



**OFFICE OF THE PRINCIPAL COMMISSIONER OF
CUSTOMS, CUSTOMS HOUSE, MP & SEZ
MUNDRA, KUTCH-GUJARAT -370421
PHONE : 02838-271426/271428
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રાષ્ટ્રમંત્ર જાપાણ

A	File No.	CUS/APR/ASS/1733/2024-Gr 3-O/o Pr. Commr-Cus-Mundra
B	OIO No.	MCH/ADC/AK/124/2024-25
C	Date of Order	17.08.2024
D	Passed by	Arun Kumar Additional Commissioner, Import Assessment, Custom House, Mundra.
E	SCN/PH	SCN/PH waived on Importer Request
F	Noticee / Party / Importer	M/s. ADI Creation (IEC - DDQPK3882L) 87, Village- Nayagaon, Nr. Tyagi, Noida, UP- 201301
G	DIN	0240871MO000000B826

1. The Order – in – Original is granted to concern free of charge.
2. Any person aggrieved by this Order – in – Original may file an appeal under Section 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. 1 to

The Commissioner of Customs (Appeal), MUNDRA,
Office at 7th floor, Mridul Tower, Behind Times of India,
Ashram Road, Ahmedabad-380009
3. Appeal shall be filed within Sixty days from the date of Communication of this Order.
4. Appeal should be accompanied by a Fee of Rs. 5/- (Rupees Five Only) under Court Fees Act it must accompanied by (i) copy of the Appeal, (ii) 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. Proof of payment of duty / interest / fine / penalty / deposit should be attached with the appeal memo.
6. While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respect.
7. 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 or Penalty are in dispute, where penalty alone is in dispute.

BRIEF FACT OF THE CASE: -

M/s ADI Creation situated at 87, Village- Nayagaon, Nr. Tyagi, Noida, UP- 201301 holding IEC NO: DDQPK3882L (hereinafter referred to as 'the Importer'), had filed a Bill of Entry No. 4130869 dated 22-06-2024 through their Customs Broker, M/s Jai Ambe Logistics at Mundra port for import of Floor - Cloths dish Cloths, Duster and similar cleaning cloths, Microfiber Fabric Stock Lot, Solid Colour (CTH - 63071090).

2. Based on analysis and observation of IGM, involving Container No. TEMU 6971816 concerning imports under Bill of Entry No. 4130869 dated 22.06.2024 belonging to M/s ADI Creation, intelligence was developed by SIIB that the said consignment bears discrepancy in description and classification. Hence, said consignment was put on hold by SIIB for detail examination and further investigation purpose.

3. The Details of declared goods under Bill of Entry No. 4130869 dated 22-06-2024 is as below:

Table-I

Sr No	B/E No.	Item Declared	CTH	Rate	Declared Assessable Value (Rs.)	Declared Duty (Rs.)	Declared Quantity(kg)
1	4130869 dated 22-06-2024	Floor- Cloths dish Cloths, Duster and similar cleaning cloths, Microfiber Fabric Stock Lot, Solid Colour	63071090	\$.85/kgs	12,76,679	2,11,291	17619 kgs

Based on the above suspicion, examination of said consignment was carried out on 28.06.2024 at All Cargo CFS, APSEZ Mundra by the officers of SIIB section in presence of representative of the CHA Shri Rajendra Kumar Sharma (G card holder – G/MNDR1/202411201) and Shri Ashok Kumar Giri, authorized representative of CFS.

4. During the examination, it was found that the goods were stuffed as roll sheets in the container which was covered by a plastic material from outside. Thereafter, 100% cargo was de-stuffed. During Examination, randomly fabric rolls were opened and examined and found 02 types of fabrics. The count of these rolls was 812. As per CFS tally sheet, Inventory of the goods imported is as under:

Table-II

Sl.No.	Type of Fabric	Total Qty of Rolls	Total Weight (in Kgs)
1	Fat Fabric	324	7290
2	Thin Fabric	488	10250
3	Total	812	17540

5. Randomly three samples from both types of fabrics were drawn for testing to ascertain the composition, grade and to identify description of

the goods and sealed in presence of representative of CHA and representative of CFS. Samples of the consignment sent to CRCL Kandla for testing purpose vide Test Memo No. 89/2024-25 & 90/2024-25 and the test reports received as under.

5.1 Report regarding TM No. 89/2024-25 dated 28.06.2024 is as under:

"The sample as received is in the form of a cut piece of white knitted fabric, having piles (loop) on both sides.

It is wholly composed of polyester filament yarns (non textured).

GSM (as such) = 251.2"

5.2 Report regarding TM No. 90/2024-25 dated 28.06.2024 is as under:

"The sample as received is in the form of a cut piece of dyed (black) knitted fabric.

It is composed of spun yarns of polyamide (nylon) alongwith lycra.

GSM (as such) = 210.38

Selvedge to selvedge width (cms) = No selvedge found

% composition

% of Polyamide (nylon) = 79.80% by wt.

% of Lycra = balance

It is uncoated fabric."

5.3 In view of the Lab Report, the goods imported under Bills of Entry no. 4130869 dated 22.06.2024 appears mis-declared in terms of classification and description of the goods.

6 Classification of Imported Goods:

6.1 It is pertinent to mention that principles for the classification of goods are governed by the Harmonized Commodity Description and Coding System (Harmonized System or HSN) issued by the World Customs Organization, Brussels and the General Rules for Interpretation specified there under. The General Rules for the Interpretation (GIR) specified in the Import Tariff are in accordance with the GIR specified in the HSN. In terms of GIR 3A of the HSN and the import Tariff.

The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

Further, GIR 6 of the HSN and the import Tariff specifies that –

The classification of goods in the subheadings of a heading shall be

determined according to the terms of those subheadings and any related Subheading Notes...

Classification in respect of TM No. 89/2024-25 dated 28.06.2024 is as under:

6.2 As per test report, it is apparent that as far as the entries at heading level are concerned, heading 6001 of the Import Tariff include "**Pile fabrics, including "long Pile" fabrics and terry fabrics, knitted or crocheted**", accordingly impugned goods are appropriately classifiable under the heading 6001.

6.3 Entry under the Tariff Heading 6001 reads thus:

6001 -"Pile fabrics, including "long Pile" fabrics and terry fabrics, knitted or crocheted"

6.4 The above Heading covers goods classifiable under the following sub-headings at the single dash (-) level:

- i. "Long pile" fabrics;
- ii. Looped pile fabrics;
- iii. Other;

6.5 Tariff Heading at the single dash (-) level mentioned at iii above covers ~~goods~~ classifiable under the following sub-headings at the double dash (--) level:

- i. Of man-made fibers.

6.6 As per TM No. 89/2024-25 dated 28.06.2024, goods found in the import consignment is actually classifiable under CTH 60019200 wherein the applicable rate of duty is 20%(BCD)+2%(SWS)+5% (IGST). Hence, it is observed that importer mis-classified the subject goods under CTH 6307 1090 instead of correct CTH 60019200. Consequently, the subject goods were liable to be assessed at the rate of 20%(BCD)+2%(SWS)+5% (IGST).

Classification in respect of TM No. 90/2024-25 dated 28.06.2024 is as under:

6.7 As per test report, it is apparent that as far as the entries at heading level are concerned, heading 6004 of the Import Tariff include "**Knitted Or Crocheted Fabrics Of A Width Exceeding 30 Cm, Containing By Weight 5% Or More Of Elastomeric Yarn Or Rubber Thread, Other Than Those Of Heading 6001**", accordingly impugned goods are appropriately classifiable under the heading 6004.

6.8 Entry under the Tariff Heading 6004 reads thus:

6004 -"Knitted Or Crocheted Fabrics Of A Width Exceeding 30 Cm,

Containing By Weight 5% Or More Of Elastomeric Yarn Or Rubber Thread, Other Than Those Of Heading 6001"

6.9 As per the test report the lycra percentage is more than 5% and hence the correct classification is 6004 1000. Hence, it is observed that importer mis-classified the subject goods under CTH 6307 1090 instead of correct CTH 6004 1000. Consequently, the subject goods were liable to be assessed at the rate of 20%(BCD)+2%(SWS)+5% (IGST).

7. The importer has self-assessed the subject consignment under HS Code 6307-1090 with duty structure 10%(BCD)+1%(SWS)+12% (IGST) as follows :

Assessable Value: Rs. 12,76,679/-

BCD @10 % :	Rs. 1,27,668/-
SWS @ 1% :	Rs. 12 767/-
IGST @ 12% :	Rs. 70,856/-
Total Custom Duty :	Rs. 2,11,291/-.

8. Rejection and Redetermination of Valuation:

8.1 As goods imported vide B/E no. 4130869 dated 22.06.2024 were found to be mis-declared in terms of description and value, hence they were liable to be re-assessed under section 17(4) of the Customs Act, 1962. Since mis-declaration of goods, in parameters such as description, which have relevance to value, was noticed, the declared value of the goods is liable to be rejected under Rule 12, of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (hereinafter referred to as the CVR 2007) and is liable to be re-determined in terms of Rule 12, explanation 1 (i), of the said Rules, by going sequentially from Rule 4 to 9 thereof.

8.2 The importer had imported Polyester pile knitted fabric and Polyamide knitted fabric, the value of identical goods could not be retrieved from NIDB data, considering nature of import, quantity, composition, GSM of the fabric, place and time of importation, therefore, Rule 4 of the said rules, could not be invoked.

8.3 Therefore, the valuation is to be decided in terms of the rule 5 of the CVR which provides method for valuation in respect of similar goods. Therefore, the following bills of entry containing similar goods were relied upon for valuation purpose:

Table-III: Contemporaneous import of "Polyester Pile Knitted Fabric"

Sl. No.	Bill of Entry No. & Date	Description of Goods	Quantity under import (in Kgs)	Assessable Value per Kgs (in Rs)
1	3149856 dated 24.04.2024	Stock lot Pile Knitted Fabric	12294 Kgs	83.23
2	4142499 dated 22.06.2024	Stock lot Pile Knitted Fabric	13041 Kgs	83.68

Table-IV: Contemporaneous import of "Polyamide knitted Fabric"

Sl. No.	Bill of Entry No. & Date	Description of Goods	Quantity under import (in Kgs)	Assessable Value per Kgs (in Rs)
1	4084712 dated 20.06.2024	Knitted fabric (79.8% Polyamide (Nylon), 20.2% Spandex	19159	85.25
2	3957931 dated 12.06.2024	Viscose Polyamide Knitted fabric	26080	94.42
3	3959383 dated 12.06.2024	Viscose Polyamide Knitted Fabric	25790	94.42

8.4 Based upon the above mentioned Bills of Entry, considering the minimum value, the contemporaneous Assessable value of "Polyester Pile knitted Fabric" is works out to be Rs. 83.23 per Kg. Further, considering the minimum value, the contemporaneous Assessable value of "Polyamide knitted Fabric" is works out to be Rs. 85.25 per kg. The assessable value of Bill of Entry No. 4130869 dated 22-06-2024 is worked out to be as below:

Table-V

Sl. No.	Bill of Entry No. & Date	Description of Goods	Quantity under import (in Kgs)	Rate	Assessable Value (in Rs)
1.	4130869 dated 22.06.2024	Polyester Pile Knitted Fabric	7290	Rs. 83.23 per kg	6,06,747/-
		Polyamide Knitted Fabric	10250	Rs. 85.25 per kg	8,73,813/-
Total					14,80,560/-

In view of the above the re-determined value of the impugned goods covered under BE no. 4130869 dated 22-06-2024 calculated to be Rs. 14,80,560/-.

8.5 Duty in respect of the said bill of entry works out to be as tabulated below:

Table-VI

Sl. No.	Description of goods	Total Quantity	Value (in Rs.)	CTH	BCD (In Rs.)	SWS (In Rs.)	IGST (In Rs.)	Total Duty (In Rs.)
1	Pile Knitted Fabric	7920 Kgs	6,06,747/-	60019200	1,21,349	12,135	37,012	1,70,496
2	Polyamide Knitted Fabric	10250 Kgs	8,73,813/-	60041000	1,74,763	17,476	53,303	2,45,541
					2,96,112	29,611	90,314	4,16,037

Hence, the duty sought to be evaded by the importer is Rs. 4,16,037/- (Rupees Four Lakh Sixteen Thousand thirty-seven only).

8.5.1 In view of the above, facts and discussions, total duty of the consignment comes to Rs. 4,16,037/- instead of self-assessed duty of Rs. 2,11,291/- declared by the importer in the BE. The differential duty comes to Rs. 2,04,746/- as calculated under:

Table - VII

Sr No	Correct CTH as per test Results	Assessable value	BCD	SWS@10% of BCD	IGST	Re-calculated Duty	Declared Duty	Duty Difference
1	60019200	6,06,747/-	1,21,349	12,135	37,012	1,70,496	2,11,291	2,04,746
2	60041000	8,73,813/-	1,74,763	17,476	53,303	2,45,541		
			2,96,112	29,611	90,314	4,16,037	2,11,291	2,04,746

8.6 Accordingly, the consignment is found mis-declared in respect of nature and description which resulted into short-levy of duty amounting to Rs. 2,04,746/- as calculated at para supra. Hence, it appears that, the consignment is liable for confiscation under Section and 111(m) of the Customs Act, 1962. Furthermore, for the said act of omission and commission, the importer appears liable for the penal action under the provisions of Section 112(a) (ii) of the Customs Act, 1962.

9. The importer vide letter dated 16.08.2024 has informed that they do not want any SCN or PH in the matter and requested to decide the case on merit.

With the introduction of self-assessment under Section 17(1) of Customs Act, 1962 the onus lies on the importer to correctly self-assess the bill of entry with correct amount of leviable duties. By the said act of not correctly self-assessing the applicable BCD, the importer received undue monetary benefit and caused loss to the public exchequer to the tune of Rs. 2,04,746/-. They not only failed to declare and assess the correct duty payable on the goods but also mis-declared the classification of the goods under CTH 63071090 instead of the correct CTH of 60019200 and 60041000, with an intention to evade payment of correct duty on the goods imported. Thus, there is a reason to believe that the importer deliberately and wilfully misstated the facts in terms of applicability of duty, causing loss to Govt. Revenue.

10. The relevant provisions of Customs Act, 1962 are as under:

10.1 As per **section 17(1)** of the Customs Act, 1962, 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.

10.2 As per **Section 46(4)** of the Customs Act, 1962 the importer who is presenting the Bill of Entry shall, at the foot thereof, make and subscribe to a declaration as to the truth of the contents of such Bill of Entry and shall, in support of such declaration, produce to the proper officer the invoice, if any relating to the imported goods.

10.3 **SECTION 111.** Confiscation of improperly imported goods, etc. - The following goods brought from a place outside India shall be liable to confiscation (m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 [in respect thereof, or in the case of goods under transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54;

10.4 **SECTION 112.** Penalty for improper importation of goods, etc.- Any person,

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

(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.

11. The importer has, by his acts of omission, with intent to evade duty Rs. 4,16,037/- (Rupees Four Lakh Sixteen Thousand thirty-seven only) has rendered the goods, liable for confiscation under section 111(l) & 111(m) of the Customs Act, 1962 and is, therefore, also liable for penalty under section 112(a) of the Customs Act, 1962.

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

(i) The classification of the goods as claimed by the importer under CTH 6307 1090 is liable to be rejected and the goods are liable to re-classified under CTH 6001 9200 & 6004 1000 and Bill of Entry No. 4130869 dated 22.06.2024 is liable to be reassessed accordingly;

(ii) The goods having re-determined assessable value Rs. 14,80,560/- imported vide B/E no 4130869 dated 22.06.2024 is liable to be confiscated under section 111(l) & 111(m) of the customs Act, 1962.

(iii) Penalty is liable to be imposed under section 112(a) of the Customs Act, 1962 on the importer.

13. WAIVER OF NOTICE AND PERSONAL HEARING

The importer vide letter dated 16.08.2024 has informed that they do not want any SCN or PH in the matter and requested to decide the case on merit.

DISCUSSION & FINDING

14. I have carefully gone through the Investigation report No. 65/2024-25 dated 09.08.2024 issued by the Deputy Commissioner of Customs (SIIB), Mundra and I find that Importer M/s ADI Creation vide their letter dated 25.07.2024 has requested for waiver of the show cause notice and personal hearing in the matter. Therefore I find that the principle of natural justice as provided in section 122A of the Customs Act, 1962 has been completed. Hence I proceed to decide the case on the basis of the documentary evidence available on records.

15. Ongoing through the facts of the case, I find that the main issue that needs to be decided is the classification of the goods imported vide BE No. 4130869 dated 22.06.2024. The Importer has declared the goods under

CTH 63071090 imported under said BE and it is proposed in the Investigation Report that the goods covered under said BE are liable to be re-classified under CTH 60019200 and 60041000. Further it needs to be decided whether proposal for confiscation of the goods under section 125 of the Customs Act, 1962 and consequent penalty on the importer under section 112 a (ii) of the Customs Act, 1962 is proper or otherwise.

16. I find that the Importer M/s ADI Creation holding IEC No. DDQPK3882L had filed a Bill of Entry No. 4130869 dated 22.06.2024 through their Customs Broker M/s Jai Ambe Logistics for import of Floor - Cloths dish Cloths. Duster and similar cleaning cloths. Microfiber Fabric Stock Lot. Solid Colour (CTH - 63071090).

17. Based on Intelligence gathered by the officers of SIIB Section, Customs House, Mundra for possible description, goods covered under BE No. 4130869 dated 22.06.2024 were put on hold for detail examination and further investigation purpose.

18. During the examination, it was found that the goods were stuffed as roll sheets in the container which was covered by a plastic material from outside. Thereafter, 100% cargo was de-stuffed. During Examination, randomly fabric rolls were opened and examined and found 02 types of fabrics. The count of these rolls was 812. Randomly three samples from both types of fabrics were drawn for testing to ascertain the composition, grade and to identify description of the goods and sealed in presence of representative of CHA and representative of CFS. Samples of the consignment sent to CRCL Kandla for testing purpose vide Test Memo No. 89/2024-25 & 90/2024-25 and the test reports received as under.

18.1 Report regarding TM No. 89/2024-25 dated 28.06.2024 is as under:

"The sample as received is in the form of a cut piece of white knitted fabric, having piles (loop) on both sides. It is wholly composed of polyester filament yarns (non textured). GSM (as such) = 251.2"

As per Test Report of TM No. 89/2024-25 dated 28.06.2024, goods found in the import consignment is actually classifiable under CTH 60019200 wherein the applicable rate of duty is 20%(BCD)+2%(SWS)+5% (IGST). Hence, it is observed that importer mis-classified the subject goods under CTH 6307 1090 instead of correct CTH 60019200. Consequently, the subject goods were liable to be assessed at the rate of 20%(BCD)+2% (SWS)+5% (IGST).

18.2 Report regarding TM No. 90/2024-25 dated 28.06.2024 is as under:

"The sample as received is in the form of a cut piece of dyed (black) knitted fabric. It is composed of spun yarns of polyamide (nylon) alongwith lycra.

GSM (as such) = 210.38

Selvedge to selvedge width (cms) = No selvedge found
% composition

% of Polyamide (nylon) = 79.80% by wt.

% of Lycra = balance

It is uncoated fabric."

As per Test Report of TM No. 90/2024-25 dated 28.06.2024 the lycra percentage is more than 5% and hence the correct classification is 6004 1000. Hence, it is observed that importer mis-classified the subject goods under CTH 6307 1090 instead of correct CTH 6004 1000. Consequently, the subject goods were liable to be assessed at the rate of 20%(BCD)+2%(SWS)+5% (IGST).

18.3 In view of the Lab Report, the goods imported under Bills of Entry no. 4130869 dated 22.06.2024 are mis-declared in terms of classification and description of the goods.

19. Rejection and Redetermination of Valuation:

19.1 As goods imported vide B/E no. 4130869 dated 22.06.2024 were found to be mis-declared in terms of description and value, hence they were liable to be re-assessed under section 17(4) of the Customs Act, 1962. Since mis-declaration of goods, in parameters such as description, which have relevance to value, was noticed, the declared value of the goods is liable to be rejected under Rule 12, of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (hereinafter referred to as the CVR 2007) and is liable to be re-determined in terms of Rule 12, explanation 1 (i), of the said Rules, by going sequentially from Rule 4 to 9 thereof.

19.2 The importer had imported Polyester pile knitted fabric and Polyamide knitted fabric, the value of identical goods could not be retrieved from NIDB data, considering nature of import, quantity, composition, GSM of the fabric, place and time of importation, therefore, Rule 4 of the said rules, could not be invoked.

19.3 Therefore, the valuation is to be decided in terms of the rule 5 of the CVR which provides method for valuation in respect of similar goods. Therefore, the bills of entry mentioned in Table - III and Table - IV containing similar goods were relied upon for valuation purpose:

19.4 Based upon the Bills of Entry mentioned in Table - III & Table IV, considering the minimum value, the contemporaneous Assessable value of "Polyester Pile knitted Fabric" is works out to be Rs. 83.23 per Kg. Further, considering the minimum value, the contemporaneous Assessable value of "Polyamide knitted Fabric" is works out to be Rs. 85.25 per kg.

20. The assessable value of Bill of Entry No. 4130869 dated 22-06-2024 is worked out to be as tabulated in Table - V and the duty as worked out in table VI Above. In view of the above the re-determined value of the

impugned goods covered under BE no. 4130869 dated 22-06-2024 calculated to be Rs. 14,80,560/- (Fourteen Lakhs Eighty Thousand Five Hundred Sixty Only) and re-determined duty calculated to be Rs. 4,16,037/- (Four Lakhs Sixteen Thousand Thirty Seven Only).

21. With the introduction of self-assessment under Section 17(1) of Customs Act, 1962 the onus lies on the importer to correctly self-assess the bill of entry with correct amount of leviable duties. By the said act of not correctly self-assessing the applicable BCD, the importer received undue monetary benefit and caused loss to the public exchequer to the tune of Rs. 2,04,746/- . They not only failed to declare and assess the correct duty payable on the goods but also mis-declared the classification of the goods under CTH 63071090 instead of the correct CTH of 60019200 and 60041000, with an intention to evade payment of correct duty on the goods imported. Thus, there is a reason to believe that the importer deliberately and wilfully misstated the facts in terms of applicability of duty, causing loss to Govt. Revenue.

22. I find that the importer while filing the impugned Bill of Entry has subscribed to a declaration regarding correctness of the contents of Bill of Entry under Section 46(4) of the Act, ibid. Further, Section 46 (4A) of the Act, casts an obligation on the importer to ensure accuracy of the declaration and authenticity of the documents supporting such declaration. In the instant case, the importer failed to discharge the statutory obligation cast upon him and made wrong declaration about the description & CTH of imported goods.

23. In view of the above, I find that the importer has mis-declared in terms of classification therefore the imported goods liable for confiscation under Section 111(m) of the Customs Act, 1962 which I hold accordingly. There is proposal in the Investigation Report for confiscation of goods under section 111(l) of the Customs Act, 1962 also which I find that this section is invokable only when goods are found in excess to the quantity declared by the importer on examination. However there is no such case that goods have been found in excess than declared, therefore I do not hold the goods liable for confiscation under section 111(l) of the Customs Act, 1962.

24. As I have held the goods to be liable for confiscation under relevant section, I find it necessary to subject the importer with penal provisions. I deem fit to invoke the section 112(a)(ii) of the customs Act, 1962 to impose penalty on the importer.

25. I proceed to decide the redemption of the confiscated goods. As per section 125 of the Customs Act, 1962, whenever confiscation of any goods is authorized by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation where 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 an option to pay in lieu of confiscation such fine as the said officer thinks fit. I find that said provision makes it mandatory to grant an option to owner of the confiscated goods to pay fine in lieu of confiscation in case the goods are

not prohibited. I find it appropriate to allow for redeem under section 125 of the Customs Act, 1962.

26. In view of the above, I pass following Order:

ORDER

- i. I reject declared CTH 63071090 of the item imported vide BE No. 4130869 dated 22.06.2024 and order to re-classify and re-assess the same under CTH 60019200 and 60041000 as detailed in Table-VI.
- ii. I reject the declared value of Rs. 12,76,679/- of the goods covered under BE No. 4130869 dated 22.06.2024 under rule 12 of Customs valuation (Determination of value of imported goods) Rules, 2007 and order to re-determine the same as Rs. 14,80,560/- as detailed in Table -V above under Rule 5 of the Customs Valuation (Determination of value of Imported Goods) Rule 2007 read with Section 14 of Customs Act, 1962 and reassess accordingly.
- iii. I order to confiscate the said goods having re-determined value of Rs. 14,80,560/- (Fourteen Lakhs Eighty Thousand Five Hundred Sixty Only) under Section 111(m) of the Customs Act, 1962. However, considering facts of the case and provisions of the Section 125 of the Customs Act, 1962, I give an option to the importer to re-deem the same on payment of Redemption Fine of Rs. 1,50,000/- (Rs. One Lac Fifty Thousand Only) in lieu of confiscation.
- iv. I impose the penalty of Rs. 10,000/- (Rs. Ten Thousand Only) on the importer M/s ADI Creation under Section 112 (a) (ii) of Customs Act, 1962.

27. This order is issued without prejudice to any other action which may be contemplated against the importer or any other person under provisions of the Customs Act, 1962 and rules/regulations framed thereunder or any other law for the time being in force in the Republic of India.

Signed by
Arun Kumar, Import Assessment
Date: 17-08-2024 16:07:01

To
M/s ADI Creation
87, Village- Nayagaon, Nr. Tyagi,
Noida, UP- 201301

Copy to:

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