OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS

CUSTOMS HOUSE, MP & SEZ

MUNDRA, KUTCH-GUJARAT -370421

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सत्यमेव जयते

A	**FILE NO.** फ़ाइल संख्या	CUS/APR/4698/2026-Gr 3-O/o Pr Commr-Cus-Mundra
B	**OIO NO.** आदेश संख्या	MCH/ADC/ZDC/357/2026-27
C	**PASSED BY** जारीकर्ता	Dipak Zala, Additional Commissioner of Customs/अपर आयुक्त सीमा शुल्क, Custom House, Mundra/कस्टम हाउस, मुंद्रा।
D	**DATE OF ORDER** आदेश की तारीख	29.09.2026
E	**DATE OF ISSUE** जारी करने की तिथि	29.09.2026
F	**SCN No. & Date** कारण बताओ नोटिस क्रमांक	Waived.
G	**NOTICEE/ PARTY/ IMPORTER** नोटिसकर्ता/पार्टी/आयातक	M/s. Dia Enterprises (ARTPG3065B)

1. यहआदेश 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 आदेश से असंतुष्ट है तो वह सीमाशुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमाशुल्क अधिनियम 1962 की धारा 128 A के अंतर्गत प्रपत्र सीए- 1 में चार प्रतियों में नीचे बताए गए पते परअपील कर सकताहै-

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

"सीमाशुल्कआयुक्त (अपील),

चौथी मंजिल, हुडको बिल्डिंग, ईश्वरभुवन रोड,

नवरंगपुरा,अहमदाबाद 380 009"

"THE COMMISSIONER OF CUSTOMS (APPEALS),

HAVING HIS OFFICE AT 4TH FLOOR, HUDCO BUILDING, ISHWAR BHUVAN ROAD,

NAVRANGPURA, AHMEDABAD-380 009."

3. उक्तअपील यहआदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए।

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

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

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

(i) उक्त अपील की एक प्रति और A copy of the appeal, and

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

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

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

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

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

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

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

An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE:

M/s. Dia Enterprises (IEC- ARTPG3065B), House No. 51, Plot No. 8, Kh No. 229, Sri Nagar Colony, New Delhi-110007 (hereinafter referred to as *'Importer'* for the sake of brevity) have filed Z Type Bill of Entry No. 2178194 dated 29.06.2026 for import of Polyester Dyed Laminated Fabric width 58 inch (CTH 59039090) as detailed in below table:

S No	Declared CTH	Declared description	Qty	UQC	Declared Assessable Value (Rs)	Declared Duty (Rs)
1	59039090	Polyester Dyed Laminated Fabric width 58 inch	85,473	SQM	9,88,466	2,77,759

2. The officers of SIIB section, CH Mundra, conducted the examination of the impugned goods stuffed into the container no. TLLU7632063 covered under the Z type Bill of Entry No. 2178194 dated 29.06.2026 under the panchnama dated 09.07.2026 in presence of two independent panchas, authorized representative of M/s. OWS Warehouse Services LLP, APSEZ, Mundra and authorized representative of Importer.

3. INVESTIGATION:

3.1 During the examination it was found that container was fully stuffed with PP bags of white colour. Subsequently, the cargo was destuffed and arranged in the warehouse of the SEZ Unit for detailed examination. All PP bags were of same size and almost same thickness. On visual inspection, it appeared that each PP bag

contained 5 rolls of fabrics of almost same thickness. Thereafter, selected rolls were cut open for detailed examination. During examination, the rolls were found to be black coloured fabric rolls weighing 8Kg (Approx) each. The length of the fabric in each roll was written on each roll as 100 Metre. The Customs Officer found that there were total 695 pp bags each containing 5 fabric rolls of length 100 metre and width 1.5 metre and each fabric roll weighing 8 Kg (Approx). The details of the goods found during examination is mentioned in the table below.

TABLE-A

Sr. No.	Type	No. of PP Bags	No of Rolls of fabric	Lenth of each fabric roll	Width of Each Fabric Roll	Weight of each Fabric roll (in Kgs)	Total Weight (in Kgs)
1	Fabric	695 PP Bags	695*5=3475	100 Metre	1.5 Metre	8	27,800

3.2 The importer had declared the total quantity of goods imported under the Bill of Entry No. 2178194 dated 29.06.2026 as 85,473 SQM. However, the total quantity found during the examination was approximately 5,21,250 Sqm.

3.3 Further, for ascertaining the exact nature and composition of fabric, samples were drawn and sent to the lab CRCL, Kandla vide Test Memo No. 118/2026-27 dated 10.07.2026 for testing.

3.4 The CRCL, Kandla Lab vide their Lab report no. 2168/SIIB dated 20.08.2026 in respect of Test Memo No. 118/2026-27 dated 10.07.2026 has submitted the following observations as under-

The sample as received is in the form of a cut piece of dyed (black coloured) woven treated appears to be dipped with polymeric material.

The base fabric is composed of Polyester filament yarn and treating material is based on alkyd based resin.

GSM (as such) = 53.41

Width (selvedge to selvedge) = 149.0cm.

% Composition: -

Polyester = 96.08%

Alkyd resin = balance

It is other than laminated fabric.

Azo dye could not be ascertained as sample is treated.

4. Classification of the Goods

4.1 The importer had declared the imported goods to be "*Polyester Dyed Laminated Fabric*" under CTH 59039090 in the Z Type BE No. 2178194 dated 29.06.2026 and the CRCL test report has found the goods to be "*dyed woven fabric made up on Polyester filament yarn dipped with polymeric material (Alkyd resin) with GSM as 53.41*". Further, the sample has been reported as "other than laminated fabric". In this regard, the relevant extract of CTH 5903 is reproduced as under:

5903 Textile Fabrics impregnated, coated, covered or laminated with plastic, other than those of heading 5902

590310 - With polyvinyl chloride:
5903 10 10 --- Imitation leather fabrics of cotton
5903 10 90 --- Other

590320 - With polyurethane:
5903 20 10 --- Imitation leather fabrics, of cotton
5903 20 90 --- Other

5903 90 - Other:
5903 90 10 --- Of cotton
5903 90 20 --- Polyethylene laminated jute fabrics
5903 90 90 --- Other

4.2 Further, the expression "*impregnated*" is defined under the Sr. No. 11 of Section notes of Section XI which is reproduced as under-

> *11. For the purposes of this Section, the expression-* ***"impregnated"*** *includes* ***"dipped"****.*

4.3 Further, on examination of the CRCL test report and Section Note No. 11, it appears that the imported fabric merits classification under CTH 59039090 since as per the CRCL report the imported fabric is "*dyed woven fabric made up of polyester filament yarn impregnated with Alkyd resin*". Therefore, the declared description of the importer "*Polyester Dyed Laminated Fabric*" is incorrect and the imported fabric appears to be impregnated fabric. However, the importer had rightly classified the imported fabric under the CTH 59039090 only.

5. Valuation of the goods:

5.1 The imported goods were mis-declared by the importer in terms of quantity and description (CTH Classification being correct). The declared value appears to be

for the declared description and the declared quantity. Therefore, the value of the goods also needs to be redetermined:

5.2 <u>Rejection of declared value & Redetermination of Assessable Value</u>:

Rule 3 of the Customs Valuation (Determination of Price of Imported Goods) Rules, 2007 (hereinafter referred to as "*the CVR, 2007*") provides the method of valuation. The Rule 3(1) of the CVR, 2007 provides that "Subject to Rule 12, the value of imported goods shall be the transaction value adjusted in accordance with provisions of Rule 10. The Rule 3(4) ibid states that *"if the value cannot be determined under the provisions of sub-rule (1), the value shall be determined by proceeding sequentially through Rule 4 to 9 of CVR, 2007"*. Whereas, it appears that, transaction value in terms of Rule 3 of the CVR, 2007, is to be accepted only where there are direct evidences with regard to the price actually paid or payable in respect of the imported goods by the importer. Whereas, the goods have been found to be mis-declared in terms of quantity and description, it appeared that, there is a reasonable doubt regarding the truth and accuracy of the declared value, and hence it appears liable to be rejected in terms of Rule 12 of the CVR, 2007.

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

5.4 Whereas, it appears that, the value of the impugned goods could not be determined under Rule 4 and 5 ibid since the goods have been un-declared/mis-declared by means of description, the value of contemporaneous imports of identical and similar goods of same quality and composition was not found. Proceeding sequentially, it is stipulated under Rule 6 ibid that where the value is not determinable under Rule 3, 4 and 5, the value is to be determined under Rule 7 or when the value cannot be determined under that Rule, under Rule 8. Whereas, Rule 7 provides for 'Deductive Value' i.e. the value is to be determined on the basis of valuation of identical goods or similar imported goods sold in India, in the condition as imported at or about the time at which the declaration for

determination of value is presented, subject to deductions stipulated under the rule. Whereas, for the reasons detailed above, the values also cannot be determined as per the said Rule 7 ibid. Likewise, for application of Rule 8 of the CVR, 2007, the cost of production or processing involved in the imported goods are not available. In the absence of requisite data, the value cannot be determined by taking recourse to these rules either.

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

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

5.6 Whereas, as per the provisions of Rule 9 ibid, the assessable value of the goods actually found during examination are required to be re-determined under Rule 9 ibid, i.e. as per the residual method. Whereas, the impugned goods were inspected by Shri Anwar Y. Kukad, Chartered Engineer & Government approved valuer, who submitted his report vide reference No. AYK:VAL:03063:2026 dated 11.09.2026. Wherein, he has reported the per unit average price in CIF (USD) as .06 USD per SQM, the same is tabulated below:

TABLE-B

SR. NO.	DESCRIPTION OF GOODS	UNIT	Quantity (KGS)	GSM As per Test Report	Per Unit Average CIF Value – in USD (Approx.)
1	Polyester dyed laminated fabric with width 58 inch – as declared in the BE, however as per test report it is other than laminated fabric	SQM	27800	53.41	0.06
TOTAL			**27800**		

5.7 Whereas, the value of the cargo, as per the chartered engineer valuation is Rs. 29,80,508/- (521250 sqm *0.06* 95.3), it appears that, the assessable value of Rs. 9,88,466/- declared by the importer in the Z-Bill of Entry No. 2178194 dated 29.06.2026 is liable to be rejected in terms of Rule 12 of the CVR, 2007. Further it appears that, the assessable value of the cargo covered under said Bill of Entry are required to be determined as **Rs. 29,80,508/-** on the basis of valuation report submitted by the CE for the purpose of valuation under provisions of Rule 9 of the CVR, 2007 read with note 2 of the interpretative notes for Rule 9 of the CVR, 2007.

6. Findings of Investigation:

The findings of the investigation are summarized as below:

i. During the examination, it is found that there was total 695 pp bags each containing 5 fabric rolls of length 100 metre and width 1.5 metre and each weighing 8 Kg. The total weight of the goods comes to 27,800 Kgs.

ii. The importer had declared the quantity of goods to be 85,473/- Sq Metre but on examination the goods were found to be 5,21,250 Sq. metre. Therefore, it appears that the importer had mis-declared the quantity of goods imported in order to evade the duty.

iii. From the test report received from CRCL Kandla, it appears that the importer had declared the description of the goods as "*Polyester Dyed Laminated Fabric*" but as per the test report received from CRCL the imported fabric has been found to be impregnated fabric. However, the importer had rightly classified the goods under CTH 59039090 as the CRCL test report has found the imported fabric to be "*dyed woven fabric made up of polyester filament yarn impregnated with Alkyd resin*" which merits classification under CTH 59039090 as discussed at para 4 above.

iv. The importer had declared the value of the goods as Rs. 9,88,466/- in the Z type BE No. 2178194 dated 29.06.2026 but the chartered engineer has valued the goods at Rs. 29,80,508/-, it appears that, the importer had undervalued the goods with an intention to evade Customs duty. Therefore, the assessable value of Rs. 9,88,466/- declared by the importer in the Z-Bill of Entry No. 2178194 dated 29.06.2026 is liable to be rejected and the value of the cargo covered under said Bill of Entry are required to be determined as Rs. 29,80,508/-.

7. RELEVANT PROVISIONS OF SEZ ACT, 2005:

2. Definitions— In this Act, unless the context otherwise requires,—

.....

(o) "**import"** means—

(i) bringing goods or receiving services, in a Special Economic Zone, by a Unit or Developer from a place outside India by land, sea or air or by any other mode, whether physical or otherwise; or

(ii) receiving goods, or services by a Unit or Developer from another Unit or Developer of the same Special Economic Zone or a different Special Economic Zone;

Section 21: Single enforcement officer or agency for notified offences.—

1. The Central Government may, by notification, specify any act or omission made punishable under any Central Act, as notified offence for the purposes of this Act.

2. The Central Government may, by general or special order, authorise any officer or agency to be the enforcement officer or agency in respect of any notified offence or offences committed in a Special Economic Zone.

3. Every officer or agency authorised under sub-section (2) shall have all the corresponding powers of investigation, inspection, search or seizure as is provided under the relevant Central Act in respect of the notified offences.

Section 22: Investigation, inspection, search or seizure.—

The agency or officer, specified under section 20 or section 21, may, with prior intimation to the Development Commissioner concerned, carry out the investigation, inspection, search or seizure in the Special Economic Zone or in a Unit if such agency or officer has reasons to believe (reasons to be recorded in writing) that a notified offence has been committed or is likely to be committed in the Special Economic Zone:

Provided that no investigation, inspection, search or seizure shall be carried out in a Special Economic Zone by any agency or officer other than those

referred to in sub- section (2) or sub-section (3) of section 21 without prior approval of the Development Commissioner concerned:

Provided further that any officer or agency, if so authorised by the Central Government, may carry out the investigation, inspection, search or seizure in the Special Economic Zone or Unit without prior intimation or approval of the Development Commissioner

Notification Nos. 2665(E) and 2667(E) dated 05.08.2016:

1. In exercise of the powers conferred by section 22 of the Special Economic Zones Act, 2005 (28 of 2005), the Central Government by Notification No. 2667(E) dated 05.08.2016 issued by the Ministry of Commerce & Industry, has authorized the jurisdictional Customs Commissioner, in respect of offences under the Customs Act, 1962 (52 of 1962) to be the enforcement officer(s) in respect of any notified offence or offences committed or likely to be committed in a Special Economic Zone. The enforcement officer(s), for the reasons to be recorded in writing, may carry out the investigation, inspection, search or seizure in a Special Economic Zone or Unit with prior intimation to the Development Commissioner, concerned. Under Section 21(1) of the SEZ Act, 2005, the Central Government may, by notification, specify any act or omission made punishable under any Central Act, as notified offence for the purposes of this Act.

2. The Central Government, by the Notification 2665(E) dated 05.08.2016 has notified offences contained in Sections 28, 28AA, 28AAA, 74, 75, 111, 113, 115, 124, 135 and 104 of the Customs Act, 1962 (52 of 1962) as offences under the SEZ Act, 2005.

Section 47 (5) Refund, Demand, Adjudication, Review and Appeal with regard to matters relating to authorise operations under Special Economic Zones Act, 2005, transactions, and goods and services related thereto, shall be made by the Jurisdictional Customs and Central Excise Authorities in accordance with the relevant provisions contained in the Customs Act, 1962, Central Excise Act, 1944, and the Finance Act, 1994 and the rules made thereunder or the notifications issued thereunder.

8. Relevant provisions of the Customs Act, 1962 related to filling Bill of Entry and confiscation and seizure of the imported goods are reproduced herein under:

Customs Act, 1962, as amended:

8.1 **As per Section 2 (23***), **import**, with its grammatical variations and cognate expressions, means bringing into India from a place outside India;*

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

8.3 **As per Section 2 (26), *importer**, in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes, any owner, beneficial owner or any person holding himself out to be the importer*

8.4 **Section 17** provides the provisions of the Assessment of duty as under:

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.***

(2) The proper officer may verify the entries made under section 46 or section 50 and the self-assessment of goods referred to in sub-section (1)] and for this purpose, examine or test any imported goods or export goods or such part thereof as may be necessary.

Provided that the selection of cases for verification shall primarily be on the basis of risk evaluation through appropriate selection criteria.]

(3) For the purposes of verification under sub-section (2), the proper officer may require the importer, exporter or any other person to produce any document or information, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and thereupon, the

importer, exporter or such other person shall produce such document or furnish such information.]

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

(5) Where any re-assessment done under sub-section (4) is contrary to the self-assessment done by the importer or exporter and in cases other than those where the importer or exporter, as the case may be, confirms his acceptance of the said re-assessment in writing, the proper officer shall pass a speaking order on the re-assessment, within fifteen days from the date of re-assessment of the bill of entry or the shipping bill, as the case may be.

8.5 Further, procedure of Entry of goods on importation are governed by the **Section 46** of the Act, *ibid* as under

(1) The importer of any goods, other than goods intended for transit or transhipment, shall make entry thereof by presenting electronically on the customs automated system to the proper officer a bill of entry for home consumption or warehousing in such form and manner as may be prescribed:

Provided further that if the importer makes and subscribes to a declaration before the proper officer, to the effect that he is unable for want of full information to furnish all the particulars of the goods required under this sub-section, the proper officer may, pending the production of such information, permit him, previous to the entry thereof (a) to examine the goods in the presence of an officer of customs, or (b) to deposit the goods in a public warehouse appointed under section 57 without warehousing the same.

(2) Save as otherwise permitted by the proper officer, a bill of entry shall include all the goods mentioned in the bill of lading or other receipt given by the carrier to the consignor.

(3) The importer shall present the bill of entry under sub-section (1) before the end of the day (including holidays) preceding the day on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing:

Provided that the Board may, in such cases as it may deem fit, prescribe different time limits for presentation of the bill of entry, which shall not be later than the end of the day of such arrival:

Provided further that] a bill of entry may be presented 9[at any time not exceeding thirty days prior to] the expected arrival of the aircraft or vessel or vehicle by which the goods have been shipped for importation into India:

Provided also that where the bill of entry is not presented within the time so specified and the proper officer is satisfied that there was no sufficient cause for such delay, the importer shall pay such charges for late presentation of the bill of entry as may be prescribed.

(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.

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

(a) the accuracy and completeness of the information given therein;

(b) the authenticity and validity of any document supporting it; and

(c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

(5) If the proper officer is satisfied that the interests of revenue are not prejudicially affected and that there was no fraudulent intention, he may permit substitution of a bill of entry for home consumption for a bill of entry for warehousing or vice versa.

8.6 **Section 111** of the Act, prescribes the Confiscation of improperly imported goods, etc. as under

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

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

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

Any person, -

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

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section111,

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.

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

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

(a) is given a notice in writing with the prior approval of the officer of Customs not below the rank of an Assistant Commissioner of Customs, informing him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;

(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and

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

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

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

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

(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being

in force, and shall, in the case of any other goods, give to the owner of the goods or, where such owner is not known, the person from whose possession or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit:

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

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

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

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

9. In view of the above, it appears that in the imported goods as stated in Table-A of BE No. 2178194 dated 29.06.2026 are found to be mis-declared in terms of quantity and description. The importer has contravened the provisions of Section 17 & 46 of the Customs Act, 1962. These acts of omission and commission on the part of importer has made these goods valued at **Rs. 29,80,508/**- liable for confiscation under Section 111 (l) and Section 111(m) of the Act, ibid and has thus rendered themselves liable for penal action under Section 112 (a) (ii) of the Customs Act, 1962.

10. In view of the above, the applicable duty on the imported goods is redetermined to Rs. **8,37,523/- (Duty calculation chart enclosed as Annexure-A).** It appears that the importer has short levied/not levied duty amounting to **Rs. 5,59,765/-**, which is required to be recovered from the importer.

11. The importer, vide email dated 16.09.2026, has accepted the value of the goods as redetermined by the Chartered Engineer and has requested waiver of the Show Cause Notice (SCN) and Personal Hearing (PH) in the matter.

12. In view of the above, it appears that: -

(i) The declared description and value of goods in Z-Bill of Entry No. 2178194 dated 29.06.2026, filed by the Importer M/s. Dia Enterprises, are liable to be rejected due to mis-declaration in terms of description & quantity of the goods are to be re-determined as per para 4 ibid and value needs to be redetermined as per table -B at Para 5.6 ibid.

(ii) The total declared assessable value of Rs. 9,88,466/- for the goods under Z-Bill of Entry No. 2178194 dated 29.06.2026 is liable to be rejected and re-determined as Rs. 29,80,508/- as per the Chartered Engineer's valuation report (Ref. No. AYK:VAL:03063:2026 dated 11.09.2026), under Rule 9 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, read with Section 14 of the Customs Act, 1962.

(iii) The goods valued at Rs. 29,80,508/- were found mis-declared in terms of description and quantity are liable for confiscation under Sections 111(l), and 111(m) of the Customs Act, 1962, as discussed in foregoing paras.

(iv) Total differential duty amounting to **Rs. 5,59,765/-** as detailed in para 10 ibid is required to be recovered from the importer.

(v) Penalty under Section 112 (a) (ii) of Customs Act, 1962 is imposable upon the importer.

(vi) Penalty under Section 114 AA of Customs Act, 1962 is imposable upon the importer.

12.1 Accordingly, an Investigation report 172/2026-27 dated 18.09.2026 has been issued by the SIIB, Mundra Customs.

WRITTEN SUBMISSION AND PERSONAL HEARING

13. M/s. Dia Enterprises, Importer, vide their letter dated 23.09.2026, has submitted that they have accepted the test report and value suggested by CE and they don't want anys SCN and PH in this regard. They further submitted that they are ready to pay differential duty, fine and penalty, if any, and requested to decide the case on merit.

DISCUSSION AND FINDINGS

14. I have carefully gone through the Investigation Report No. 172/2026-27 dated 02.09.2026 forwarded by SIIB, Custom House, Mundra, and all other material available on record. I note that M/s. Dia Enterprises vide their letter dated 23.09.2026 has accepted the CRCL test report and the value redetermined by the Chartered Engineer. The importer has requested waiver of Show Cause Notice and Personal Hearing and has expressed willingness to pay the differential duty, fine and penalty. I am satisfied that the principles of natural justice have been duly complied with, and the matter is accordingly being disposed of on merits under the first proviso to Section 124 of the Customs Act, 1962.

14.1 On a careful perusal of the Investigation Report and case records, I find that the following main issues arise for consideration and determination in this case:

(i) Whether the declared description and quantity of goods covered under Z-Bill of Entry No. 2178194 dated 29.06.2026 — declared as "Polyester Dyed Laminated Fabric width 58 inch" with a quantity of 85,473 SQM — are liable to be rejected and re-determined;

(ii) Whether the declared assessable value of **Rs. 9,88,466/-** (Rupees Nine Lakh Eighty-Eight Thousand Four Hundred and Sixty-Six Only) is liable to be rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and re-determined as **Rs. 29,80,508/-** (Rupees Twenty-Nine Lakh Eighty Thousand Five Hundred and Eight Only);

(iii) Whether Z-Bill of Entry No. 2178194 dated 29.06.2026 is liable to be re-assessed under Section 17(4) of the Customs Act, 1962 with levy of differential duty of **Rs. 5,59,765/-**;

(iv) Whether the goods having re-determined value of Rs. 29,80,508/- are liable for confiscation under Sections 111(l) and 111(m) of the Customs Act, 1962; and

(v) Whether penalty is imposable on M/s. Dia Enterprises under Section 112(a)(ii) and Section 114AA of the Customs Act, 1962.

15. FIRST ISSUE — RE-DETERMINATION OF DESCRIPTION AND QUANTITY:

15.1 I find that M/s. Dia Enterprises filed Z-Bill of Entry No. 2178194 dated 29.06.2026 at APSEZ, Mundra, declaring the goods as "Polyester Dyed Laminated Fabric width 58 inch" under CTH 59039090 with a quantity of 85,473 SQM and assessable value of Rs. 9,88,466/-.

15.2 During examination under Panchnama dated 09.07.2026, the container TLLU7632063 was found to be loaded with 695 PP bags, each containing 5 fabric rolls. Each roll was 100 metres in length and 1.5 metres in width and weighed approximately 8 Kgs. The total number of rolls was 3,475 (695 × 5) with a total weight of 27,800 Kgs. The total quantity of fabric computed from these rolls works out to approximately **5,21,250 SQM** (3,475 rolls × 100 metres × 1.5 metres width), as against the declared quantity of 85,473 SQM — an excess of **4,35,777 SQM**, which is more than six times the declared quantity.

15.3 The CRCL, Kandla vide test report No. 2168/SIIB dated 20.08.2026 reported that the sample was a dyed (black coloured) woven fabric treated with alkyd based resin, composed of 96.08% Polyester and balance Alkyd resin, with a GSM of 53.41 and width of 149 cm. The report further specifically noted that the sample is "other than laminated fabric." This establishes that the declared description of "Polyester Dyed Laminated Fabric" is incorrect — the goods are in fact a polyester dyed woven fabric impregnated with alkyd resin.

15.4 Regarding classification, I note that as per Section Note 11 to Section XI of the Customs Tariff, the expression "impregnated" includes "dipped." Since the CRCL report confirms that the fabric is "dipped with polymeric material (alkyd resin)," the goods merit classification under CTH 59039090 — which covers textile fabrics impregnated, coated, covered or laminated with plastics. I find that the importer has correctly classified the goods under CTH 59039090 even though the description used — "Polyester Dyed Laminated Fabric" — is not fully accurate, as the goods are more precisely described as "Polyester Dyed Woven Fabric Impregnated with Alkyd Resin." The CTH 59039090 is however confirmed as correct and no change in classification is required.

15.5 The importer has, vide their letter dated 23.09.2026, accepted the CRCL test report findings and the re-determined quantity. I accordingly re-determine the description of goods as "Polyester Dyed Woven Fabric Impregnated with Alkyd Resin" under CTH 59039090, and re-determine the quantity as 5,21,250 SQM.

16. SECOND ISSUE — REJECTION OF DECLARED VALUE AND RE-DETERMINATION OF ASSESSABLE VALUE:

16.1 I find that since the goods were found to be mis-declared in terms of quantity and description, the declared assessable value of **Rs. 9,88,466/-** cannot be accepted as the correct transaction value. The declared value was based on the declared quantity of 85,473 SQM, which was found to be significantly understated. The declared value is accordingly rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

16.2 Since comparable import data for the mis-declared goods is not readily available, the assessable value is required to be determined under Rule 9 (Residual Method) of the CVR, 2007. The Chartered Engineer Shri Anwar Y. Kukad, Government Approved Valuer, submitted his Valuation Report vide Reference No. AYK:VAL:03063:2026 dated 11.09.2026, determining the per unit CIF value as **USD** 0.06 per SQM. Applying this rate to the actual quantity of 5,21,250 SQM at the applicable exchange rate of Rs. 95.3 per USD, the re-determined assessable value works out to **Rs. 29,80,508/-** (i.e., 5,21,250 SQM × USD 0.06 × Rs. 95.3).

16.3 The importer has accepted this re-determined value without any objection vide their letter dated 23.09.2026. I accordingly reject the declared assessable value of Rs. 9,88,466/- (Rupees Nine Lakh Eighty-Eight Thousand Four Hundred and Sixty-Six Only) under Rule 12 of the CVR, 2007 and re-determine the assessable value at **Rs. 29,80,508/-** (Rupees Twenty-Nine Lakh Eighty Thousand Five Hundred and Eight Only) under Rule 9 of the CVR, 2007 read with Section 14 of the Customs Act, 1962.

17. THIRD ISSUE — RE-ASSESSMENT:

17.1 I find that on the basis of the re-determined quantity and re-determined assessable value of Rs. 29,80,508/-, the total duty leviable on the imported goods has been re-calculated at **Rs. 8,37,523/-**, as detailed in the duty calculation chart at Annexure-A. The importer had declared total duty of Rs. 2,77,759/- in the self-assessed Bill of Entry. The differential duty accordingly works out to **Rs. 5,59,765/-** (Rupees Five Lakh Fifty-Nine Thousand Seven Hundred and Sixty-Five Only), which is required to be levied in the subject bill of entry from M/s. Dia Enterprises.

17.2 I accordingly allow re-assessment of Z-Bill of Entry No. 2178194 dated 29.06.2026 under Section 17(4) of the Customs Act, 1962.

18. FOURTH ISSUE — CONFISCATION OF GOODS:

18.1 I find that the goods imported by M/s. Dia Enterprises under Z-Bill of Entry No. 2178194 dated 29.06.2026 were mis-declared in two material respects:

(a) **Quantity**: The importer declared a quantity of 85,473 SQM whereas the actual quantity found during examination was 5,21,250 SQM — an excess of 4,35,777 SQM. The excess quantity was not included in the entry made under the Customs Act, 1962.

(b) **Description and Value**: The goods were declared as "Polyester Dyed Laminated Fabric" whereas the CRCL test report has established that they are woven polyester fabric impregnated with alkyd resin — not a laminated fabric. The declared assessable value of Rs. 9,88,466/- also does not correspond to the re-determined value of Rs. 29,80,508/-.

18.2 The excess quantity not included in the entry makes the goods liable for confiscation under **Section 111(l)** of the Customs Act, 1962. The misdeclaration in description and value makes the goods liable for confiscation under **Section 111(m)** of the Customs Act, 1962. Accordingly, the entire consignment of 27,800 Kgs (approximately 5,21,250 SQM) of Polyester Dyed Woven Fabric Impregnated with Alkyd Resin (CTH 59039090), having re-determined assessable value of Rs. 29,80,508/-, is liable for confiscation under **Sections 111(l) and 111(m)** of the Customs Act, 1962.

18.3 I now consider whether an option to pay a redemption fine in lieu of confiscation under Section 125(1) of the Customs Act, 1962 should be given. I note that the imported goods — Polyester Dyed Woven Fabric Impregnated with Alkyd Resin under CTH 59039090 — are freely importable goods and are not prohibited goods. Section 125(1) of the Customs Act, 1962 mandates that in the case of non-prohibited goods, the adjudicating authority shall give the owner an option to pay a fine in lieu of confiscation. I accordingly give M/s. Dia Enterprises an option to redeem the said goods for **home consumption** on payment of redemption fine under Section 125(1) of the Customs Act, 1962, subject to payment of all applicable customs duty, differential duty and other charges.

19. FIFTH ISSUE — PENALTIES:

19.1 Penalty under Section 112(a)(ii) of the Customs Act, 1962:

I find that M/s. Dia Enterprises, by mis-declaring the description as "Polyester Dyed Laminated Fabric" instead of the correct description as established by the CRCL test report, and by grossly under-declaring the quantity (85,473 SQM declared vs 5,21,250 SQM actually found), has done acts which rendered the goods liable to confiscation under Sections 111(l) and 111(m) of the Customs Act, 1962. As a result, duty of Rs. 5,59,765/- was sought to be evaded. The imported goods are dutiable goods and are not prohibited goods. Accordingly, M/s. Dia Enterprises has rendered itself liable for penalty under **Section 112(a)(ii)** of the Customs Act, 1962.

19.2 Penalty under Section 114AA of the Customs Act, 1962:

I find that M/s. Dia Enterprises caused to be made, signed and used the Z-Bill of Entry No. 2178194 dated 29.06.2026 and supporting documents — including the commercial invoice, packing list and Bill of Lading — which contained false and incorrect particulars in material respects, namely the description of the goods (declared as "Polyester Dyed Laminated Fabric" whereas the actual goods are woven polyester fabric impregnated with alkyd resin) and the quantity (declared 85,473 SQM whereas actual quantity was 5,21,250 SQM). These are false and incorrect declarations in material particulars made knowingly, in the transaction of customs business for the purposes of the Customs Act, 1962. I accordingly find that M/s. Dia Enterprises has rendered itself liable for penalty under **Section 114AA** of the Customs Act, 1962.

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

ORDER

(i) I order to reject the declared description of goods as "Polyester Dyed Laminated Fabric" and re-determine the description as "Polyester Dyed Woven Fabric Impregnated with Alkyd Resin" under CTH 59039090. The declared quantity of 85,473 SQM is rejected and re-determined as 5,21,250 SQM as found during examination under Panchnama dated 09.07.2026.

(ii) I reject the declared assessable value of **Rs. 9,88,466/-** (Rupees Nine Lakh Eighty-Eight Thousand Four Hundred and Sixty-Six Only) under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and re-determine the assessable value at **Rs. 29,80,508/-** (Rupees Twenty-Nine Lakh Eighty Thousand Five Hundred and Eight Only) under Rule 9 of the CVR, 2007 read with Section 14 of the Customs Act, 1962.

(iii) I order re-assessment of Z-Bill of Entry No. 2178194 dated 29.06.2026 under Section 17(4) of the Customs Act, 1962 in accordance with the re-determined description, quantity and assessable value.

(iv) I order confiscation of 27,800 Kgs (approximately 5,21,250 SQM) of Polyester Dyed Woven Fabric Impregnated with Alkyd Resin (CTH 59039090), covered under Z-Bill of Entry No. 2178194 dated 29.06.2026, container TLLU7632063, having re-determined assessable value of **Rs. 29,80,508/-** (Rupees Twenty-Nine Lakh Eighty Thousand Five Hundred and Eight Only), under Sections 111(l) and 111(m) of the Customs Act, 1962. However, I give M/s. Dia Enterprises an option to redeem the said goods for home consumption on payment of Redemption Fine of **Rs. 2,50,000/- (Rupees Two Lakh Fifty Thousand Only)** under Section 125(1) of the Customs Act, 1962, subject to payment of all applicable customs duty, differential duty and other charges.

(v) I impose a penalty of **Rs. 55,000/- (Rupees Fifty Five Thousand Only)** on **M/s. Dia Enterprises (IEC: ARTPG3065B)**, House No. 51, Plot No. 8, Kh No. 229, Sri Nagar Colony, New Delhi-110007, under Section **112(a)(ii)** of the Customs Act, 1962.

(vi) I impose a penalty of **Rs. 10,000/- (Rupees Ten Thousand Only)** on **M/s. Dia Enterprises (IEC: ARTPG3065B)** under Section **114AA** of the Customs Act, 1962.

21. This Order-in-Original is issued without prejudice to any other action that may be taken against M/s. Dia Enterprises or any other person under the provisions of the Customs Act, 1962 or any rules/regulations/notifications made thereunder, or under any other law for the time being in force.

Digitally signed by Dipakbhai Zala
Date: 29-09-2026 11:35:41

(DIPAK ZALA)

Additional Commissioner of Customs,

Mundra Customs

To,

M/s. Dia Enterprises (IEC-ARTPG3065B)
House No. 51, Plot No. 8, Kh No. 229,
Sri Nagar Colony, New Delhi-110007

Copy to:

1. The Additional Commissioner (SIIB), Customs House, Mundra
2. The Dy./Asstt. Commissioner (RRA/TRC), Customs House, Mundra
3. The Dy./Asstt. Commissioner (EDI), Customs House, Mundra