

	<p>प्रधान आयुक्त का कार्यालय,सीमा शुल्क सदन, एमपी और एसईजेड, मुंद्रा, कच्छ-गुजरात -370421 OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOMS HOUSE, MP & SEZ MUNDRA, KUTCH-GUJARAT PHONE : 02838-271426/271428 FAX :02838-271425 Mail: group3-mundra@gov.in</p>	
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A	फा. सं./ FILE NO.	F. No. CUS/APR/INV/323/2025-Gr 3
B	मूल आदेश संख्या/ ORDER-IN-ORIGINAL NO.	MCH/ADC/ZDC/95/2025-26
C	द्वारा पारित किया गया / PASSED BY	Dipak Zala Addl. Commissioner of Customs Mundra Customs House
D	आदेश की तिथि DATE OF ORDER	20.06.2025
E	जारी करने की तिथि DATE OF ISSUE	20.06.2025
F	कारण बताओ नोटिस संख्या & तिथि SCN NUMBER & DATE	SCN and PH Waiver sought vide letter dated 17.06.2025
G	आयातक / नोटिस प्राप्तकर्ता ImPORTER / NOTICEE	M/s. Vaidh Exim Mart LLP Shop No. 03, First Floor Plot No. 01 Riviera Arcade Survey No. 523/ Paiki- Anjar-370110
H	डिन संख्या / DIN NUMBER	20250671MO0000413928

1. यहआदेश संबन्धित को निःशुल्क 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), MUNDRA

**HAVING HIS OFFICE AT 4TH FLOOR, HUDCO BUILDING, ISHWAR BHUVAN
ROAD,
NAVRANGPURA, AHMEDABAD-380 009.”**

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

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

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपये 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 सं०-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।

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

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

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

6. अपील प्रस्तुत करते समय, 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

1. Whereas, NCTC (Imports), Mumbai has gathered intelligence indicating that M/s. Vaidh Exim Mart LLP, Anjar-370110 (IEC No. – AAYFV9147P), may be involved in the evasion of Customs Duty through mis-declaration and/or concealment of goods. In this regard, NCTC (Imports), via email dated 04.03.2025, suggested for detailed examination of the container ESDU4157788. Accordingly, the container was placed on hold for detailed examination.

1.2 Based on intelligence, the examination of the said import consignment of M/s. Vaidh Exim Mart LLP, Anjar-370110 (IEC No. – AAYFV9147P), (container no. ESDU4157788), covered under Z-8445499, dated 19/02/2025, was done on 07.03.2025, under panchnama, in the presence of partner of the importer firm M/s. Vaidh Exim Mart LLP, representative of M/s Sea Shore Logistic, APSEZ, Mundra (Kutch) and independent panchas. The goods declared in the Z- bill of entry 8445499, dated 19/02/2025, are as detailed below:

Table A

Sr . No .	BE no. /date	Container No.	Seal no.	BL no. /date	Goods declared	
					HSN	Items
1	8445499 dated 19.02.20 25	ESDU41577 88	D24939 51	EPIRCHNSCN017 231 dated 28.01.2025	701399 00	Glass Show piece
					961400 00	Hookah pot
					701820 00	Glass Beads
					701820 00	Arcly Beads
					732393 90	Househo ld Kitchen accessori es
					940320 90	Furnitur e Shelf
					392390 10	Box (Empty Box)

1.3 During the examination of the representative of the warehouse informed that on the directions of SEZ Preventive officer they had cut the seal of the container and de-stuffed the cargo and stacked in the warehouse for examination, before the hold was placed on the import consignment. The goods were found packed corrugated boxes of various shapes and sizes, which are then wrapped in PP woven sheets. The boxes are counted and verified as per the packing list and prima facie the number of boxes is found as declared. Thereafter, the boxes were opened and goods were examined. The details of the goods found during examination are as under:

Table A1

Sr. no.	Item	No. of Boxes/cartons
1	Empty Watch boxes (green colored) Rolex brand	100
2	Empty carry bags (paper) Rolex brand	06
3	Glass beads (various colours and variable sizes ranging from 1 mm to 5 mm in thickness)	104
4	Arcly (acrylic) beads (various colours and variable sizes ranging from 1 mm to 5 mm in thickness)	169
5	Electric hot plate/electric charcoal heater (flat)	61
6	Electric hot plate/electric charcoal heater (tower)	27
7	Fine mesh Strainer (big) for hookah coal burning	03
8	Furniture Shelf and accessories	28
9	Hookah pot	412
10	Glass showpiece	92
Total		1002

2. Investigations Conducted: -

2.1 As noted in the preceding paragraphs, the import consignment of M/s. Vaidh Exim Mart LLP, was found to include several undeclared items and discrepancies in the declared quantity of goods as per the bill of entry. The table below compares the declared goods and their quantities with the actual findings, including undeclared items discovered in the consignment.

Table B (Quantification)

Sr . n o.	Item	Declared in Bill of Entry		Found during examination		Excess/ short quantity
		No. of Boxes/cartons	No. of pieces declared	No. of Boxes/cartons	Qty (in pieces/Kgs)	
1	Empty Watch boxes (green colored) Rolex brand	106	3180	100	3000 pieces	-180
2	Empty carry bags (paper) Rolex brand	0	0	06	180 pieces	+180
3	Glass beads (various colours and variable sizes ranging from 1 mm to 5 mm in thickness)	104	2408.94 kgs	104	2408.94 Kgs	0
4	Arcly (acrylic) beads (various colours and	169	5674 kgs	169	5674 kgs	0

	variable sizes ranging from 1 mm to 5 mm in thickness)					
5	Electric hot plate/electric charcoal heater (flat)	89 (declared as - Household Kitchen accessories)	2796	61	1220 pieces	0
6	Electric hot plate/electric charcoal heater (tower)			27	540 pieces	
7	Fine mesh Strainer (big) for hookah coal burning			03	1036 pieces	
8	Furniture Shelf and accessories	30	456 kgs	28	456 kgs	0
9	Hookah pot	412	4944	412	4944 pieces	0
10	Glass showpiece	92	559	92	559 pieces	0
Total		1002		1002		

2.2. Rejection and Determination of Valuation:

2.2.1. Whereas, the inconsistency observed in filing the Bill of Entry suggests deliberate misdeclaration. In the Bill of Entry No. Z-8445499, dated 19/02/2025, submitted by the importer, a total of 07 items are listed for import as detailed in

Table A above, however, the import documents lacked descriptions of the items as listed in Table A1 above.

2.2.2.Whereas, some items were found un-declared in the B/E no. Z-8445499, dated 19/02/2025, in terms of description, classification, quantity of the goods imported and thus value, hence they were liable to be re-assessed under section 17(4) of the Customs Act, 1962. Since, mis-declaration of the goods, in parameters such as description and quantity, which have relevance to value, was noticed, the declared value of the undeclared goods is liable to be determined in terms of Rule 12, explanation 1 (i), of the said Rules, by going sequentially from Rule 2 to 9 thereof. Determination of valuation:

- a) Efforts were made to find out the correct assessable value of the imported goods found undeclared. It was observed that the imported goods were found in different variety, description, specification and quality, so, it was not possible to find and compare the same with other goods having identical/similar description, brand, make, model, quantity and Country of Origin. As the import data extracted with respect to contemporaneous imports was general in nature and contemporaneous data for imports of identical/similar goods was not available/found, therefore, the value could not be determined under Rules 4 and 5 of CVR, 2007.
- b) As per Rule 6 *ibid*, if the value cannot be determined under Rules 3, 4 and 5 same shall be determined under the provisions of Rule 7 or when same cannot be determined under that rule then under Rule 8.
- c) As the imported goods were found to be non-standard, the sale price of identical or similar goods was not available in the domestic market as the goods are miscellaneous in nature and found in different variety, description, specification, model, brand, make, sizes and quality, therefore, determination of transaction value under Rule 7 of CVR, 2007 was not possible.
- d) As substantial data related to the cost or value of materials and fabrication or other processing employed in producing the imported goods required to compute the value under Rule 8 is also not available. Therefore, valuation of the impugned goods could not be ascertained under Rule 8 of CVR, 2007.
- e) Hence, valuation of the goods is to be determined under residual method of valuation provided under Rule 9 of the CV Rules *ibid* and hence, opinion of the empanelled Chartered Engineer was sought for determination of the value of the goods under import.

The Chartered Engineer vide his reports dated 22.05.2025 has suggested the valuation of the imported goods as under:

Table-C (Valuation)

Sr	Item	Redetermi	Quanti	Unit	Suggestiv	Suggesti	Suggesti
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Sl. No.	Description	HS Code (8 Digits)	Quantity	Unit	Unit C.I.F. Average Value in Bulk Quantity in USD (Approx.)	Net Total C.I.F. Average Value in Bulk Quantity in USD (Approx.)	Net Total C.I.F. Average Value in Bulk Quantity in Rs. (1 USD = 88.4)
1	Empty Watch boxes (green colored) Rolex brand	39231020	3000	Pieces	0.509049774	1527.15	135000.00
2	Empty carry bags (paper) Rolex brand	48194000	180	Pieces	0.090497738	16.29	1440.00
3	Glass beads (various colours and variable sizes ranging from 1 mm to 5 mm in thickness)	70181020	2408.94	kgs	0.84841629	2043.78	180670.50
4	Arcly (acrylic) beads (various colours and variable sizes ranging	39264029	5674	kgs	0.825791855	4685.54	414202.00

	from 1 mm to 5 mm in thickness)						
5	Electric hot plate/electric charcoal heater (flat)	85167990	1220	Pieces	1.527149321	1863.12	164700.00
6	Electric hot plate/electric charcoal heater (tower)	85167990	540	Pieces	1.470588235	794.12	70200.00
7	Fine mesh Strainer (big) for hookah coal burning	73239390	1036	Pieces	0.3	310.80	27474.72
8	Furniture Shelf and accessories	94032090	456	kgs	0.735294118	335.29	29640.00
9	Hookah pot	96140000	4944	Pieces	1.188	5872.39	519119.65
10	Glass showpiece	70139900	559	Pieces	2.26	1264.71	111800.00
Total						18713.20	1654246.87

Whereas, with the introduction of self-assessment under Section 17(1) of the Customs Act, 1962, the responsibility lies squarely on the importer to accurately self-assess the Bill of Entry and declare the correct amount of leviable duty. By failing to declare dutiable goods in the Bill of Entry, the importer's actions indicate an intent to evade payment of the correct duties on the imported goods. This deliberate omission raises reasonable grounds to believe that the importer wilfully

and intentionally concealed dutiable goods, thereby causing a loss to government revenue.

2.3. Classification:

Whereas, to accurately assess the tax liability, the declared and undeclared items must be classified under the appropriate Customs Tariff Heading (CTH) based on the examination report and report of the government approved Chartered engineer. The classification of goods, redetermined based on examination report and report of the government approved Chartered engineer and declared in the Bill of Entry, is as follows:

Table-C1 (Classification)

Sr. no .	Item	Declared CTH	Redetermined CTH based on examination report and CE report	Quantity
1	Empty Watch boxes (green colored) Rolex brand	39239010	39231020	3000
2	Empty carry bags (paper) Rolex brand	Not declared	48194000	180
3	Glass beads (various colours and variable sizes ranging from 1 mm to 5 mm in thickness)	70182000	70181020	2408.94 Kgs
4	Arcly (acrylic) beads (various colours and variable sizes ranging from 1 mm to 5 mm in thickness)	70182000	39264029	5674 kgs
5	Electric hot plate/electric charcoal heater (flat)	73239390 (declared as kitchen accessories for all the items)	85167990	1220
6	Electric hot plate/electric charcoal heater (tower)		85167990	540
7	Fine mesh Strainer (big) for hookah coal burning		73239390	1036
8	Furniture Shelf and accessories	94032090	94032090 (as declared)	456 kgs
9	Hookah pot	96140000	96140000 (as declared)	4944
10	Glass showpiece	70139900	70139900 (as declared)	559

2.3.1 Applicable duty and taxes

Based on the foregoing paragraphs, it is evident that the importer has attempted to evade payment of duties and taxes by mis-declaring, mis-classifying and undervaluing the imported goods. The duty liability for the declared / undeclared goods is ascertained as under:

Table D

Sr no.	Item	Quantity	Redetermined CTH	Suggestive Total C.I.F. Average Value in Bulk Quantity in USD (Approx.)	Suggestive Total C.I.F. Average Value in Bulk Quantity in Rs. (1 USD = 88.4)	Duty BCD rate	BCD Amount in Rs.	SWS (RATE IN %)	SWS (in Rs.)	IGST %	Applicable IGST Duty Amount (In rs.)	Total Duty (in Rs.)
A	B	C	D	E	F=E*88.4	G	H=F*G	I	J=F*I	K	L=(F+H+J)*K %	M=H+J+L
1	Empty Watch boxes (green coloured) Rolex brand	3000 Pieces	39231020	1527.15	135000	15%	20250	1.50	2025	18	28310	50585
2	Empty carry bags (paper) Rolex brand	180 Pieces	48194000	16.29	1440	10%	144	1	14	18	288	446
3	Glass beads (various colours and variable sizes ranging from 1 mm to 5 mm in thickness)	2408.94 kgs	70181020	2043.78	180671	20%	36134	2	3613	5	11021	50768
4	Arcly (acrylic) beads (various colours and variable sizes ranging from 1 mm to 5 mm in thickness)	5674 kgs	39264029	4685.54	414202	15%	62130	1.5	6213	12	57905	126249
5	Electric hot plate/electric charcoal heater (flat)	1220 Pieces	85167990	1863.12	164700	20%	32940	2	3294	18	36168	72402
6	Electric hot plate/electric charcoal heater (tower)	540 Pieces	85167990	794.12	70200	20%	14040	2	1404	18	15416	30860
7	Fine mesh Strainer (big) for hookah coal burning	1036 Pieces	73239390	310.80	27475	20%	5495	2	549	12	4022	10067
8	Furniture Shelf and accessories	456 kgs	94032090	335.29	29640	25%	7410	2.5	741	18	6802	14953
9	Hookah pot	4944 Pieces	96140000	5872.39	519120	10%	51912	1	5191	28	161342	218446
10	Glass showpiece	559 Pieces	70139900	1264.71	111800	20%	22360	2	2236	18	24551	49147
Total				18713.20	1654247		252815		25282		345826	623923

From the Table D above, it appears that the total due liability of the importer is Rs. 5,72,892/- (Rupees Five Lakh Seventy-Two Thousand Eight Hundred Ninety-Two only). (Rs. 6,23,923- Rs. 51031) (Total Duty minus value of IPR Infringing goods).

2.3.2 The importer has calculated the applicable duties and taxes on the good declared in the Z-Bill of entry, based on the declared value and classification in the Bill of Entry. The importer has assessed the duty and taxes as follows:

Table E

Sr. no.	Item declared	Declared CTH	Quantity	Total Declared C.I.F. (in Rs.)	Duty BCD rate	BCD (in Rs.)	SWS (RATE IN %)	SWS (in Rs.)	IGST Rate	Applicable IGST Duty Amount (In rs.)	Total Duty (in Rs.)
A	B	C	D	E	F	G=E*F	H	I=E*H	J	K=(E+G+I)* J	L=G+I+ K
1	Glaas Show piece	70139900	559	53863	20%	10773	2%	1077	18%	11828	23678
2	Hookah pot	96140000	4944	284082	10%	28408	1%	2841	28%	88293	119542
3	Glass Beads	70182000	2408.94	144805	10%	14481	1%	1448	5%	8037	23965
4	Arcly Beads	70182000	5674	341075	10%	34108	1%	3411	5%	18930	56448
5	Household Kitchen accessories	73239390	2796	74150	20%	14830	2%	1483	18%	16283	32596
6	Furniture Shelf	94032090	456	20155	25%	5039	2.50%	504	18%	4626	10168
7	Box (Empty Box)	39239010	3180	106823	15%	16023	1.50%	1602	18%	22401	40026
				1024954		123661		12366		170397	306424

2.3.3. Based on the calculations from Table D and Table E above, the importer is required to pay/levy a differential liability of Rs. 3,06,494/- (Rs. Three lakh Six Thousand Four Hundred Ninety-four only) [Rs. 5,72,892 (Table D) - Rs. 2,66,398 (Table E (Rs. 306424 – Rs. 40026 {declared duty on the IPR infringing goods})] on the undeclared/undervalued goods after adjustment. This amount represents the additional duty and tax liability that the importer must pay due to the mis-declaration and misclassification of goods.

2.4. Violation of IPR Rules:

2.4.1. Whereas, the goods declared as "Empty Box" were found to bear the trademark of the brand “Rolex” and appeared to have been imported in violation of the Intellectual Property Rights (Enforcement) Rules, 2007. The details are as follows:

Table F

Sr. no.	Item	No. of Boxes/cartons	Quantity (in Pcs)	Total re-determined Value of the goods (in Rs.) [as per Table-D]	Total Duty on goods (in Rs.) [as per Table-
1	Empty Watch boxes (green colored) Rolex brand	100	3000	1,35,000	50,585
2	Empty carry bags (paper) Rolex brand	06	180	1,440	446
				1,36,440	51,031

2.4.2 For verification of the above mentioned goods of brand 'Rolex', brand registered holder was M/s. Rolex Watch Company Private Limited (chirag.thaker@rolex.com) was informed vide letter dated April 17, 2025, regarding the imported consignment and the suspicion of it bearing ‘Rolex’ brand marks.

In response, M/s. Remfry and Sagar, the authorized representatives of the intellectual property rights holder of the 'Rolex' brand, conducted physical inspection of the said consignment and confirmed that the importer, M/s. Vaidh Exim Mart LLP, is neither authorized, associated, affiliated, nor related in any manner to the Brand Right Holder i.e. M/s. Rolex Watch Company Private Limited or its parent company based in Switzerland. In their inspection report dated 06.05.2025 they submitted that the interdicted bags and watch boxes bearing the right holder’s registered trademark are counterfeit. Accordingly, they requested for the suspension of clearance of the goods under the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007, and further sought the immediate destruction of the impugned counterfeit goods.

2.4.3. Whereas, it appears that, the impugned goods of the brand mentioned above in para 2.4.1 is allegedly infringing IPR and are required to be deemed as “Prohibited” within the meaning of Section 11 of the Customs Act, 1962 read with Rule 6 of the IPR Rules, 2007, which reads as under:

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

Accordingly, it appears that the impugned goods mentioned in para 2.4.1 are liable for confiscation under Section 111(d) of the Customs Act, 1962 read with the IPR, Rules 2007. Further, it also appears that these goods are mis-declared/undervalued and hence impugned goods are also liable for confiscation under Section 111(m) of the Customs Act, 1962.

2.4.4 The IPR Right holders have submitted Bond of Rs. 1,50,084/- i.e. 110% of Value of the goods and Security in form of Fixed deposit of Rs. 37,521/- i.e. 25% of the Bond Value, on behalf of their brands under Rule 5(a) of the IPR Rules, 2007, requested that aforesaid document shall be taken on record and goods may be absolutely confiscated and destroyed in accordance with law.

2.5 Requirement SIMS Registration:

2.5.1 The DGFT has amended the import policy from 'Free' to 'Free subject to compulsory registration under Steel Import Monitoring System (SIMS)' under Chapter 72,73 and 86 of ITS (HS), 2022, Schedule —I (Import Policy) vide notification no. 19/2015-2020 dated 07.07.2022, as amended. The relevant portion of the said notification is reproduced hereunder:

“The Steel Importing Monitoring System (SIMS) shall require importers to submit advance information in an online system for import of items and obtain an automatic Registration Number by paying registration fee of Rs.500/-. The importer can apply for registration not earlier than 60th day before the expected date of arrival of import consignment. The automatic Registration Number thus granted shall remain valid for a period of 75 days.”

2.5.2 Goods declared as ‘Household Kitchen Accessories’, classified under CTH 73239390, which on examination were found as ‘Electric hot plate/electric charcoal heater (flat)- Qty 1220 pcs, Electric hot plate/electric charcoal heater (tower), Qty -540 pcs & **Fine mesh Strainer (big) for hookah coal burning Qty 1036 pcs**”.

2.5.3 The SIMS registration would only be applicable for goods ‘Fine Mesh Strainer (big)’ that may be considered as kitchen accessories and classifiable under declared CTH 73239390. Further, Importer has produced the SIMS registration certificate no MOSSIMS180225039125 Dated 18.02.2025 for the declared goods as in import documents. The IGM Inward Date of the subject Bill of entry is 14.02.2025. As importer has not applied for registration before arrival of

import consignment i.e. 14.02.2025, the importer the has not fulfilled the condition of DGFT Notification no. 19/2015-2020 dated 07.07.2022, as amended.

Since, goods were imported into India without the requisite SIMS certificate, the impugned goods have been imported without authorization and are liable for confiscation under Section 111(d) of the Customs Act, 1962.

2.6 Requirement of PIMS registration:

2.6.1 The DGFT has amended the import policy from 'Free' to 'Free subject to compulsory registration under Paper Import Monitoring System (PIMS)' under Chapter 48 of ITS (HS), 2022, Schedule —I (Import Policy) vide notification no. 11/2015-2020 dated 25.05.2022. The relevant portion of the said notification is reproduced hereunder:

“c. Paper Import Monitoring System (PIMS)) shall require importers to submit advance information in an online system for import of items under the Annexure –A and obtain an automatic Registration Number by paying registration fee of Rs. 500. The importer can apply for registration not earlier than 75th day and not later than 5th day before the expected date of arrival of import consignment. The automatic Registration Number thus granted shall remain valid for a period of 75 days. Multiple Bill of Entries shall be allowed in same registration number within the validity period of registration for the permitted quantity”

2.6.2 On examination, goods declared as 'Box (Empty Box) – Qty 3180 pcs were found as 'Empty Watch Boxes (Green coloured) Rolex Brand – Qty 3000 Pcs **and 'Empty Carry Bags (paper) Rolex Brand – Qty 180 pcs'.**

2.6.3 In view of above, the importer was required to submit advance information in PIMS and obtain an automatic registration number for the import of goods classifiable under CTH 48194000, i.e. **“Empty Carry Bags (paper), Rolex Brand”**. However, importer has not produced the same.

2.6.4 As the goods were reported as 'counterfeit' of 'Rolex Brand' by the IPR right holders, the same will be disposed of as per Disposal Manual, 2019.

2.7. The valuation report, submitted by the chartered engineer for the import consignment imported under Bill of Entry No. Z-8445499, dated 19.02.2025, was shared with the importer on 22.05.2025. The importer was also informed that the goods bearing the "Rolex" trademark have been deemed counterfeit, by the authorised representative of the brand and prohibiting their clearance, and would be disposed of in accordance with the Disposal Manual, 2019.

In response, the importer, M/s. Vaidh Exim Mart LLP, submitted a letter dated May 23, 2025, whereby they have acknowledged and agreed with the valuation report submitted by the chartered engineer for their import consignment under Bill of Entry No. Z-8445499, dated 19.02.2025. They further accepted that

the goods bearing the "Rolex" trademark have been deemed counterfeit by the authorized representative of the brand, thereby prohibiting their clearance, and are to be disposed of in accordance with the Disposal Manual, 2019. The importer agreed to pay the applicable duties, taxes, fines, and penalties and requested early clearance of the goods, urging that the case be decided on its merits. They further requested that they don't want any Personal hearing, Show Cause Notice or any Summons in this matter.

2.8. Outcome of investigation

2.8.1 From the forgoing paras, the investigation into the import consignment of M/s. Vaidh Exim Mart LLP (IEC No. AAYFV9147P) under Bill of Entry No. Z-8445499, dated 19.02.2025, revealed the following key findings:

A. Mis-declaration of Goods:

- On examination, goods declared as 'Box (Empty Box) – Qty 3180 pcs' were found as 'Empty Watch Boxes (Green coloured) Rolex Brand – Qty 3000 Pcs' and 'Empty Carry Bags (paper) Rolex Brand – Qty 180 pcs.
- Further, on examination, the goods declared as 'Household Kitchen Accessories- Qty 2796 pcs' were found as 'Electric hot plate/electric charcoal heater (flat)- Qty 1220 pcs, Electric hot plate/electric charcoal heater (tower), Qty -540 pcs & Fine mesh Strainer (big) for hookah coal burning Qty 1036 pcs”.

In view of the above, it is cleared that on examination, some undeclared goods were imported in disguise of the declared goods in the import documents.

B. Mis-Classification of Goods:

The Classification of goods, re-determined based on examination report and report of the government approved Chartered Engineer and declared in the Bill of Entry, as mentioned at Table-C1 above. The details are as under:-

- Goods declared as 'Box (Empty Box)' were found as 'Empty Watch Boxes (Green Colored) Rolex Brand and 'Empty Carry Bags (paper) Rolex Brand'. The undeclared goods 'Empty Carry Bags (paper) Rolex Brand' is to be classified under CTH 48194000.
- As per CE report, goods declared as 'Arcly (acrylic) beads', under CTH 70182000 are found to be made of plastic. Therefore the goods are correctly classifiable under its specific heading CTH 39264029.
- As per CE report, goods declared as 'Glass Beads' under CTH 70182000, are found 'Glass Beads (various colours and variable sizes

ranging from 1mm to 5mm in thickness)' therefore, the goods are correctly classifiable under CTH 70181020.

- Goods declared as 'Household Kitchen Accessories' under CTH 73239390 were found as 'Electric hot plate/electric charcoal heater (flat)', 'Electric hot plate/electric charcoal heater (tower)' and 'fine mesh strainer big for hookah coal burning'. The undeclared goods 'Electric Hot plate/Electric Charcoal Heater (flat/tower)' are classifiable under CTH 85167990.

C. IPR Infringement:

- The goods bearing the "Rolex" trademark were confirmed as counterfeit by M/s. Remfry and Sagar, the authorized representative of the Rolex brand, through an inspection report dated 06.05.2025. These goods were imported in violation of the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007, and deemed are "prohibited" under Section 11 of the Customs Act, 1962, read with Rule 6 of the IPR Rules, 2007.

Violation of DGFT Notification no. 19/2015-20 dated 07.07.2022 (SIMS Registration):

- The SIMS registration would only be applicable for goods 'Fine Mesh Strainer (big)' that may be considered as kitchen accessories and classifiable under declared CTH 73239390. Further, Importer has taken SIMS registration dated 18.02.2025 after the IGM inward Date 14.02.2025. Therefore, the importer the has not fulfilled the condition of DGFT Notification no. 19/2015-2020 dated 07.07.2022, as amended.
- Since, goods were imported into India without the requisite SIMS certificate, the impugned goods have been imported without authorization and are liable for confiscation under Section 111(d) of the Customs Act, 1962.

D. Valuation and Duty Evasion:

- The valuation report by the chartered engineer, dated 22.05.2025, reassessed the value of the goods under Rule 9 of the Customs Valuation Rules, 2007, due to the inability to determine values under Rules 3 to 8. The total CIF value was re-determined as Rs. 16,54,246.87/-, with a duty liability of Rs. 5,72,892/- compared to the importer's declared duty of Rs. 2,66,398/- (excluding the duty on IPR infringing goods), resulting in a differential duty liability of Rs. 3,06,494/-.

- The mis-declaration and undervaluation indicate an intent to evade customs duty, causing a loss to government revenue.

E. Importer's Response:

- M/s. Vaidh Exim Mart LLP vide their letter dated 23.05.2025, accepted the chartered engineer's valuation report, acknowledged the counterfeit nature of the Rolex-branded goods, agreed to pay applicable duties, taxes, fines, and penalties, and requested early clearance of the consignment, urging a decision on merits.

2.8.2 The counterfeit goods Rolex-branded (watch boxes and carry bags) are liable for confiscation under section 111(d) of the Customs Act 1962, for being prohibited goods under Section 11, read with Rule 6 of the IPR Rules, 2007, due to infringement of intellectual property rights. As per Rule 7 of the IPR Rules, 2007, the clearance of the counterfeit goods has been suspended, and the right holder's request for destruction of these goods, in accordance with the Disposal Manual, 2019, is to be acted upon.

The importer is liable to pay the differential duty and taxes of Rs. 3,06,494/- (excluding the duty/taxes on IPR infringing goods) as calculated based on the reassessed valuation [Rs. 5,72,892 (Table D) - Rs. 2,66,398 (Table E)] to account for the correct classification and valuation of the goods.

The importer has, by his acts of omission and commission, rendered the goods found undeclared/mis declared having assessable value Rs. 16,54,246.87 under the Z-8445499, dated 19.02.2025, liable for confiscation under section 111 (d), (l) & (m) of the Customs Act, 1962 and is, therefore, also liable for penalty under section 112 (a) (i) & (ii) of the Customs Act, 1962.

Further, the importer furnished false and incorrect documentation by failing to declare the dutiable goods in the subject Bill of Entry, therefore, this act of omission and commission, renders the importer for penalty under Section 114AA of the Customs Act, 1962.

3. LEGAL PROVISIONS:

3.1 Section 2 (14) of the Customs Act, 1962, "**dutiable goods**" means any goods which are chargeable to duty and on which duty has not been paid;

3.2 Section 2 (39) of the Customs Act, 1962, '**smuggling**', in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113;

3.3 SECTION 46 (4) of the Customs Act, 1962, prescribes that the importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration,

produce to the proper officer the invoice, if any, and such other documents relating to the imported goods as may be prescribed.

3.4. Section 111 of the of the Customs Act, 1962- Confiscation of improperly imported goods, etc. as under

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

(d): of the Customs Act 1962 states that any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force are liable to confiscation.

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

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

...

3.5 Section 112 of the Customs Act, 1962, penal provisions for improper importation of goods, etc. which read as under:

Any person, -

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

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

shall be liable, -

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

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

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

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

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

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

3.6. Section 114 AA of the Customs Act, 1962, 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.

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

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

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

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

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

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

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

3.8 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.

Waiver of Notice and Personal Hearing: - __

4. The Importer vide letter dated 23.05.2025, have requested for waiver of the Show Cause Notice and personal hearing in the matter, necessary adjudication proceeding/action may be initiated in respect of the said Bill of Entry as per the Customs Act, 1962.

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

- (i) The undeclared goods mentioned at sr. no. 2, 5 & 6 of Table-C1 (para 2.3) are to be classified as per the Customs Tariff Headings (CTH) outlined in Table- C1 (para 2.3)
- (ii) The mis-declared goods mentioned at sr. no. 1,2,3 & 7 of Table- C1 (para 2.3) are to be re-classified as per the Customs Tariff Headings (CTH) outlined in Table-C1 (para 2.3) and the subject Bill of Entry No. Z-8445499 dated 19.02.2025 to be re-assessed accordingly.
- (iii) The assessable value of the impugned goods declared by the importer as Rs. 10,24,954/- in bill of entry no. Z-8445499 dated 19.02.2025 is required to be rejected in terms of Rule 12 of the CVR, 2007 and to be re-determined as Rs. 16,54,247/- against all undeclared and declared goods, as determined by the Chartered Engineer's report dated 22.05.2025 under Rule 9 of the Customs Valuation Rules, 2007.
- (iv) The counterfeit goods Rolex-branded (watch boxes and carry bags) (item no. 1 & 2 of Table C) valued at 1,36,440/- are liable for confiscation under section 111(m) and 111(d) of the Customs Act 1962, for being prohibited goods under Section 11, read with Rule 6 of the IPR Rules, 2007, due to infringement of intellectual property rights. As per Rule 7 of the IPR Rules, 2007, the clearance of the counterfeit goods has been suspended, and the right holder's request for destruction of these goods, in accordance with the Disposal Manual, 2019, is to be acted upon.
- (v) The goods found undeclared, mis declared and undervalued (item no. 3,4,5,6,8,9 & 10 of Table- C), re-determined value as Rs. 14,90,332/- are liable for confiscation under Sections 111(l) and 111(m) of the Customs Act, 1962.
- (vi) The goods found as 'Fine Mesh Strainer (big)' as mentioned at Sr. no 7 of Table-C, re-determined value of Rs. 27,475/-, which found mis-declared, undervalued and without valid SIMS registration, are liable for confiscation under Section 111(m) & 111 (d) of the Customs Act, 1962
- (vii) The differential duty and taxes of Rs. 3,06,494/- (excluding the duty/taxes on IPR infringing goods) as calculated based on the reassessed valuation [Rs. 5,72,892 (Table D) - Rs. 2,66,398 (Table E)] is to be included in the importer's duty liability.

- (viii) The importer is liable for penalties under section 112 (a) (i) & (ii) of and 114AA of the Customs Act, 1962, for attempting to evade duties through mis-declaration and concealment of goods.

6. Discussions and Findings

6.1 I have carefully gone through the Investigation report dated 11.06.2025 issued by Deputy Commissioner of Customs (SIIB), Mundra Customs House and other records of the case. I find that representative of Importer M/s Vaidh Exim Mart LLP vide letter dated 23.05.2025 and 17.06.2025 has requested for waiver of issuance of Show Cause Notice and personal hearing. Hence I proceed to decide the case on the basis of the documentary evidences available on records. The main issues before me in this case are to be decided as mentioned below:

- a) Whether the undeclared goods mentioned at sr. no. 2, 5 & 6 of Table-C1 are to be classified as per the Customs Tariff Headings (CTH) outlined in Table- C1.
- b) Whether the mis-declared goods mentioned at sr. no. 1,2,3 & 7 of Table- C1 are to be re-classified as per the Customs Tariff Headings (CTH) outlined in Table- C1 and the subject Bill of Entry No. Z-8445499 dated 19.02.2025 to be re-assessed accordingly.
- c) Whether the assessable value of the impugned goods declared by the importer as Rs. 10,24,954/- in bill of entry no. 8445499 dated 19.02.2025 (Z type) is required to be rejected in terms of Rule 12 of the CVR, 2007 and to be re-determined as Rs. 16,54,247/- against all undeclared and declared goods, as determined by the Chartered Engineer's report dated 22.05.2025 under Rule 9 of the Customs Valuation Rules, 2007.
- d) Whether the counterfeit goods Rolex-branded (watch boxes and carry bags) (item no. 1 & 2 of Table C) valued at 1,36,440/- are liable for confiscation under section 111(m) and 111(d) of the Customs Act 1962, for being prohibited goods under Section 11, read with Rule 6 of the IPR Rules, 2007, due to infringement of intellectual property rights. As per Rule 7 of the IPR Rules, 2007, the clearance of the counterfeit goods has been suspended, and the right holder's request for destruction of these goods, in accordance with the Disposal Manual, 2019, is to be acted upon.
- e) Whether the goods found undeclared, mis declared and undervalued (item no. 3,4,5,6,8,9 & 10 of Table- C), re-determined value as Rs. 14,90,332/- are liable for confiscation under Sections 111(l) and 111(m) of the Customs Act, 1962.
- f) Whether the goods found as 'Fine Mesh Strainer (big)' as mentioned at Sr. no 7 of Table-C, re-determined value of Rs. 27,475/-, which found mis-declared,

undervalued and without valid SIMS registration, are liable for confiscation under Section 111(m) & 111 (d) of the Customs Act, 1962.

g) The differential duty and taxes of Rs. 3,06,494/- (excluding the duty/taxes on IPR infringing goods) as calculated based on the reassessed valuation [Rs. 5,72,892 - Rs. 2,66,398] is to be included in the importer’s duty liability.

h) Whether the importer is liable for penalties under section 112 (a) (i) & (ii) of and 114AA of the Customs Act, 1962, for attempting to evade duties through mis-declaration and concealment of goods.

6.2 I find that on basis of specific intelligence, consignment imported under Bill of Lading No. EPIRCHNSCN017231 dated 28.01.2025 in Container No. ESDU4157788 was put on hold by for detailed examination. The goods were examined by officers of SIIB in presence of authorized person of Importer. The goods declared in the Z- bill of entry 8445499, dated 19/02/2025, are as detailed below:

Sr. No .	BE no. /date	Container No.	Seal no.	BL no. /date	Goods declared	
					HSN	Items
1	8445499 dated 19.02.2025	ESDU4157788	D2493951	EPIRCHNSCN017231 dated 28.01.2025	70139900	Glass Show piece
					96140000	Hookah pot
					70182000	Glass Beads
					70182000	Arcly Beads
					73239390	Household Kitchen accessories
					94032090	Furniture Shelf
					39239010	Box (Empty Box)

6.3 I find that detailed examination was carried out by officers of SIIB. The details of the goods found during examination are as under:

Sr. no.	Item	No. of Boxes/cartons
1	Empty Watch boxes (green colored) Rolex brand	100
2	Empty carry bags (paper) Rolex brand	06
3	Glass beads (various colours and variable sizes ranging from 1 mm to 5 mm in thickness)	104
4	Arcly (acrylic) beads (various colours and variable sizes ranging from 1 mm to 5 mm in thickness)	169
5	Electric hot plate/electric charcoal heater (flat)	61

6	Electric hot plate/electric charcoal heater (tower)	27
7	Fine mesh Strainer (big) for hookah coal burning	03
8	Furniture Shelf and accessories	28
9	Hookah pot	412
10	Glass showpiece	92
Total		1002

6.4 I find that, the import consignment of M/s. Vaidh Exim Mart LLP, was found to include several undeclared items and discrepancies in the declared quantity of goods as per the bill of entry. The table below compares the declared goods and their quantities with the actual findings, including undeclared items discovered in the consignment.

Sr. no.	Item	Declared in Bill of Entry		Found during examination		Excess/short quantity
		No. of Boxes/cartons	No. of pieces declared	No. of Boxes/cartons	Qty (in pieces/Kgs)	
1	Empty Watch boxes (green colored) Rolex brand	106	3180	100	3000 pieces	-180
2	Empty carry bags (paper) Rolex brand	0	0	06	180 pieces	+180
3	Glass beads (various colours and variable sizes ranging from 1 mm to 5 mm in thickness)	104	2408.94 kgs	104	2408.94 Kgs	0
4	Arclly (acrylic) beads (various colours and variable sizes ranging from 1 mm to 5 mm in thickness)	169	5674 kgs	169	5674 kgs	0
5	Electric hot plate/electric charcoal heater (flat)	89 (declared as - Household Kitchen accessories)	2796	61	1220 pieces	0
6	Electric hot plate/electric charcoal heater (tower)			27	540 pieces	
7	Fine mesh Strainer (big) for hookah coal burning			03	1036 pieces	
8	Furniture Shelf and accessories	30	456 kgs	28	456 kgs	0
9	Hookah pot	412	4944	412	4944 pieces	0
10	Glass showpiece	92	559	92	559 pieces	0
Total		1002		1002		

6.5 I find that, in the present case, there were reasonable doubts regarding the truth and accuracy of the declared value as the goods have been found to be mis-declared in terms of quantity, description and classification, and hence the transaction value is rejected in terms of Rule 12 of the CVR, 2007 and needs to be re-determined in terms of Rule 4-9 of the CVR 2007. Efforts were made to find out

the correct assessable value of the imported goods. It was observed that the imported goods were found in different variety, description, specification and quality, so, it was not possible to find and compare the same with other goods having identical/similar description, brand, make, model, quantity and Country of Origin. As the import data extracted with respect to contemporaneous imports was general in nature and contemporaneous data for imports of identical/similar goods was not available/found, therefore, the value could not be determined under Rules 4 and 5 of CVR, 2007. As per Rule 6 *ibid*, if the value cannot be determined under Rules 3, 4 and 5 same shall be determined under the provisions of Rule 7 or when same cannot be determined under that rule then under Rule 8. As the imported goods were found to be non-standard, the sale price of identical or similar goods was not available in the domestic market as the goods are miscellaneous in nature and found in different variety, description, specification, model, brand, make, sizes and quality, therefore, determination of transaction value under Rule 7 of CVR, 2007 was not possible. As substantial data related to the cost or value of materials and fabrication or other processing employed in producing the imported goods required to compute the value under Rule 8 is also not available. Therefore, valuation of the impugned goods could not be ascertained under Rule 8 of CVR, 2007. Hence, valuation of the goods is to be determined under residual method of valuation provided under Rule 9 of the CV Rules *ibid* and hence, opinion of the empanelled Chartered Engineer was sought for determination of the value of the goods under import.

The Chartered Engineer vide his reports dated 22.05.2025 has suggested the valuation of the imported goods as under:

Sr. no.	Item	Redetermined CTH	Quantity	Unit	Suggestive Unit C.I.F. Average Value in Bulk Quantity in USD (Approx.)	Suggestive Total C.I.F. Average Value in Bulk Quantity in USD (Approx.)	Suggestive Total C.I.F. Average Value in Bulk Quantity in Rs. (1 USD = 88.4)
1	Empty Watch boxes (green colored) Rolex brand	39231020	3000	Pieces	0.509049774	1527.15	135000.00
2	Empty carry bags (paper) Rolex brand	48194000	180	Pieces	0.090497738	16.29	1440.00
3	Glass beads (various colours and variable sizes ranging from 1 mm to 5 mm in thickness)	70181020	2408.94	kgs	0.84841629	2043.78	180670.50
4	Arclly (acrylic) beads (various colours and variable sizes ranging from 1 mm to 5 mm in thickness)	39264029	5674	kgs	0.825791855	4685.54	414202.00
5	Electric hot plate/electric	85167990	1220	Pieces	1.527149321	1863.12	164700.00

	charcoal heater (flat)						
6	Electric hot plate/electric charcoal heater (tower)	85167990	540	Pieces	1.470588235	794.12	70200.00
7	Fine mesh Strainer (big) for hookah coal burning	73239390	1036	Pieces	0.3	310.80	27474.72
8	Furniture Shelf and accessories	94032090	456	kgs	0.735294118	335.29	29640.00
9	Hookah pot	96140000	4944	Pieces	1.188	5872.39	519119.65
10	Glass showpiece	70139900	559	Pieces	2.26	1264.71	111800.00
Total						18713.20	1654246.87

6.6 Further, I find that, to accurately assess the tax liability, the declared and undeclared items must be classified under the appropriate Customs Tariff Heading (CTH) based on the examination report and report of the government approved Chartered engineer. The classification of goods, re-determined based on examination report and report of the government approved Chartered engineer and declared in the Bill of Entry, is as follows:

Sr. no.	Item	Declared CTH	Redetermined CTH based on examination report and CE report	Quantity
1	Empty Watch boxes (green colored) Rolex brand	39239010	39231020	3000
2	Empty carry bags (paper) Rolex brand	Not declared	48194000	180
3	Glass beads (various colours and variable sizes ranging from 1 mm to 5 mm in thickness)	70182000	70181020	2408.94 Kgs
4	Arcly (acrylic) beads (various colours and variable sizes ranging from 1 mm to 5 mm in thickness)	70182000	39264029	5674 kgs
5	Electric hot plate/electric charcoal heater (flat)	73239390 (declared as kitchen accessories for all the items)	85167990	1220
6	Electric hot plate/electric charcoal heater (tower)		85167990	540
7	Fine mesh Strainer (big) for hookah coal burning		73239390	1036
8	Furniture Shelf and accessories	94032090	94032090 (as declared)	456 kgs
9	Hookah pot	96140000	96140000 (as declared)	4944
10	Glass showpiece	70139900	70139900 (as declared)	559

6.7 I find that the goods declared as "Empty Box" were found to bear the trademark of the brand “Rolex” and appeared to have been imported in violation of the Intellectual Property Rights (Enforcement) Rules, 2007. The details are as follows:

Sr. no.	Item	No. of Boxes/cartons	Quantity (in Pcs)	Total re-determined Value of the goods (in Rs.)	Total Duty on goods (in Rs.)
1	Empty Watch boxes (green colored) Rolex brand	100	3000	1,35,000	50,585
2	Empty carry bags (paper) Rolex brand	06	180	1,440	446
				1,36,440	51,031

For verification of the above mentioned goods of brand 'Rolex', brand registered holder was M/s. Rolex Watch Company Private Limited (chirag.thaker@rolex.com) was informed vide letter dated April 17, 2025, regarding the imported consignment and the suspicion of it bearing 'Rolex' brand marks.

In response, M/s. Remfry and Sagar, the authorized representatives of the intellectual property rights holder of the 'Rolex' brand, conducted physical inspection of the said consignment and confirmed that the importer, M/s. Vaidh Exim Mart LLP, is neither authorized, associated, affiliated, nor related in any manner to the Brand Right Holder i.e. M/s. Rolex Watch Company Private Limited or its parent company based in Switzerland. In their inspection report dated 06.05.2025 they submitted that the interdicted bags and watch boxes bearing the right holder's registered trademark are counterfeit. Accordingly, they requested for the suspension of clearance of the goods under the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007, and further sought the immediate destruction of the impugned counterfeit goods.

Whereas, the impugned goods of the brand mentioned above in para 2.4.1 is allegedly infringing IPR and are required to be deemed as "Prohibited" within the meaning of Section 11 of the Customs Act, 1962 read with Rule 6 of the IPR Rules, 2007, which reads as under:

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

Accordingly, impugned goods mentioned above are liable for confiscation under Section 111(d) of the Customs Act, 1962 read with the IPR, Rules 2007. Further, it also appears that these goods are mis-declared/undervalued and hence impugned goods are also liable for confiscation under Section 111(m) of the Customs Act, 1962.

The IPR Right holders have submitted Bond of Rs. 1,50,084/- i.e. 110% of Value of the goods and Security in form of Fixed deposit of Rs. 37,521/- i.e. 25% of the Bond Value, on behalf of their brands under Rule 5(a) of the IPR Rules,

2007, requested that aforesaid document shall be taken on record and goods may be absolutely confiscated and destroyed in accordance with law

6.8 I find that DGFT has amended the import policy from 'Free' to 'Free subject to compulsory registration under Steel Import Monitoring System (SIMS)' under Chapter 72,73 and 86 of ITS (HS), 2022, Schedule —I (Import Policy) vide notification no. 19/2015-2020 dated 07.07.2022, as amended. The relevant portion of the said notification is reproduced hereunder:

“The Steel Importing Monitoring System (SIMS) shall require importers to submit advance information in an online system for import of items and obtain an automatic Registration Number by paying registration fee of Rs.500/-. The importer can apply for registration not earlier than 60th day before the expected date of arrival of import consignment. The automatic Registration Number thus granted shall remain valid for a period of 75 days.”

Goods declared as 'Household Kitchen Accessories', classified under CTH 73239390, which on examination were found as 'Electric hot plate/electric charcoal heater (flat)- Qty 1220 pcs, Electric hot plate/electric charcoal heater (tower), Qty -540 pcs & **Fine mesh Strainer (big) for hookah coal burning Qty 1036 pcs**".

The SIMS registration would only be applicable for goods 'Fine Mesh Strainer (big)' that may be considered as kitchen accessories and classifiable under declared CTH 73239390. Further, Importer has produced the SIMS registration certificate no MOSSIMS180225039125 Dated 18.02.2025 for the declared goods as in import documents. The IGM Inward Date of the subject Bill of entry is 14.02.2025. As importer has not applied for registration before arrival of import consignment i.e. 14.02.2025, the importer the has not fulfilled the condition of DGFT Notification no. 19/2015-2020 dated 07.07.2022, as amended.

Since, goods were imported into India without the requisite SIMS certificate, the impugned goods have been imported without authorization and are liable for confiscation under Section 111(d) of the Customs Act, 1962.

6.9 I find that DGFT has amended the import policy from 'Free' to 'Free subject to compulsory registration under Paper Import Monitoring System (PIMS)' under Chapter 48 of ITS (HS), 2022, Schedule —I (Import Policy) vide notification no. 11/2015-2020 dated 25.05.2022. The relevant portion of the said notification is reproduced hereunder:

“c. Paper Import Monitoring System (PIMS)) shall require importers to submit advance information in an online system for import of items under the Annexure –A and obtain an automatic Registration Number by paying registration fee of Rs. 500. The importer can apply for registration not earlier than 75th day and not later than 5th day before the expected date of arrival of import consignment. The automatic Registration Number thus granted shall

remain valid for a period of 75 days. Multiple Bill of Entries shall be allowed in same registration number within the validity period of registration for the permitted quantity”

On examination, goods declared as ‘Box (Empty Box) – Qty 3180 pcs’ were found as ‘Empty Watch Boxes (Green coloured) Rolex Brand – Qty 3000 Pcs’ **and ‘Empty Carry Bags (paper) Rolex Brand – Qty 180 pcs’**. In view of above, the importer was required to submit advance information in PIMS and obtain an automatic registration number for the import of goods classifiable under CTH 48194000, i.e. **“Empty Carry Bags (paper), Rolex Brand”**. However, importer has not produced the same. As the goods were already reported as ‘counterfeit’ of ‘Rolex Brand’ by the IPR right holders, the same will be disposed of as per Disposal Manual, 2019.

6.10 I find that it is evident that the importer has attempted to evade payment of duties and taxes by mis-declaring, mis-classifying and undervaluing the imported goods. The duty liability for the declared / undeclared goods is ascertained as under:

Sr no .	Item	Quantit y	Redetermine d CTH	Suggestiv e Total C.I.F. Average Value in Bulk Quantity in USD (Approx.)	Suggestiv e Total C.I.F. Average Value in Bulk Quantity in Rs. (1 USD = 88.4)	Dut y BC D rate	BCD Amoun t in Rs.	SWS (RA TE IN %)	SWS (in Rs.)	IGS T %	Applicable IGST Duty Amont (In rs.)	Total Duty (in Rs.)
A	B	C	D	E	F=E*88.4	G	H=F*G	I	J=F* I	K	L=(F+H+J)*K %	M=H+J+ L
1	Empty Watch boxes (green coloured) Rolex brand	3000 Pieces	39231020	1527.15	135000	15%	20250	1.50	2025	18	28310	50585
2	Empty carry bags (paper) Rolex brand	180 Pieces	48194000	16.29	1440	10%	144	1	14	18	288	446
3	Glass beads (various colours and variable sizes ranging from 1 mm to 5 mm in thickness)	2408.94 kgs	70181020	2043.78	180671	20%	36134	2	3613	5	11021	50768
4	Arcly (acrylic) beads (various colours and variable sizes ranging from 1 mm to 5 mm in thickness)	5674 kgs	39264029	4685.54	414202	15%	62130	1.5	6213	12	57905	126249

5	Electric hot plate/electric charcoal heater (flat)	1220 Pieces	85167990	1863.12	164700	20%	32940	2	3294	18	36168	72402
6	Electric hot plate/electric charcoal heater (tower)	540 Pieces	85167990	794.12	70200	20%	14040	2	1404	18	15416	30860
7	Fine mesh Strainer (big) for hookah coal burning	1036 Pieces	73239390	310.80	27475	20%	5495	2	549	12	4022	10067
8	Furniture Shelf and accessories	456 kgs	94032090	335.29	29640	25%	7410	2.5	741	18	6802	14953
9	Hookah pot	4944 Pieces	96140000	5872.39	519120	10%	51912	1	5191	28	161342	218446
10	Glass showpiece	559 Pieces	70139900	1264.71	111800	20%	22360	2	2236	18	24551	49147
Total				18713.20	1654247		252815		25282		345826	623923

6.11 I find that the total due liability of the Importer is Rs. 5,72,892/- (Rupees Five Lakh Seventy-Two Thousand Eight Hundred and Ninety-Two Only) (Rs. 6,23,923- Rs. 51,031) (Total Duty minus duty on IPR Infringing Goods). Further Importer importer has calculated the applicable duties and taxes i.e. Rs. 3,06,424/- (including duty of Rs. 40,026/- on the IPR infringing goods) on the good declared in the Z-Bill of entry, based on the declared value and classification in the Bill of Entry. Hence, Importer is required to pay/levy the differential liability of Rs. 3,06,494/- (Rs. Three lakh Six Thousand Four Hundred Ninety-four only) [Rs. 5,72,892 (Table D) - Rs. 2,66,398 (Table E (Rs. 306424 – Rs. 40026 {declared duty on the IPR infringing goods})] on the undeclared/undervalued goods after adjustment. This amount represents the additional duty and tax liability that the importer must pay due to the mis-declaration and misclassification of goods.

6.12 As discussed above in length, I find that in the instance case, goods declared as Box (Empty Box) were found as 'Empty Watch Boxes Rolex Brand- Qty 3000 pcs and 'Empty Carry Bags (paper) Rolex Brand –Qty 180 pcs. The Right Holders have intimated that the goods are counterfeit and submitted requisite Bond and BG as per IPR Rules, 2007. Further, these goods are to be disposed as per Disposal manual in terms of IPR (Imported Goods) Enforcement Rules, 2007. Further, these IPR infringing goods were also found to be mis-declared in terms of valuation. I find that by the act of omission and commission on the part of M/s Vaidh Exim Mart LLP, they have violated the provisions of Section 46 (4A) which stipulates that while presenting the Bill of Entry Importer have to ensure the accuracy and completeness of the information and authenticity and validity of any document supporting it. **Section 17 (1) & Section 2 (2) of the Customs Act, 1962 read with CBIC Circular No. 17/2011- Customs dated 08.04.2011**, cast a heightened

responsibility and onus on the importer to determine duty, classification etc. by way of self-assessment. The importer, at the time of self- assessment, is required to ensure that he declared the correct classification, country of origin, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the Bill of Entry. By violating the provisions of Section 46(4) and Section 17 of the Customs Act, 1962, the Importer has led the goods rendered for confiscation under Section 111(d) and 111 (m) of the Customs Act, 1962. Further, Importer have rendered themselves liable for penalty under section 112(a) (i) of the Customs Act, 1962 which stipulates that any person who, in relation to any prohibited 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 will be liable for penalty for improper importation of goods.

I find that goods declared as “Household Kitchen Accessories” classified under CTH 73239390, which on examination were found as “Electric Hot Plate/Electric Charcoal Heater (Tower), Qty-540 pcs and Fine mesh Strainer (big) for hookah coal burning Qty 1036 Pcs.” The SIMS registration is applicable for goods “Fine mesh Strainer (big) for hookah coal burning Qty 1036 Pcs. The Importer has produced the SIMS registration certificate No. MOSSIMS180225039125 dated 18.02.2025 for the declared goods as in import documents. The IGM inward date of Bill of Entry is 14.02.2025. As importer has not applied for registration before arrival of import consignment, and not fulfilled the condition of DGFT Notification No. 19/2015-20 dated 07.07.2022 as amended, the same are liable for confiscation under Section 111 (d) of the Customs Act, 1962. However, as the SIMS registration dated 18.02.2025 was produced to the authority, hence it would be proper to redeem the goods for home consumption after following the provisions of section 125 of the Customs Act, 1962. Further, Importer have rendered themselves liable for penalty under section 112(a) (i) of the Customs Act, 1962 which stipulates that any person who, in relation to any prohibited 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 will be liable for penalty for improper importation of goods.

Importer was required to submit advance information in PIMS and obtain an automatic registration number for the import of goods classifiable under 48194000 i.e. Empty Carry Bags (paper) Rolex Brand, however the same has not been submitted. Further the goods also violate the provisions of IPR Enforcement Rules, 2007, hence the same are liable for confiscation under Section 111 (d) of the Customs Act, 1962 and will be subject to disposal as per IPR Enforcement Rules, 2007.

All other goods except Empty watch boxes, empty carry bags and fine mesh strainer are found to be undervalued on re-determination of value under Rule 9 of

CVR, 2007, Hence the same are liable to be confiscated under Section 111 (m) of the Customs Act, 1962. Further, Importer have rendered themselves liable for penalty under section 112(a) (ii) of the Customs Act, 1962 which stipulates that any person who, in relation to any dutiable 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 will be liable for penalty for improper importation of goods.

Further, importer has knowingly and intentionally used Bill of Lading, invoices and packing list while filing Bill of Entry, these documents contain incorrect or false material particulars regarding the quantity, and description of the goods imported by them. Accordingly, the importer has rendered themselves liable for penalty under Section 114AA of the Customs Act, 1962 which stipulates that if a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or documents which is false or incorrect in any material particular in the transaction of any businesses for the purpose of this Act would be liable for penalty.

7. In view of the above discussions, I pass the following order:

ORDER

7.1 I hold that the classification of the undeclared/mis-declared goods found during examination is to be re-determined as discussed in para 6.6.

7.2 I hold that the declared assessable value of the imported goods vide Bill of Entry No. 8445499 dated 19.02.2025 i.e. **Rs. 10,24,954/-** (*Rupees Ten Lakh Twenty-Four Thousand Nine Hundred and Fifty-Four Only*) is liable to be rejected under Rule 12 of CVR, 2007 and the value of these undeclared/mis-declared goods is liable to be re-determined to **Rs. 16,54,247/-** (*Rupees Sixteen Lakh Fifty-Four Thousand Two Hundred and Forty-Seven Only*) under Rule 9 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with Section 14 of the Customs Act, 1962.

7.3 I hold that the counterfeit goods Rolex-branded (watch boxes and carry bags) (item no. 1 & 2 of Table in para 6.6) valued at **Rs. 1,36,440/-** (*Rupees One lakh Thirty Six Thousand Four Hundred and Forty Only*) are liable for confiscation under section 111(d) and 111 (m) of the Customs Act 1962. Further I hold that the clearance of the counterfeit goods is to be suspended as per Rule 7 of the IPR Rules, 2007, and the right holder's request for destruction of these goods, in accordance with the Disposal Manual, 2019, is to be acted upon.

7.4 I impose penalty of **Rs. 20,000/-** (*Rupees Twenty Thousand Only*) on M/s Vaidh Exim Mart LLP under Section 112 (a) (i) of the Customs Act, 1962 for the goods mentioned in para 7.3.

7.5 I hold that goods found undeclared, mis-declared and undervalued (item no. 3,4,5,6,8,9 & 10 of para 6.6) of re-determined value **Rs. 14,90,332/-** (*Rupees Fourteen Lakh Ninety Thousand Three Hundred and Thirty-Two Only*) are liable for confiscation under Sections 111(l) and 111(m) of the Customs Act, 1962. However, I give an option to redeem the goods on payment of redemption fine of **Rs. 1,50,000** */-* (*Rupees One Lakh Fifty Thousand Only*) under Section 125 of the Customs Act, 1962.

7.6 I order to re-assess the Bill of Entry 8445499 dated 19.02.2025 accordingly under Section 17(4) of the Customs Act, 1962 with total consequential duty of **Rs. 5,72,892/-** (*Rupees Five Lakh Seventy-Two Thousand Eight Hundred Ninety-Two Only*) and differential duty of Rs. **3,06,494/-** (*Rupees Three Lakh Six Thousand Four Hundred and Ninety-Four Only*).

7.7 I impose penalty of **Rs. 25,000/-** (*Rupees Twenty-Five Thousand Only*) on M/s Vaidh Exim Mart LLP under Section 112 (a) (ii) of the Customs Act, 1962 for the goods mentioned in para 7.5.

7.8 I hold that the goods found as 'Fine Mesh Strainer (big)' as mentioned at Sr. no 7 of para 6.6 of re-determined value, **of Rs. 27,475/-** (*Rupees Twenty-Seven Thousand Four Hundred Seventy-Five Only*) which found mis-declared and without valid SIMS registration, are liable for confiscation under Section 111(m) & 111 (d) of the Customs Act, 1962. However, I give an option to redeem the goods on payment of redemption fine of **Rs. 10,000/-** (*Rupees Ten Thousand Only*) under Section 125 of the Customs Act, 1962.

7.9 I impose penalty of **Rs. 5,000/-** (*Rupees Five Thousand Only*) on M/s Vaidh Exim Mart LLP under Section 112 (a) (i) of the Customs Act, 1962 for the goods mentioned in para 7.8.

7.10. I impose penalty of **Rs. 50,000/-** (*Rupees Fifty Thousand Only*) on M/s Vaidh Exim Mart LLP under Section 114AA of the Customs Act, 1962.

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

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

BY Speed Post A.D / E-mail

To, (The Noticee):-

M/s. Vaidh Exim Mart LLP

Shop No. 03, First Floor Plot No. 01

Riviera Arcade Survey No. 523/ Paiki- Anjar-370110

Copy to:

1. The Addl. Commissioner (SIIB), Customs House, Mundra.
2. The Deputy/Assistant Commissiner, TRC Mundra
3. The Deputy Commissioner, RRA Customs House, Mundra.
4. The Deputy/ Assistant Commissioner (EDI), Custom House, Mundra.
5. Notice Board.
6. Guard File