimum import price of 129 Rs/kg (1.52 USD/kg) prescribed vide DGFT notification no. 55/2023 dated January 3, 2024 for import of screw. The noticee has also admitted the undervaluation of imported goods and has voluntarily deposited differential duty by taking the value of screw @0.9. USD/kg for the bills of entry in question. Further, no purchase orders/agreements have been provided by the importer for the import of the goods against the bills of entry mentioned supra. There is thus reason to doubt the truth and accuracy of the values declared under Rule 12 of the Customs Valuation (Determination of value of imported goods) Rules, 2007 (hereinafter referred to as 'CVR, 2007' in short). The value as declared by the importer at the time of filing the Bills of entry cannot be accepted and hence the transaction value cannot be determined under the provisions of sub-Rule (1) of the Rule 3 of CVR 2007. Thus, in accordance with Rule 3(4), the value of the goods therefore, needs to be re-determined proceeding sequentially through Rules 4 to 9 of CVR 2007.

9.1.2 Rules 4 and 5 provide that the value of imported goods shall be transaction value of 'identical goods/similar goods' sold for export to India and imported contemporaneously. In the instant case, the goods are unbranded and differ in weight, size shape and other specifications. Rules 4 and 5 of CVR, 2007 therefore do not appear to be applicable in the instant case for the valuation of impugned goods.

9.1.3 Proceeding sequentially, it is stipulated under Rule 6 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, i.e. in the absence of any detailed specifications, brand, weight, size and shape, the value cannot be determined as per the said Rule 7. 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. Whereas, since it appears that, the provisions of Rule 4 to 8 cannot be applied in the instant case, the value of the impugned goods is required to be determined by the Residual method under the provisions of Rule 9 of the CVR 2007.

9.1.4 In pursuance to determination of value under Rule 9 of CVR 2007 contemporary import data of screws suggests that goods of China origin have been imported through various ports. Considering the minimum feasible average import price of screws @ $1.15/kg (the lowest economically viable pricing for importing any type of screw), any declared value below this threshold does not appear to be acceptable. Using this as a benchmark for fair pricing of the screws, import data shows that goods imported by

M/s Stylish, i.e. drywall/chipboard screws imported from the same country i.e. China was imported at an average price of $1.40/kg during calendar year 2020 to 2023, while import of self-drilling screws from China averaged at $1.47/kg. Whereas, unit price declared by M/s Stylish are 0.70 USD/Kg and 0.75 USD/Kg from the same country i.e. China for import of drywall screws and self-drilling screws respectively, which are even lower than the MS wire import price of 0.96 USD/kg.

9.1.5 Thus, it becomes apparent that declared average unit price of 0.70 USD/Kg and 0.75USD/Kg for the import of "drywall/chipboard screws" and "self-drilling screws" respectively by M/s Stylish imported vide 14 B/Es and the total declared values of Rs. 1,84,25,504.54/- and Rs. 13,44,403.09/- respectively appears liable to be rejected and liable to be re-determined at unit price of 1.40 USD/kg, total value at Rs 3,67,96,144/- for the import of drywall/chipboard screw and at unit price of 1.47 USD/kg, total value at Rs. 26,05,715.75/- for the import of self-drilling screws as detailed in **Annexure-V and VI** in terms of section 14 of the Customs Act, 1962 read with Rules 2(f), 3, 9, and 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

9.2 <u>Invocation of extended period in terms of section 28(4) of the Customs Act, 1962</u>

M/s Stylish appears to have contravened the provisions of Section 14 of the Customs Act, 1962 read with Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, Section 17, Section 46(4) and 46(4A) of the Customs Act, 1962 in as much as they made a wrong declaration about the value of the goods in the Bills of Entry filed for the importation of the goods with an intention to evade the Customs duty. M/s Stylish appears to have mis-declared the value of drywall/chipboard screws and self-drilling screws as Rs. 1,84,25,504.54/- and Rs. 13,44,403.09/- respectively which appears liable to be re-determined at Rs. 3,67,96,144/- for drywall/chipboard screws and Rs. 26,05,715.75/- for self-drilling screws. Thus, it appears that they have willfully mis-stated the facts and suppressed the true value of the goods with intent to evade payment of appropriate customs duties and therefore, the differential customs duty is liable to be recovered by invoking the extended period of limitation under Section 28(4) of the Customs Act, 1962.

9.3. <u>Redetermination of duty and demand for differential duty with applicable interest</u>

M/s Stylish appears to have mis-declared the value of drywall/chipboard screws and self-drilling screws as Rs. 1,84,25,504.54/- and Rs.

13,44,403.09/- respectively which appears liable to be re-determined at Rs 3,67,96,144/- for drywall/chipboard screws and Rs 26,05,715.75/- for self-drilling screws. Consequent to re-determination of the value, as detailed in Annexure V & VI, differential duty of Rs 68,83,478.61/- on drywall/chipboard screws and differential duty of Rs 4,72,613.85/- on self-drilling screws, total differential duty of Rs. 73,56,092.46/- appears liable to be demanded from M/s Stylish under Section 28(4) of the Act by invoking the extended period of limitation along with interest as applicable under Section 28AA of the Act. Re-determined values and differential duties liable to be demanded from the noticee are summarized in the table below.

Table 9: Redetermination of value u/r 9 of CVR 2007 & differential duty demand

Sr. No.	ITEM DESCRIPTION	Qty (kg)	Declared assessable Value (Rs.)	Duty Paid (Rs)	New Unit Price (USD)	Re-determined assessable value (Rs.)	Duty Payable (Rs.)	Differential Duty (Rs.)
1	Drywall and other screw	341176.00	18425504.54	6904036.55	1.40	36796144.00	13787515.16	6883478.61
2	Self-drilling screw	23212.00	1344403.09	503747.84	1.47	2605715.75	976361.69	472613.85
	Total	364388	19769907.63	7407784.39		39401859.75	14763876.85	7356092.46

10. Violations of the legal provisions

(i) The contemporary import of 'drywall/chipboard screw' and self-drilling screw from China has been at an average unit price of 1.40 USD/kg and 1.47 USD/kg during 2022 and 2023. However, the average unit price of 0.70 USD/kg and 0.75USD/kg declared before the customs authority by M/s Stylish is only 50-51% of the actual value of goods as determined by the application of CVR, 2007. Importer has thus not declared the correct transaction values of the goods as required under section 14 of the Customs Act, 1962.

(ii) In terms of section 46(4), of the Customs Act, 1962 importer should subscribe to a declaration as to the truth of the contents of the bill of entry and in terms of 46(4A) of the Customs Act, 1962, importer while presenting bill of entry should ensure the accuracy and completeness of the information. However, the importer has failed to do so by resorting to undervaluation and has violated provisions of section 46(4) and 46(4A) of the Customs Act, 1962.

(iii) In terms of the Rule 11 of Foreign Trade (Regulation) Rules, 1993 importer of the goods should state the value, quality and description of such goods to the best of his knowledge and belief and shall subscribe a declaration of the truth of such statement at the foot in the bill of entry. In terms of the Rule 14(2), importer shouldn't employ any corrupt or fraudulent practice for importing of the goods. By resorting to the undervaluation of the goods, importer has not complied with Rule 11 and 14(2) of the Foreign Trade Rules, 1993 thereby has also violated section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992.

(iv) By resorting to the undervaluation of the goods, importer has failed to meet the faith and responsibility posed on him under section 17 of the Customs Act, 1962 which allows for the self-assessment of the bill of entry. Under self-assessment, it is the added and enhanced responsibility of the importer to declare the correct description, classification and value and pay the applicable duty on the imported goods. The investigation has revealed that M/s Stylish had incorrectly self-assessed the duty and violated the provisions of Section 17 of the Customs Act, 1962 with intent to evade the customs duty short levied.

11. <u>Liability of goods for confiscation under Section 111(m) of the Customs Act, 1962</u>

M/s Stylish has undervalued the screws imported vide 14 Bills of Entries and self-assessed at value of Rs 1,97,69,907.63 /- whereas based on the value determined as per the provisions of Customs Act, 1962 and CVR, 2007, the value appears to be Rs 3,94,01,859.75/- as summarized in the table 9, above. Thus, for the reason of mis-declaration of value, goods (screws) imported by the noticee covered under 14 B/Es appears to be liable for confiscation under section 111(m) of the Customs Act, 1962.

12. <u>Liability for penalty of M/s Stylish</u>

12. 1 Liability for Penalty of M/s Stylish under Section 112 (a) of the Customs Act, 1962

As discussed at Para 9 and 10 above M/s Stylish, Proprietor Sh. Jarnail Singh, has willfully mis-stated and mis -declared the facts in Bills of Entry with an intent to undervalue the imported goods (screws) to evade Customs Duty. By their acts of omission and commission M/s Stylish have violated the provisions u/s, 14, 17, 46(4), 46(4A) of the Customs Act, 1962 and section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 and Rule 11 and Rule 14(2) of the Foreign Trade (Regulation) Rules, 1993 resulting in imported goods liable for confiscation under section111(m) of the Customs Act, 1962 and have thus rendered themselves liable for penalty under section 112(a) of the Customs Act, 1962.

12.2 Liability for Penalty under Section 114A of the Customs Act, 1962

As discussed in para 9.2 above, M/S Stylish, Proprietor Sh. Jarnail Singh, has resorted to willful mis-statement and suppression of true value of the imported goods resulting in the short levy of the duty to the tune of Rs 73,56,092.46/- and have thus rendered themselves liable for penalty under section 114A of the Customs Act, 1962.

12.3 Penalty under Section 114AA of the Customs Act, 1962

Under section 46(4), 46(4A) and under Section 17 of the Customs Act, 1962 M/s Stylish, Proprietor Sh. Jarnail Singh, was required to file truthful declaration before the customs authority, however they have failed to comply with the same as they mis-declared the value at only 50-51 % of the value determined as per the provisions of Customs Act, 1962 and CVR, 2007 and thereby evaded payment of customs duty to the tune of Rs 73,56,092.46/- The importer deliberately filed false declaration before the customs authority to evade the customs duty and have violated the provision of the Customs Act, 1962 and have thus rendered themselves liable for penal action under Section 114AA of the Customs Act, 1962.

13. <u>Voluntary payment made during the investigation:</u>

During the investigation, M/s Stylish Group of Company has made a payment of Rs. 10,99,254/- towards differential duty (BCD+SWS+IGST) (Rupees Ten Lakh Ninety Nine Thousand Two Hundred and Fifty Four Only) and Rs.81,500/- (Rupees Eighty One Thousand Five Hundred Only) as interest. Therefore, the payment made by the importer is required to be appropriated against the demand of differential duty and interest. The details of payments made and copy of the challan received has been detailed as RUD-13.

14. Now, therefore, **Shri Jarnail Singh**, Proprietor of M/s Stylish Group of Company (IEC No. AWOPS2637K) Shop No. 5, New Cloth Market, Brown Road, Ludhiana is hereby liable to be called upon to Show Cause in writing, to the Commissioner of Customs, Custom House Mundra having his office at 5B, Port User Building, Mundra Port, Mundra, Kutch, Gujarat-370421 as to why:

(i) The declared value of Rs 1,84,25,504.54/- for drywall/chipboard screws and Rs. 13,44,403.09/- for self-drilling screws imported vide 14 B/Es as detailed in **Annexure V and VI,** should not be rejected under the provisions of Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with Section 14 of the Customs Act, 1962 as discussed in para 9.1 above.

(ii) The value with respect to these 14 Bills of Entry should not be re-determined as Rs 3,67,96,144/- for drywall/chipboard screws and Rs 26,05,715.75/- for self-drilling screws by invoking the provisions of Rule 9 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

(iii) The differential Customs Duty of **Rs. 73,56,092.46/-** (Rupees Seventy Three Lakhs Fifty Six Thousand Ninety Two and Paise Forty Six Only) should not be demanded and recovered from them under the provisions of **Section 28 (4)** of the Customs Act, 1962 along with interest applicable under section 28AA of the Customs Act, 1962.

(iv) **Rs 10,99,254/-**(Rupees Ten Lakh Ninety Nine Thousand Two Hundred and Fifty Four Only) towards differential duty (BCD+SWS+IGST) and **Rs.81,500/-**(Rupees Eighty One Thousand Five Hundred Only) towards interest, paid/deposited by the importer during the course of the investigation should not be adjusted and appropriated against the differential duty and interest respectively demanded from them at sub-para (iii) above.

(v) Screws imported vide 14 B/Es (Annexure-V & VI) should not be held liable for confiscation under section 111(m) of the Customs Act, 1962.

(vi) Penalty should not be imposed upon them under Section 112(a), 114A and 114AA of the Customs Act, 1962.

WRITTEN SUBMISSION AND PERSONAL HEARING

15. I observe that 'Audi alteram partem', is an important principal of natural justice that dictates to hear the other side before passing any order. Therefore, personal hearing in the matter was granted to the noticee on 29.01.2026, 30.03.2026, 23.04.2026, 06.05.2026 and 21.05.2026. Accordingly, Advocate Shri G. S. Dhillon, authorized representative for the noticee i.e Shri Jarnail Singh, Proprietor of M/s Stylish Group of Company appeared for personal hearing through virtual mode on 21.05.2026. During the personal hearing, he reiterated the submissions and additional submissions both dated 19.05.2026 wherein he interalia stated as below:

i. Suppression of Material Invoice — Procedural Flaw in Rule 9 — Lowest Value Mandatory under CVR, 2007

(a) Non-reliance on Invoice No. W08AANI122026-1 dated 29.04.2023
The Noticee submitted that during recording of the statement dated 22.02.2024, the investigating officer showed the Noticee at Question No. 5 a commercial invoice No. W08AANI122026-1 dated 29.04.2023 reflecting a screw price of USD 0.89/kg. The

Department selectively relied on higher-value invoices while consciously suppressing this lower-value invoice and it is a clear violation of procedural fairness.

(b) Rule 9 Invoked Without Genuinely Exhausting Prior Rules
CVR, 2007 mandates strict sequential application and Rules 4 through 8 must be genuinely exhausted before Rule 9 can be invoked. The Show Cause Notice dispenses with Rules 4, 5, 7 and 8 by bare assertion at paras 9.1.2 and 9.1.3, without any genuine attempt to apply them. This renders the invocation of Rule 9 procedurally flawed.

(c) Lowest Value Mandatory — Rule 4(3) read with Rule 9(2)(ii)
Even if Rule 9 applies, it borrows the framework of Rule 5. Rule 4(3) expressly applicable to Rule 5 and it mandates adoption of the lowest transaction value where multiple values of similar goods exist. Rule 9(2)(ii) independently prohibits acceptance of the higher of two alternative values. Invoice No. W08AANI122026-1 at USD 0.89/kg is the lowest contemporaneous value on record. No higher value is permissible under the statutory scheme. Any value above USD 0.89/kg is in direct violation of Rules 4, 5 and 9 of CVR, 2007.

ii. Enhancement of Value Cannot Rest on NIDB Data Alone

The Noticee submitted that enhancement of value on the basis of import data comparison alone is legally unsustainable. The Hon'ble Supreme Court in Eicher Tractors Ltd. v. CC [2000 (122) ELT 321 (SC)], as followed by the Hon'ble CESTAT in Topsia Estates Pvt. Ltd. v. Commissioner of Customs (Import-Seaport, Chennai), held that declared value cannot be enhanced merely on the basis of NIDB data. Enhancement requires independent corroboration by way of market survey, quality examination or other evidence — none of which is present in the instant case.

iii. Extended Period under Section 28(4) is Not Justified

The Noticee submitted that the invocation of the extended period under Section 28(4) requires positive evidence of wilful misstatement or suppression of facts. No such evidence exists here — there is no parallel invoice, no money flow-back, no financial trail, and no admission of undervaluation. Even if undervaluation is assumed, it arises from legal interpretation at best, not from any deliberate act of evasion. The demand in respect of 13 Bs/E out of Total 14 Bs/E is accordingly wholly barred by limitation.

DISCUSSION AND FINDINGS

16. I have carefully gone through the Show Cause Notice, the statements of the concerned persons recorded under Section 108 of the Customs Act, 1962, all the Relied Upon Documents, the written submissions filed by Shri Jarnail Singh, Proprietor of M/s Stylish Group of Company and all other material available on record. I have also duly considered the oral submissions advanced by the noticees' authorized representative during the personal hearing granted in the matter. I find that the following issues arise for my determination in the present proceedings:

(i) Whether the declared value of Rs 1,84,25,504.54/- for drywall/chipboard screws and Rs. 13,44,403.09/- for self-drilling screws imported vide 14 B/Es as detailed in Annexure V and VI to the SCN, be rejected under the provisions of Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with Section 14 of the Customs Act, 1962 and whether the same to be re-determined as Rs 3,67,96,144/- for drywall/chipboard screws and Rs 26,05,715.75/- for self-drilling screws by invoking the provisions of Rule 9 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

(ii) Whether the differential Customs Duty of **Rs. 73,56,092.46/-** be demanded and recovered from them under the provisions of **Section 28 (4)** of the Customs Act, 1962 along with interest applicable under section 28AA of the Customs Act, 1962.

(iii) Whether payment of **Rs 10,99,254** towards differential duty and **Rs.81,500/-** towards interest, deposited by the importer during the course of the investigation, be adjusted and appropriated against the differential duty and interest respectively demanded from them.

(iv) Whether the goods i.e Screws imported vide 14 B/Es (Annexure-V & VI) be held liable for confiscation under section 111(m) of the Customs Act, 1962.

(v) Whether the penalty be imposed upon them under Section 112(a), 114A and 114AA of the Customs Act, 1962.

17. I find that an intelligence was received by the DRI, Ludhiana Zonal Unit that certain importers were importing screws at prices so low as to be below the cost of the primary raw material used in manufacture, viz., Mild Steel (MS) wire. Analysis of local market data established that the manufacturing cost of drywall screws ranges from Rs. 110 to Rs. 114 per kg and that of self-drilling screws ranges from Rs. 120 to Rs. 130 per kg. It was further established that, at the then-prevailing steel wire price of approximately Rs. 72/kg, it is not economically feasible to manufacture drywall screws below Rs. 100 per kg or self-drilling screws below Rs. 110 per kg. Import data of MS wire during 2022 revealed that the average import price of MS wire itself was USD 0.96/kg (as per Table-2 in Para-4 of the Show Cause Notice). Against this background, scrutiny of import data revealed that M/s Stylish Group of Company, a proprietorship trading firm, was engaged in import of screws classified under CTH 7318 of the Customs Tariff Act, 1975 at values substantially lower than the cost of raw material alone, thereby raising a strong prima facie case of gross undervaluation with the intent to evade customs duty.

17.1 On analysis of the Bills of Entry filed by the Noticee, it emerged that the Noticee had imported drywall/chipboard screws at an average declared unit price of USD 0.70/kg and self-drilling screws (SDS) at an average declared unit price of USD 0.75/kg, vide 14 Bills of Entry spanning from June 2020 to December 2023. The declared unit price of USD 0.70/kg and USD 0.75/kg is not only lower than the contemporaneous average import price of drywall/chipboard screws and self-drilling screws as obtained from the import data of other importers during the corresponding period, but is also below the import price of the very raw material i.e MS wire, which was being imported at an average of USD 0.96/kg during the same period.

18. Nature of the Goods and Manufacturing Process - Relevance to Valuation:

18.1 The impugned goods are drywall screws/chipboard screws, and self-drilling screws, all classifiable under CTH 7318 of the Customs Tariff Act, 1975. The Noticee, in his statement dated 25.04.2025, furnished a detailed account of the nature, application, and manufacturing process of these goods, which is instructive and must be taken on record as an admission of a party with direct commercial knowledge of the trade. The details of screws is as below:

Drywall screws are primarily used to securely fasten drywall sheets to wood and metal studs, and for various interior fastening and suspended ceiling applications. Chipboard screws are similar to drywall screws and differ only in threading; the Noticee himself admitted that the price of chipboard screws is similar to that of drywall screws.

Self-drilling screws are a type of self-tapping screw featuring a drill-point tip with notches that act as a reservoir for wood chips or metal filings during installation, permitting simultaneous drilling and fastening without pre-drilling. CSK and SDS headed screws are sub-types of self-drilling screws differing in head shape and carry a slightly higher price than drywall screws, as admitted by the Noticee

18.2 The manufacturing process, as described by the Noticee himself in his statement dated 25.04.2025, involves wire drawing of MS wire rods through dies to the desired diameter, straightening and cutting into screw blanks, cold heading to form the head shape, thread rolling between specialized dies, heat treatment (heating, rapid quenching, and tempering), coating processes such as phosphating and electroplating for corrosion resistance, and finally quality control, sorting, counting, and packaging. The Noticee clearly stated that self-drilling screws require two additional manufacturing operations as compared to drywall screws, which accounts for their relatively higher price.

18.3 Critically, the Noticee himself, in his statement dated 25.04.2025, stated that the value addition in manufacturing MS screws from MS wire in India ranges from 30–35%, while in China it is lower due to advanced automation, low labour cost, and low electricity charges, but conceded that the minimum value addition in China would be 10–15%. Further, he acknowledged that a profit margin of at least 5% must be factored in. Thus, even by the most conservative calculation on the Noticee's own admission, the minimum ex-works manufacturing cost in China, applied to the MS wire import price of USD 0.96/kg (the cost of raw material itself), would yield a minimum viable price of approximately USD 1.15/kg. This figure, derived not from any external source but from the Noticee's own statement, serves as a logical and empirically grounded lower floor for what a fair value of any imported screw from China could reasonably be. Yet, the Noticee declared import values of USD 0.70/kg and USD 0.75/kg, which are not merely below the minimum viable manufacturing cost but also below the import price of the raw material itself. This is commercially and economically impossible, and is a clinching indicator of undervaluation.

19. <u>Rejection of Declared Value under Rule 12 of CVR, 2007</u>:

19.1 Section 14 of the Customs Act, 1962 mandates that the value of imported goods shall be the transaction value i.e the price actually paid or payable for the goods, subject to such other conditions as may be specified in the Rules. Rule 3(1) of CVR, 2007 accordingly provides that the primary method of valuation is the transaction value adjusted in accordance with Rule 10. However, Rule 12(1) of CVR, 2007 empowers the proper officer, where he has reason to doubt the truth or accuracy of the declared value, to call upon the importer for further information and documents; and if, after receiving such information or in the absence of a response thereto, there still remains a reasonable doubt as to the truth or accuracy of the declared value, it shall be deemed that the transaction value cannot be determined under Rule 3(1), and determination shall proceed sequentially through Rules 4 to 9.

19.2 In the present case, I find that the following circumstances individually and cumulatively constitute sufficient and cogent reason to doubt the truth and accuracy of the declared values of USD 0.70/kg and USD 0.75/kg:

(i) No purchase orders, agreements, or any contemporaneous documentary evidence were provided by the Noticee to substantiate that the prices declared in the Bills of Entry represent the actual prices paid or payable for the goods to the foreign suppliers.

(ii) The declared unit prices of USD 0.70/kg (drywall/chipboard screws) and USD 0.75/kg (self-drilling screws) are lower than the import price of MS wire, the very primary raw material used in their manufacture, which was being imported at an average of USD 0.96/kg during the same period. It is commercially and physically impossible to manufacture finished screws (involving several value-adding processes) and export them at a price below the cost of the raw material input.

(iii) Contemporaneous import data for drywall/chipboard screws and self-drilling screws imported from China by other Indian importers during 2022 and 2023 shows an average unit price much higher then the declared prices of the Noticee.

(iv) The Government of India, through DGFT Notification No. 55/2023 dated 03.01.2024, fixed a Minimum Import Price (MIP) for screws under CTH 7318 at Rs. 129/kg (equivalent to approximately USD 1.52/kg at an exchange rate of Rs. 85/USD). The very fact that the Government found it necessary to impose such an MIP because Indian manufacturers were unable to compete with Chinese importers who were landing screws at artificially low prices, lends strong corroboration to the inference that prices at the levels declared by the Noticee are not genuine market prices but are the product of deliberate undervaluation.

(v) The Noticee admitted, in his statement dated 22.02.2024, that there is a difference between the values declared by him and those declared by other importers. He further voluntarily deposited Rs. 10,99,254/- towards anticipated differential duty.

19.3 In view of the above, I am satisfied that there exists more than adequate reason to doubt the truth and accuracy of the declared transaction values. Accordingly, the declared values are hereby rejected under Rule 12 of CVR, 2007 read with Section 14 of the Customs Act, 1962.

20. Re-determination of Value under Rule 9 of CVR, 2007:

Upon rejection of the declared transaction value under Rule 12 of CVR, 2007, determination of value must proceed sequentially through Rules 4 to 9, as mandated by Rule 3(4) ibid. I now address each Rule in sequence.

20.1 Rule 4 — Transaction Value of Identical Goods:

Rule 4(1)(a) provides that the value of imported goods shall be the transaction value of identical goods imported at or about the same time. The impugned goods are generic, unbranded screws of varying dimensions (diameters and lengths). In the absence of goods of precisely the same specification, weight, size, and shape being available from the same country of origin at the same time, a strict application of the concept of 'identical goods' as defined is not possible. Rule 4 is accordingly held inapplicable in the facts of this case.

20.2 Rule 5 — Transaction Value of Similar Goods:

Rule 5 provides for valuation based on similar goods sold for export to India and imported at or about the same time. The goods are unbranded and available in a wide range of dimensions and coatings, making comparability difficult in the absence of detailed specifications. Rule 5 is accordingly held inapplicable in a strict sense, as a definitive similar goods determination cannot be made without detailed technical specifications that are not available on record.

20.3 Rules 6, 7 and 8 - Deductive Value and Computed Value:

Rule 6 states that if the value of imported goods cannot be determined under the provisions of Rule 3, 4 and 5, the value shall be determined under the provisions of Rule 7 or Rule 8. Rule 7 provides for determination based on the domestic resale price in India with prescribed deductions. Rule 8 provides for computed value based on cost of production, profit, and general expenses in the country of export. Application of Rule 7 would require detailed data on Indian resale prices of the specific categories of goods with appropriate deductions for duty, transport, and profit margins, which is not available with adequate specificity. Application of Rule 8 would require the cost of production data from the Chinese manufacturers, which is not obtainable. Both Rules are accordingly held inapplicable.

20.4 Rule 9 — Residual Method:

In terms of Rule 9(1) of CVR, 2007, 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.

20.4.1 In this context, it is pertinent to refer to Rule 13 of CVR, 2007 (the Interpretative Notes to the Rules) which provides interpretative guidance for the application of Rule 9. Rule 13 (read with Schedule II thereof) clarifies that the residual method under Rule 9 requires the use of reasonable means, and that in applying this method, the methods described in Rules 3 through 8 may be utilized with flexibility in their application, so as to achieve conformity with the principles and objectives of the Rules. This is a statutory recognition that Rule 9 does not operate in isolation but draws upon the framework and principles underlying the entire valuation hierarchy. Accordingly, Rule 9 in the present case is applied by drawing upon the principles of Rules 5, utilizing contemporaneous import data of goods of the same class and kind as a reasonable benchmark, consistent with the data available in India.

20.4.2 The data available in India for contemporaneous imports of drywall/chipboard screws from China during 2022–2023 establishes an average unit price of USD 1.40/kg (data detailed in Annexure-I and II to the SCN and summarized in Table 4 thereof) and for self-drilling screws imported from China during the same period, the average unit price is USD 1.47/kg (Annexure-III and IV, Table 6). These averages have been computed on the basis of contemporaneous import data across a large and significant volume of imports.

20.4.3 Further corroboration is provided by DGFT Notification No. 55/2023 dated 03.01.2024, which fixed the MIP for screws under the relevant ITC (HS) codes at Rs. 129/kg — equivalent to USD 1.52/kg at the exchange rate of Rs. 85/USD. While the MIP notification is purely a trade policy and import regulation measure under the Foreign Trade (Development and Regulation) Act, 1992, it is based on contemporaneous data of the price levels prevailing in the market for these goods. In invoking Rule 9 with the flexibility sanctioned by Rule 13, I find it appropriate to treat the MIP as a benchmark/reference that validates the contemporaneous average import prices of USD 1.40/kg and USD 1.47/kg as reasonable.

20.4.4 I am, accordingly, satisfied that the value of the impugned goods is liable to be re-determined under Rule 9 of CVR, 2007, read with the interpretative flexibility provided under Rule 13 thereof, at:

(a) USD 1.40/kg for drywall/chipboard screws — yielding a re-determined total assessable value of **Rs. 3,67,96,144/-**; and

(b) USD 1.47/kg for self-drilling screws — yielding a re-determined total assessable value of **Rs. 26,05,715.75**/-.

21. <u>Discussion on Submissions of the Noticee:</u>

21.1 <u>Non reliance on value in Invoice No. W08AANI122026-1 dated 29.04.2023 at USD 0.89/kg — Rule 4(3)(read through rule 5) and Rule 9(2)(ii) Argument</u>

The Noticee has argued that the Department suppressed a commercial invoice (Invoice No. W08AANI122026-1 dated 29.04.2023) which was shown to him during recording of his statement on 22.02.2024 but was not made an RUD, and that the said invoice records a price of USD 0.89/kg. The Noticee submits that under Rule 4(3) of CVR, 2007 (read through Rule 5 into Rule 9), the lowest available transaction value of similar goods must be adopted, and that the re-determined value ought, therefore, to be USD 0.89/kg rather than USD 1.40/kg. Further, clause (ii) of sub rule (2) of Rule 9 forbids the acceptance for customs purposes of the highest of the two alternative values.

This argument is unsustainable. The invoice at USD 0.89/Kg was shown for a limited and specific purpose i.e to confront him with the question of why the same supplier was selling the same item to two different Indian importers at widely different prices and it is a legitimate investigative query. The purpose was to elicit an explanation regarding the price disparity and it cannot lend any credibility or acknowledge USD 0.89/kg as a correct value. Further, the SCN itself at para 9.1.4 has expressly stated that any value below USD 1.15/kg is under cloud, having regard to the minimum viable manufacturing cost.

The Noticee's submission on Rule 9(2)(ii) proceeds on a fundamental misreading of the provision. Rule 9(2)(ii) prohibits determination of value on the basis of 'a system which provides for the acceptance for customs purposes of the highest of two alternative values'. The provision speaks to one thing only, the Department cannot, where two prices are before it, mechanically pick the higher one. It says nothing about an obligation to accept the lowest available price and no such mandate exists anywhere in the provision of Rule 9. In the present case, the Department has not chosen between two competing prices. The re-determined values of USD 1.40/kg and USD 1.47/kg are not the 'higher of two alternatives', however, they are an independently arrived at determination under Rule 9(1), based on reasonable means, namely a comprehensive analysis of contemporaneous import data of drywall screws and self-drilling screws from China during 2022–2023, corroborated by the Noticee's own manufacturing cost admissions and by DGFT Notification No. 55/2023 dated 03.01.2024, which fixed the MIP at Rs. 129/kg (USD 1.52/kg). The adopted values of USD 1.40/kg and USD 1.47/kg are below the MIP, further affirming that the Department has not inflated the value. Rule 9(2)(ii) is therefore simply not attracted on the facts of this case, and the Noticee's reliance upon it is misplaced.

21.2 <u>Non-Applicability of NIDB Data Alone</u>

The Noticee has relied upon the Hon'ble CESTAT decision in Topsia Estates Pvt. Ltd. vs. Commissioner of Customs, Chennai (following the Hon'ble Supreme Court in Eicher Tractors Ltd. vs. CC [2000 (122) ELT 321 (SC)]), to argue that enhancement of value on the basis of NIDB data alone is insufficient.

This submission is noted but is not applicable to the present case. The valuation re-determination in the present case is not based upon NIDB data alone. It is also based upon (i) detailed import invoices of contemporaneous imports by multiple named importers (Tables 3 and 5 of the SCN), (ii) a comprehensive statistical summary of contemporaneous imports of drywall screws and self-drilling screws from China during 2022–2023; (iii) the DGFT MIP notification providing authoritative corroboration; and (iv) the Noticee's own admissions regarding manufacturing cost economics. This is far more acceptable legally than a mere NIDB comparison, and the decisions relied upon by the Noticee are therefore distinguishable.

21.3 <u>Limitation - Extended Period under Section 28(4)</u>

The Noticee has contended that out of 14 Bills of Entry, 13 pertain to a period beyond the normal limitation period of two years, and that the invocation of extended period under Section 28(4) of the Customs Act, 1962 is unsustainable in the absence of evidence of wilful mis-statement or suppression.

This contention is not sustainable. Section 28(4) provides for a period of five years from the relevant date where duty has not been paid or has been short-paid by reason of collusion, wilful mis-statement, or suppression of facts by the importer. In the present case, the following facts, taken together, clearly establish wilful mis-statement and suppression:

i. The Noticee declared values of USD 0.65 to USD 0.80/kg for goods whose minimum viable manufacturing cost (by the Noticee's own admission) could not be below USD 1.15/kg i.e a suppression of the true value by more than 40-50% on each consignment.

ii. No purchase orders or agreements were maintained or provided, eliminating the possibility of a documentation error.

iii. The suppression was not a one-time occurrence but was repeated across 14 Bills of Entry over a four-year period (2020–2023), demonstrating a deliberate practice of undervaluation rather than any inadvertent error.

iv. The Noticee himself, upon confrontation, agreed to pay differential duty at an enhanced value establishing that the original declarations were not made in good faith.

Further, the Hon'ble Supreme Court in **CCE v. Chemiphar Drugs and Liniments [(1989) 2 SCC 127]** laid down that for extended period to apply, something positive other than mere inaction is required. In the present case, the positive act is the deliberate declaration of values that are demonstrably below the cost of raw material itself - an act that cannot conceivably be attributed to inadvertence or ignorance. I am accordingly satisfied that the ingredients for invocation of the extended period under Section 28(4) are fully established.

22. <u>Differential Duty</u>:

22.1 The calculation of differential duty on the basis of re-determined values is as under:

Sr. No.	ITEM DESC.	Qty (kg)	Declared assessable Value (Rs.)	Duty Paid (Rs)	New Unit Price USD	Re-determined assessable value (Rs.)	Duty Payable (Rs.)	Differential Duty (Rs.)
1	Drywall and other screw	341176.00	18425504.54	6904036.55	1.40	36796144.00	13787515.16	6883478.61
2	Self-drilling screw	23212.00	1344403.09	503747.84	1.47	2605715.75	976361.69	472613.85
	Total	**364388**	**19769907.63**	**7407784.39**		**39401859.75**	**14763876.85**	**7356092.46**

22.2 Thus, the total differential customs duty, on the re-determined value as tabulated above, is determined under Section 28(8) of the Customs Act, 1962 at **Rs. 73,56,092.46/-** (Rupees Seventy Three Lakhs Fifty Six Thousand Ninety Two and Paise Forty Six Only). The short payment of this duty being the direct result of wilful mis-statement and suppression of the true value of the imported goods, as conclusively established in the preceding paragraphs, the said differential duty is liable to be recovered from Shri Jarnail Singh, Proprietor of M/s Stylish Group of Company, under Section 28(4) of the Customs Act, 1962, along with interest under Section 28AA of the Customs Act, 1962.

22.3 Further, during the course of investigation, the Noticee voluntarily paid Rs. 10,99,254/- towards differential duty and Rs. 81,500/- towards interest. These amounts are required to be appropriated against the total demand of differential duty and interest respectively confirmed above under Section 28(8) read with Section 28(4) of the Customs Act, 1962.

23. <u>Confiscation under Section 111(m) of the Customs Act, 1962:</u>

23.1 Section 111(m) of the Customs Act, 1962 provides that goods which do not correspond in respect of value or in any other particular with the entry made under the Act shall be liable to confiscation. In the present case, it is established that the value declared in the 14 Bills of Entry by the Noticee does not correspond to the true and correct value of the screws as re-determined under Rule 9 of CVR, 2007. The goods were imported upon a false declaration of value, and the imported goods do not correspond in respect of value with the entry made. Accordingly, the screws imported vide the 14 Bills of Entry (Annexure-V and VI to the SCN) are held liable to confiscation under Section 111(m) of the Customs Act, 1962.

23.2 As the impugned goods are found to be liable for confiscation under Section 111 of the Customs Act, 1962, I find that it is necessary to consider as to whether redemption fine under Section 125 of Customs Act, 1962, is liable to be imposed in lieu of confiscation. I find that, in the present case, the subject goods are not physically available for confiscation at this stage. The goods have already been cleared and are no longer under the control of the Customs. Therefore, physical confiscation of the goods is not feasible. However, I note that the Hon'ble CESTAT, Ahmedabad, in the case of *M/s. Van Oord India Pvt. Ltd. vs. Commissioner of Customs, Ahmedabad* [Customs Appeal No. 10679 of 2024-DB], has held that redemption fine can be imposed even when the goods are not physically available for confiscation. Further, this points were already settled in case of Judgment dated 11.08.2017 of Hon'ble High Court of Madras in ***<u>C.M.A. No. 2857 of 2011 in the case of Visteon Automotive Systems India Ltd. Vs. CESTAT, Chennai [2018 (9) G.S.T.L. 142 (Mad.)]</u>***. Para 23 of the said Judgment is as follows:

> *"The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields. The fine under Section 125 is in lieu of confiscation of the goods. The payment of fine followed up by payment of duty and other charges leviable, as per sub-section (2) of Section 125, fetches relief for the goods from getting confiscated. By subjecting the goods to payment of duty and other charges, the improper and irregular importation is sought to be regularised, whereas, by subjecting the goods to payment of fine under sub-section (1) of Section 125, the goods are saved from getting confiscated. Hence, the availability of the goods is not necessary for imposing the redemption fine. The opening words of Section 125, "Whenever confiscation of any goods is authorised by this Act ....", brings out the point clearly. The power to impose redemption fine springs from the authorisation of confiscation of goods provided for under Section 111 of the Act. When once power of authorisation for confiscation of goods gets traced to the said Section 111 of the Act, we are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing from Section 111 only. Hence, the payment of redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act."*

23.3 I further find that the above view of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad), has been cited by Hon'ble Gujarat High Court in case of M/s Synergy Fertichem Pvt. Ltd reported in 2020 (33) G.S.T.L. 513 (Guj.) and the same has not been challenged by any of the parties concerned. Hence, from the above discussion and relying on the above judgements, I find that goods are liable for confiscation and redemption fine can be imposed.

24. Penalties:

24.1 Penalty under Section 114A of the Customs Act, 1962:

Section 114A of the Customs Act, 1962 provides that where duty has not been paid or has been short-paid by reason of collusion, wilful mis-statement, or suppression of facts, the person liable to pay the duty as determined under Section 28(8) shall also be liable to a penalty equal to the duty so determined. The second proviso provides that where any penalty has been levied under Section 114A, no penalty shall be levied under Sections 112 or 114 in respect of the same act.

In the present case, as elaborately discussed in preceding paragraphs, it is established that the Noticee has resorted to wilful mis-statement and suppression of the true value of the imported goods over 14 Bills of Entry, resulting in short-levy of customs duty of Rs. 73,56,092.46/- The ingredients of Section 114A are fully satisfied. Accordingly, I hold that Shri Jarnail Singh, proprietor of M/s Stylish Group of Company, is liable for penalty under Section 114A of the Customs Act, 1962. In view of the imposition of penalty under Section 114A, no separate penalty is imposed under Section 112(a) as per the second proviso to Section 114A.

24.2 <u>Penalty under Section 114AA of the Customs Act, 1962:</u>

Section 114AA of the Customs Act, 1962 provides that 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 then he is liable for penalty under Section 114AA.

The ingredients of the provisions of Section 114AA are squarely satisfied on the facts established in these proceedings. The assessable value declared in a Bill of Entry is a material particular and it is the very basis on which customs duty is computed and levied. In the present case, the Noticee filed Bills of Entry declaring values of USD 0.65–0.80/kg for goods whose minimum viable manufacturing cost, on the Noticee's own admission, could not be below USD 1.15/kg. As established in these proceedings, the declared values are demonstrably false and incorrect as they are even below the cost of the very raw material used to manufacture the goods and the Noticee knowingly signed and filed these declarations through separate Bills of Entry.The act of signing and filing 14 Bills of Entry with such declarations over four years is not a bona fide error or a matter of interpretation, it is a knowing and intentional act of filing materially incorrect declaration. Accordingly, I hold that Shri Jarnail Singh, proprietor of M/s Stylish Group of Company, is liable for penalty under Section 114AA of the Customs Act, 1962.

25. In view of the foregoing discussion and findings, I pass the following order:

<u>ORDER</u>

(i) I reject the declared value of Rs 1,84,25,504.54/- for drywall/chipboard screws and Rs. 13,44,403.09/- for self-drilling screws imported vide 14 B/Es as detailed in Annexure V and VI to the SCN, under the provisions of Rule 12 of the Customs Valuation

(Determination of Value of Imported Goods) Rules, 2007 read with Section 14 of the Customs Act, 1962.

(ii) I order to re-determine the value, as **Rs 3,67,96,144/-** for drywall/chipboard screws and **Rs 26,05,715.75/-** for self-drilling screws, by invoking the provisions of Rule 9 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

(iii) I hold the goods i.e drywall/chipboard screws having re-determined value of Rs 3,67,96,144/- and self-drilling screws having re-determined value of Rs 26,05,715.75/-, imported vide 14 Bs/E (Annexure-V & VI of the SCN), liable to confiscation under **Section 111(m)** of the Customs Act, 1962. I impose redemption fine of **Rs.25,00,000/-** (Rupees Twenty Five Lakh only) under Section 125(1) of the Customs Act, 1962, in lieu of confiscation.

(iv) I determine and confirm the differential duty amounting to **Rs. 73,56,092.46/-** (Rupees Seventy Three Lakhs Fifty Six Thousand Ninety Two and Paise Forty Six Only) under the provisions of Section 28(8) of the Customs Act, 1962 and order to recover the same from Shri Jarnail Singh, Proprietor of M/s Stylish Group of Company, under Section 28(4) of the Customs Act, 1962 along with interest under Section 28AA of the Customs Act, 1962.

(v) I order to appropriate the payment of **Rs 10,99,254/-** (Rupees Ten Lakh Ninety Nine Thousand Two Hundred and Fifty Four Only) towards differential duty and **Rs.81,500/-** (Rupees Eighty One Thousand Five Hundred Only) towards interest, deposited by the importer during the course of the investigation, against the differential duty and interest respectively demanded in sub-para (iv) above.

(vi) I impose a penalty of **Rs. 73,56,092.46/-** (Rupees Seventy Three Lakhs Fifty Six Thousand Ninety Two and Paise Forty Six Only) on Shri Jarnail Singh, Proprietor of M/s Stylish Group of Company under Section 114A of the Customs Act, 1962. However, I do not impose any penalty under Section 112(a) of the Customs Act, 1962.

(vii) I impose a penalty of **Rs. 5,00,000/-** (Rupees Five Lakh only) on Shri Jarnail Singh, Proprietor of M/s Stylish Group of Company under Section 114AA of the Customs Act, 1962.

26. This order is issued without prejudice to any other action that may be taken against the noticees under the provisions of the Customs Act, 1962 or rules made there under or under any other law for the time being in force.

Digitally signed by
Nitin Saini
Date: 09-06-2026
18:01:14

(Nitin Saini)
Commissioner of Customs,
Custom House, Mundra.

F.No. GEN/ADJ/COMM/326/2025-Adjn-O/o Pr Commr-Cus-Mundra.

By Speed Post/Email/Notice Board:-

To, (The Noticee),

1. Sh. Jarnail Singh, Proprietor of M/s Stylish Group of Company (IEC No. AWOPS2637K) Shop No. 5, New Cloth Market, Brown Road, Ludhiana.

Copy to:

1. Additional Director, DRI, Ludhiana Zonal Unit, Ludhiana (Email ID- dri-ldh-pb@nic.in)
2. The Deputy/Assistant Commissioner, ICD Ballabgarh, Sector-59 Faridabad. (Email Id- icd.bbg@icegate.gov.in).
3. The Deputy/ Assistant Commissioner (EDI), Custom House, Mundra.
4. Notice Board.
5. Office Copy