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| | <p>कार्यालय: प्रधान आयुक्त सीमा शुल्क, मुन्द्रा, सीमा शुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421</p> <p>OFFICE OF THE COMMISSIONER OF CUSTOMS, CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT- 370421.</p> | |
| A FILE NO. फाइल संख्या | CUS/APR/MISC/8646/2025-Gr.3-O/o Pr.Commr-Cus-Mundra. | |
| B OIO NO. आदेश संख्या | MCH/ADC/ZDC/457/2025-26 | |
| C PASSED BY जारीकर्ता | Dipak Zala Additional Commissioner of Customs/अपर आयुक्त सीमा शुल्क, Custom House, Mundra/कस्टम हाउस, मुंद्रा। | |
| D DATE OF ORDER आदेश की तारीख | 20.12.2025 | |
| E DATE OF ISSUE जारी करने की तिथि | 20.12.2025 | |
| F SCN No. & Date कारण बताओ नोटिस क्रमांक | WAIVED | |
| G NOTICEE/ PARTY/ IMPORTER नोटिसकर्ता/पार्टी/आयातकर्ता | M/s. RS Impex (IEC DDUPS9664C) | |
| H DIN/दस्तावेज पहचान संख्या | 20251271M0000000E781 | |

1. यह आदेश संबंधित को निःशुल्क प्रदान किया जाता है।

This Order - in - Original is granted to the concerned free of charge.

2. यदि कोई व्यक्ति इस 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 पर अपील कर सकता है-

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:

“सीमाशुल्क आयुक्त) 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 -/रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-

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

- उक्त अपील की एक प्रति और A copy of the appeal, and
- इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची 1-के अनुसार न्यायालय शुल्क अधिनियम 1870-के मद सं. 6-में निर्धारित 5 -/रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।

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

5. अपील जापन 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, 1982और 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.

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BRIEF FACTS OF THE CASE

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In view of input received from the Directorate of Revenue Intelligence, Gandhidham Zonal Unit and scrutiny of EDI import data, it is noticed that M/s RS Impex (IEC DDUPS9664C), (hereinafter referred to as ‘the importer’ for the sake of brevity) having address at 403, Plot No. 123, Shree Ganesh Residency, Sector No. 05, Ulwe, Navi Mumbai-410206 filed home consumption (H) Bill of Entry No. 7395606 dated 22.12.2024 for import of Plain Polyester PA Coated Fabric (Polymeric Compound) under CTH 59039090 through their authorised Customs Broker M/s. SRV Shipping CB code ADLFS0369JCH001 (hereinafter referred as ‘the CB’ for sake of brevity). The details of the B/E are as follows: -

Table-A

| S r N | B/E No & date | Bill of Lading No. & Date Container No. | Declared Goods | Decla red H SN C | Declared Quantit y | Decla red U nit Pr | Declared Assessabl e Value (i | Declar ed Du ty (in |
|-------------|---------------------|---|-------------------|------------------------|--------------------------|--------------------------|-------------------------------------|---------------------------|
|-------------|---------------------|---|-------------------|------------------------|--------------------------|--------------------------|-------------------------------------|---------------------------|

| Sl. No. | Bill of entry no. and Date | Container No. | Goods Description | Code | Weight (Kg) | Unit | Value (Rs.) | Rs.) |
|---------|----------------------------|---|----------------------------------|----------|-----------------------|--------------|-------------|----------|
| 1. | 7395606 dated 22/12/2024 | A92EX17110 dated 01.09.2024 & IAAU1947251 | Plain Polyester PA Coated Fabric | 59039090 | 141139 MTR/215095.836 | .12 U SD/MTR | 14,55,708 | 5,33,372 |

2. Accordingly, goods covered under impugned B/E No. 7395606 dated 22.12.2024 were put on hold to rule-out possibility of concealment, mis declaration and duty evasion. The examination of the goods was carried out at All cargo Terminals Limited CFS, Mundra on dated 07.01.2025 in the presence of Shri Ashok Kumar Giri, Deputy Manager, Operations, All Cargo CFS and Shri Pratyush Kumar, Authorized representative of M/s SRV Shipping. After placing of the container, the seal placed on the containers was checked/verified and found intact and tally with the number mentioned in the Bill of lading. Before beginning the examination, the weightment slip of the containers generated at CFS weighbridge were cross-checked. The weight mentioned on the slips as well as Bills of Lading was as under :-

Table-B

| Sr. NO. | Bill of entry no. and Date | Container No. | B/L weight (Kg) | CFS weight (Kg) | Difference (kgs) |
|---------|----------------------------|---------------|-----------------|-----------------|------------------|
| 1 | 7395606 dated 22.12.2024 | IAAU1947251 | 27900 | 27730 | 170 |

3. Upon opening of the gate, it was found that goods (fabrics) were stuffed into the containers in form of Rolls which were packed in transparent PP bags. Thereafter, entire cargo was de-stuffed in the warehouse from the containers with the help of Labourers. During the course of de-stuffing of the container, it was noticed that the goods were packed in the transparent PP bags. Upon randomly cutting on the PP bags, it was found that the fabric found in PP bag is of different colours which appears identical in nature, appearance. One sticker is pasted on each PP bags, wherein Roll No., Colour Name, Mtr etc. were mentioned. Each roll is of 100 Meter as per marking attached on each roll. Also, a sticker of the Marking of Bahubali is attached on the fabric rolls. The details of goods found are as under :-

Table-C

| Container No. | Goods Description | No. of Rolls | Length of Each roll | Total Length |
|---------------|----------------------------------|--------------|---------------------|--------------|
| IAAU1947251 | Plain Polyester PA Coated Fabric | 1413 | 100 Meter | 141300 Meter |

4. During examination, goods were found as fabric. However, the actual nature, description, and composition of the goods i.e. fabrics cannot be ascertained visually. Therefore, to accurately determine the relevant characteristics, in respect of goods mentioned above, randomly, 02 representative sample (in triplicate) were drawn and same were forwarded to Textile Committee, Mumbai for testing purpose vide Test Memo No. 259 and 260 both dated 13.01.2025. The Textile Committee test reports in respect of Test Memo No. 259 and 260 were received on 24.02.2025. The gist of test report is as under: -

Table-D

| Test Memo No. | Description found |
|----------------------|--|
| 259 | Base fabric is made of Polyester Woven Fabric. Base fabric is coated with Thermoplastic Polyurethane. Polyester is 92.5 % and Polyurethane is 7.5%. GSM is 129.6. Warp and Weft fabric is made of texturised yarn. Fabric is bleached. |
| 260 | Base fabric is made of Polyester Woven Fabric. Base fabric is coated with Thermoplastic Polyurethane. Polyester is 91.4% and Thermoplastic Polyurethane is 8.6 %. GSM is 132.1. Warp and Weft fabric is made of texturised yarn. Fabric is Dyed. |

5. The aforementioned test reports were subsequently conveyed to the importer on 28.02.2025 on their email id rsimpex3@gmail.com for perusal and acceptance purpose.

6. The test reports received from the Textile Committee, Mumbai as discussed above have been examined with respect to the declaration made by the importer to determine the correct and proper CTH of the imported goods. 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. The same are as under :-

Rule 1:- *The titles of Sections, Chapters and sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions :*

Rule 2 :-

(a) *Any reference in a heading to an article shall be taken to include a reference to*

that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this Rule), presented unassembled or disassembled.

(b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3.

Rule 3 :- *When by application of Rule 2 (b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows :*

(a) 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.

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3 (a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

(c) When goods cannot be classified by reference to 3 (a) or 3 (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

Rule 4 :- *Goods which cannot be classified in accordance with the above Rules shall be classified under the heading appropriate to the goods to which they are most akin.*

Rule 5 :- *In addition to the foregoing provisions, the following Rules shall apply in respect of the goods referred to therein :*

(a) Camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers, specially shaped or fitted to contain a specific article or set of articles, suitable for long-term use and presented with the articles for which they are intended, shall be classified with

such articles when of a kind normally sold therewith. This Rule does not, however, apply to containers which give the whole its essential character;

(b) Subject to the provisions of Rule 5 (a) above, packing materials and packing containers presented with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods. However, this provision is not binding when such packing materials or packing containers are clearly suitable for repetitive use.

Rule 6 :- *For legal purposes, 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 and, mutatis mutandis, , to the above Rules, on the understanding that only subheadings at the same level are comparable. For the purposes of this Rule the relative Section and Chapter Notes also apply, unless the context otherwise requires.*

6.1 In light of Test report received from Textile Committee, correct classification of goods imported is as under :-

(i) Test Memo No. 259 & 260 :-

As per test report issued against Test Memo No. 259 & 260, Base Fabric is made of Polyester woven Fabric. Base fabric is coated with Thermoplastic Polyurethane. Hence, in light of above mentioned GIR Rule 1, as far as the entries at heading level are concerned, heading 5903 covers Textile Fabric impregnated, coated, covered or laminated with plastics, other than those of heading 59.02 which reads as under :-

| | |
|----------|---|
| 5903 | Textile Fabric impregnated, coated, covered or laminated with plastics, other than those of heading 59.02 |
| 590310 | - With Polyvinyl chloride: |
| 59031010 | --- Imitation leather fabrics of Cotton |
| 59031090 | --- Other |
| 590320 | - With Polyurethane: |
| 59032010 | --- Imitation leather fabrics, of cotton |
| 59032090 | --- Other |
| 590390 | - Other: |
| 59039010 | --- Of Cotton |
| 59039020 | --- Polyethylene laminated jute fabrics |
| 59039090 | --- Other. |

Since Thermoplastic Polyurethane is a type of plastics. Hence, it, prima facie, appears to classifiable under 59032090 as there is 2nd single dash (-) level entry for fabric covered with polyurethane.

7. Rejection of transaction value of the imported goods and determination of the value of the import goods

Since during examination, goods imported vide B/E No. 7395606 dated 22.12.2024, were found mis declared in terms of description, classification and weight, hence, actual value of the goods imported could not be found out for import consignment covered under B/E 7395606 dated 22.12.2024. Therefore, the value of item declared by the importer in the Bill of Entry does not appear to be the true transaction value under the provisions of Section 14 of the Customs Act, 1962 read with the provisions of the Customs Valuation (determination of Value of Imported Goods) Rules, 2007 and thus the same appear liable to be rejected in terms of Rule 12 of CVR, 2007. The value is required to be re-determined by sequentially proceeding in terms of Rules 4 to 9 of CVR, 2007. The relevant Rules of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 are reproduced here under :-

Rule 3. Determination of the method of valuation-

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

(2) Value of imported goods under sub-rule (1) shall be accepted:

Provided that -

(a) there are no restrictions as to the disposition or use of the goods by the buyer other than restrictions which -

(i) are imposed or required by law or by the public authorities in India; or

(ii) limit the geographical area in which the goods may be resold; or

i. do not substantially affect the value of the goods;

(b) the sale or price is not subject to some condition or consideration for which a value cannot be determined in respect of the goods being valued;

(c) no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provisions of rule 10 of these rules; and

(d) the buyer and seller are not related, or where the buyer and seller are related, that transaction value is acceptable for customs purposes under the provisions of sub-rule (3) below.

(3) (a) Where the buyer and seller are related, the transaction value shall be accepted provided that the examination of the circumstances of the sale of the imported goods indicate that the relationship did not influence the price.

(b) In a sale between related persons, the transaction value shall be accepted, whenever the importer demonstrates that the declared value of the goods being valued, closely approximates to one of the following values ascertained at or about the same time.

(i) the transaction value of identical goods, or of similar goods, in sales to unrelated buyers in India;

(ii) the deductive value for identical goods or similar goods;

(iii) the computed value for identical goods or similar goods:

Provided that in applying the values used for comparison, due account shall be taken of demonstrated difference in commercial levels, quantity levels, adjustments in accordance with the provisions of rule 10 and cost incurred by the seller in sales in which he and the buyer are not related;

(c) substitute values shall not be established under the provisions of clause (b) of this sub-rule.

(4) if the value cannot be determined under the provisions of sub-rule (1), the value shall be determined by proceeding sequentially through rule 4 to 9.

Rule 4. Transaction value of identical goods. -

(1)(a) Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued;

Provided that such transaction value shall not be the value of the goods provisionally assessed under section 18 of the Customs Act, 1962.

(b) In applying this rule, the transaction value of identical goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the value of imported goods.

(c) Where no sale referred to in clause (b) of sub-rule (1), is found, the transaction value of identical goods sold at a different commercial level or in different quantities or both, adjusted to take account of the difference attributable to commercial level or to the quantity or both, shall be used, provided that such adjustments shall be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustments, whether such adjustment leads to an increase or decrease in the value.

(2) Where the costs and charges referred to in sub-rule (2) of rule 10 of these rules are included in the transaction value of identical goods, an adjustment shall be made, if there are significant differences in such costs and charges between the goods being valued and the identical goods in question arising from differences in distances and means of transport.

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

Rule 5 (Transaction value of similar goods).-

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

Provided that such transaction value shall not be the value of the goods provisionally assessed under section 18 of the Customs Act, 1962.

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

Further, as per Rule 6 of the CVR, 2007, if the value cannot be determined under Rule 3, 4 & 5, then the value shall be determined under Rule 7 of CVR, 2007.

Rule 7 of the CVR, 2007, stipulates that:-

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

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

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

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

(2) If neither the imported goods nor identical nor similar imported goods are

sold at or about the same time of importation of the goods being valued, the value of imported goods shall, subject otherwise to the provisions of sub-rule (1), be based on the unit price at which the imported goods or identical or similar imported goods are sold in India, at the earliest date after importation but before the expiry of ninety days after such importation.

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

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

Rule 8 of the CVR, 2007, stipulates that: -

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

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

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

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

Rule 9 of the CVR, 2007, stipulates that :-

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

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

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

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

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

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

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

(vi) minimum customs values; or

(vii) arbitrary or fictitious values.

8. Since, data of data of import of identical goods i.e. brand name, supplier name etc. is not available, hence, value of the goods cannot be determined using Rule 4. Subsequently Rule 5 of Customs Valuation Rules

2007 is to be applied to arrive at the correct value of the subject consignment.

8.1 As per Rule 5 of Customs Valuation Rules, 2007, Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of similar goods sold for export to India and imported at or about the same time as the goods being valued. As per contemporary data available for similar item, it is noticed that some importers have imported similar type of goods having similar thickness, description, nature etc. during the month of December, 2024 vide various Bills of Entry filed at various Ports/ICD as detailed below.

Accordingly, Randomly 03 B/E having lowest price for the month of December, 2024 been taken for reference as detailed below :-

Table-E

| Sr. No. | B/E No. & Date | Description of goods | COO | CTH | Port of Import | Quantity | Unit Assessable Value |
|---------|--------------------------|--|-------|----------|----------------|-----------|-----------------------|
| 1 | 7424307 dated 24.12.2024 | 100% Polyester PU Coated Dyed Woven Fabric | CHINA | 59032090 | INMAA1 | 51016 SQM | 76.43 |
| 2 | 7401115 dated 23.12.2024 | 100% Polyester PU Coated Dyed Woven Fabric | CHINA | 59032090 | INMAA1 | 31652 SQM | 81.45 |
| 3 | 7424011 dated 24.12.2024 | 100% Polyester PU Coated Dyed Woven Fabric | CHINA | 59032090 | INMAA1 | 26178 SQM | 74.63 |

8.2 In light of sub rule 3 of Rule (4) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, if more than one transaction value of identical goods is found, the lowest such value shall be used to determine the value of imported goods. As per details mentioned above in Table -E, the lowest transaction value is Rs. 74.63/SQM. Hence, the same is being taken as reference for re determination of valuation of imported goods vide B/E No. 7395606 dated 22.12.2024 which is as under :-

Table-F

(Exchange unit price 1USD = Rs. 85.95)

| B/E No. & Date | Goods Description | Qty. Found | Redetermined CTH | Redetermined Unit Value | Redetermined Assessable Value | Declared Assessable Value | Difference |
|--------------------------|---------------------------------------|--------------------------|------------------|---------------------------|-------------------------------|---------------------------|-------------|
| 7395606 dated 22.12.2024 | Polyester with PU coated woven fabric | 141300 Meter/ 213966 SQM | 59032090 | Rs. 74.63/ M ² | 1,59,68,283 | 14,55,708 | 1,45,12,575 |

Note :- in respect of B/E No. 7395606 dated 22.12.2024, as per photos of cargo attached in examination report dated 07.01.2025, Length of fabric roll is 100 Metre, weight of the goods has been ascertained vide examination report

dated 07.01.2025, GSM has been reported by Textile Committee, Mumbai. On the basis of the same, total SQM has been calculated based on length, weight and GSM for calculation of assessable value and duty.

8.3 As mentioned above, the transaction value of Rs. 14,55,708/- declared by the importer while filing Bill of Entry No. 7395606 dated 22.12.2024 is liable to be rejected under Rule 12 of Customs Valuation Rules 2007 as there has been significant mis-declaration in respect of description, classification and quantity thereof. Since the declared value of the subject goods is liable to be rejected under Rule 12 of the Customs Valuation (Determination of value of imported goods) Rules, 2007, therefore the same is required to be re-determined under Section 14 of the Customs Act, 1962 under Rule 5 of Customs Valuation (Determination of value of imported goods) Rules, 2007 as Rs. 1,59,68,283/- (Rupees One Crore Fifty-Nine Lacs Sixty Thousand Two Hundred Eighty-Three).

9. On the basis of re determined value in above table, duty leviable on goods imported vide B/E No. 7395606 dated 22.12.2024 is being re calculated. The duty structure for 59032090 is @ 36.640% (BCD @ 20% + SWS@ 2% + IGST @ 12%). Further, CBIC vide notification No. 14/2022-Customs (ADD) dated 20.05.2022 imposed anti-dumping duty at the rate of 0.46 USD/Metre in case goods have been imported from CHINA and producer is other than M/s Anhui Anli Material Technology Co., Ltd.. Since, in this case, supplier is other than M/s Ahnui Anli. Hence, ADD @ .46 USD/Metre is applicable.

In view of above, applicable duty for goods imported vide B/E No. 7395606 dated 22.12.2024 has been re calculated which is as under:-

(Table-G)

(Exchange unit price 1USD = Rs. 85.95)

| B/E No. | Redetermined Assessable Value | Total Found Qty. | BCD | ADD @ 0.46USD /M | SW | IGST | Total | Declared Duty | Difference |
|--------------------------|-------------------------------|-------------------------|---------|------------------|--------|---------|----------|---------------|-------------|
| 7395606 dated 22.12.2024 | 1,59,68,283/- | 141300 Metre/213966 SQM | 3193657 | 5586578 | 319366 | 3008146 | 12107748 | 533372 | 1,15,74,376 |

10. In view of above, prime facie, it appears that importer M/s. RS Impex was well aware that import of fabric coated with Polyurethane attracts Anti-dumping duty @ 0.46 USD/Metre. Hence, importer has tried to clear goods by mis-declaring them as PA Coated Fabric instead of actual description i.e. Thermoplastic Polyurethane coated Polyester woven fabric and mis classified the CTH i.e. 59039090 instead of correct CTH 59032090 in order to evade anti-dumping duty imposed vide Sr. No. 2 of notification No. 14/2022 dated 20.05.2022.

11. Further, Statement of Shri Raju Yonna Sanap, Proprietor of M/s R S Impex was recorded on 25.06.2025 under section 108 of the Customs Act, 1962 wherein he interalia stated that

- They have received test report dated 24.02.2025 issued by Textile Committee, Mumbai and They completely agree with test report dated 24.02.2025 issued by Textile Committee, Mumbai.
- He agreed that Goods were found mis declared from the items declared in B/E No. 7395606 dated 22.12.2024.
- He completely agrees that ADD is applicable on PU Coated Fabric.
- On asking about mis declaration, he stated that he don't have any idea about that. Supplier loaded the goods from their warehouse directly. He was not present at the time of loading.
- On asking about end use of goods, he stated that they sell it Indian buyers on marginal profit basis. They do not manufacture anything. They import and sell the goods in market.
- He has shared all relevant information that is with him. They do not want any personal hearing and show cause notice in this matter. Kindly decide the case on merit basis.

12. In view of the above, prima facie, it appears that importer M/s RS Impex has willingly Mis declared the goods imported vide B/E No. 7395606 dated 22.12.2024 w.r.t description, qty. and value. Further, Importer has mis classified the goods under CTH 59039090 instead of correct CTH 59032090 in order to evade higher duty and anti-dumping duty imposed vide Sr. No. 2 of notification No. 14/2022 dated 20.05.2022. Hence, these acts of omission and commission on the part of importer has made the goods imported vide B/E No. 7395606 dated 22.12.2024 having re-determined value of Rs. 1,59,68,283/- (Rs. One Crore Fifty-Nine Lacs Sixty-Eight Thousand Two Hundred Eighty-Three) liable for confiscation under Section 111 (l) and (m) of the Custom Act, 1962. Further, it appears that due to above said act of omission and commission on the part of importer, importer has rendered themselves liable for penal action under Section 112 (a) (ii) of the Customs Act, 1962. Furthermore, it appears that by mis declaring the classification, value and weight of the goods under import, the importer has also short-declared the duty amounting to Rs. 1,15,74,376/- (Rs. One Crore Fifteen Lacs Seventy-Four Thousand Three Hundred Seventy-Six).

13. After introduction of self-assessment vide Finance Act, 2011, the onus lies on the importer for making true and correct declaration in all aspects in the Bills of Entry and to pay the correct amount of Duty. In terms of Section 17 & 46 (4) of the Customs Act, 1962, the importers are required to make a declaration as to the truth of the contents of the Bills of Entry submitted for

assessment of Customs duty. However, importer has not presented correct facts at the time of filing B/E. Further, during examination, no marking has been found on goods for identification purpose to avoid scrutiny at the time of examination. Hence, it appears that the importer had knowingly involved themselves in the suppression of the material facts to clear the goods. These said act of omission and commission on the part of importer, importer has rendered themselves liable for penalty under section 114AA of the Custom Act, 1962.

14. **RELEVANT LEGAL PROVISIONS:**

RELEVANT PROVISIONS OF CUSTOMS ACT, 1962:

Section 2(22): "goods" includes (a) vessels, aircrafts and vehicles; (b) stores; (c) baggage; (d) currency and negotiable instruments; and (e) any other kind of movable property;

Section 2(23): "import", with its grammatical variations and cognate expressions, means bringing into India from a place outside India;

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

Section 2(26): "importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes [any owner, beneficial owner] or any person holding himself out to be the importer;

Section 2(39): "smuggling", in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113.

Section 11A: "illegal import" means the import of any goods in contravention of the provisions of this Act or any other law for the time being in force.

Section 46. Entry of goods on importation:

.....

(4) The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, relating to the imported goods.

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

- (a) The accuracy and completeness of the information given therein;
- (b) The authenticity and validity of any document supporting it; and
- (c) Compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

Section 17. Assessment of duty. –

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

..

(4) Where it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, the proper

officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.

Section 111. Confiscation of improperly imported goods, etc. – *The following goods brought from a place outside India shall be 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;

Section 112. *Penalty for improper importation of goods, etc. –*

Any person,-

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

*(b),
shall be liable,-*

- i.
- 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:*

Section 114AA. *Penalty for use of false and incorrect material-*

If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.]

15. **Outcome of Investigations Conducted:**

15.1 The importer M/s R S Impex (IEC DDUPS9664C) had filed Bill of Entry No. 7395606 dated 22.12.2024 at Mundra port (INMUN1) for import of Plain Polyester PA Coated Fabric (Polymeric Compound) under CTH 59039090 through their CB M/s SRV Shipping (CB Code ADLFS0369JCH001) and declared total assessable value of Rs. 14,55,708/- and total duty leviable is of Rs.5,33,372/-. However, on examination, no marking w.r.t description was found on goods. Hence, goods were sent for testing to Textile Committee, Mumbai in order to ascertain exact composition of goods. On testing, goods were found PU coated Fabric. Further, On the basis of the examination report, test reports, and investigation carried out in this regard, goods imported vide

impugned B/E was found mis-declared in respect of classification, value and weight. Hence, it appears that importer has willingly mis classified the goods in order to evade Custom duties along with Anti-Dumping Duty. Hence, importer has rendered goods imported vide B/E No. 7395606 dated 22.12.2024 liable for confiscation under section 111(l) and (m) of the Customs Act, 1962 and further, due to said act of omission and commission, importer has rendered himself liable for penalty under section 112(a)(ii) and 114AA of the Customs Act, 1962.

16. In view of the above facts, it appears that –

- i. The declared quantity i.e. 27900 Kgs. of goods imported vide impugned Bill of Entry no. 7395606 dated 22.12.2024 shall not be rejected and same to be re determined as “27730 Kg”. Further, declared length i.e. 141139 MTR, 215096 SQM shall not be rejected and same to be redetermined as 141300 Metre, 213966 SQM.
- ii. The classification of the goods imported vide impugned Bill of Entry no. 7395606 dated 22.12.2024 i.e. 59039090 declared by the importer shall not be rejected and the same shall be re-classified under CTH 59032090.
- iii. The declared description i.e. PA Coated Fabric of the goods imported vide impugned B/E No. 7395606 dated 22.12.2024 shall not be rejected and same shall be redetermined as “Thermoplastic Polyurethane coated Polyester Woven Fabric”.
- iv. The declared value i.e. Rs. 14,55,708/- of the imported goods imported vide B/E No. 7395606 dated 22.12.2024 shall not be rejected under Rule 12 of the CVR, 2007 and same shall be re-determined at Rs. 1,59,68,283/- under rule 5 of CVR, 2007.
- v. The Bill of Entry no. 7395606 dated 22.12.2024 shall not be re-assessed accordingly under Section 17(4) of the Customs Act, 1962.
- vi. The impugned goods imported vide B/ E No. 7395606 dated 22.12.2024 shall not be held liable for confiscation under Section 111(l) & (m) of the Customs Act, 1962.
- vii. The importer M/s RS Impex (IEC DDUPS9664C) shall be liable for Penalty under Section 112(a) (ii) of the Customs Act, 1962.
- viii. The importer M/s RS Impex (IEC DDUPS9664C) shall be liable for Penalty under Section 114AA of the Customs Act, 1962.

17. Waiver of Show Cause Notice and Personal Hearing

Shri Raju Yonna Sanap, proprietor of M/s R S Impex (IEC DDUPS9664C) in his statement dated 25.06.2025 stated that they do not want any Show Cause Notice and personal hearing in this matter

DISCUSSION AND FINDINGS

18. I have carefully gone through the Investigation report No.69/2025-26 dated 24.07.2025 issued by the Deputy Commissioner of Customs (SIIB), Mundra and I find that the proprietor Shri Raju Yonna Sanap of M/s R S Impex in its statement dated 25.06.2025 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. The main issues before me in this case are to be decided as mentioned below:

- a. Whether the declared quantity i.e. 27900 Kgs. of goods imported vide impugned Bill of Entry no. 7395606 dated 22.12.2024 is to be rejected and same to be re determined as "27730 Kg". Further, declared length i.e. 141139 MTR, 215096 SQM is to be rejected and same to be redetermined as 141300 Metre, 213966 SQM.
- b. Whether the classification of the goods i.e. 59039090 declared by the importer is to be rejected and the same shall be re-classified under CTH 59032090.
- c. Whether the declared description i.e. PA Coated Fabric of the goods imported vide impugned B/E No. 7395606 dated 22.12.2024 is liable to be rejected and same is to be redetermined as "Thermoplastic Polyurethane coated Polyester Woven Fabric".
- d. Whether the declared value i.e. Rs. 14,55,708/- of the imported goods imported vide B/E No. 7395606 dated 22.12.2024 is liable to be rejected under Rule 12 of the CVR, 2007 and same is to be re-determined at Rs. 1,59,68,283/- under rule 5 of CVR, 2007.
- e. Whether the Bill of Entry no. 7395606 dated 22.12.2024 is to be re-assessed under Section 17(4) of the Customs Act, 1962.
- f. Whether the Goods imported vide Bill of Entry no. 7395606 dated 22.12.2024 are liable for confiscation under Section 111 (l) and (m) of the Customs Act, 1962.
- g. Whether the importer M/s RS Impex (IEC DDUPS9664C) shall be liable for Penalty under Section 112(a)(ii) and 114AA of the Customs Act, 1962.

18.2 I find that M/s RS Impex had filed Bill of Entry No. 7395606 dated 22.12.2024 for import of the following declared goods :

| S r | B/E No & | Bill of Lading No. & Date | Declared Goods | Decla red H | Declared Quantit | Decla red U | Declared Assessabl | Declar ed Du |
|--------|-------------|------------------------------|-------------------|----------------|---------------------|----------------|-----------------------|-----------------|
|--------|-------------|------------------------------|-------------------|----------------|---------------------|----------------|-----------------------|-----------------|

| No. | date | Container No. | | SN Code | Qty | Unit Price | Net Value (in Rs.) | Qty (in Rs.) |
|-----|--------------------------|---|----------------------------------|----------|---------------------------|-------------|--------------------|--------------|
| 1. | 7395606 dated 22/12/2024 | A92EX17110 dated 01.09.2024 & IAAU1947251 | Plain Polyester PA Coated Fabric | 59039090 | 141139 MTR/215095.836 SQM | .12 USD/MTR | 14,55,708 | 5,33,372 |

18.3 I find that the consignment was put on hold on the basis of specific intelligence for examination by DRI Officers. The examination of the goods was carried out at Central Warehousing Corporation CFS, Mundra on dated 07.01.2025 in the presence of Shri Ashok Kumar Giri, Deputy Manager Operations, All Cargo CFS and Shri Pratyush Kumar, Authorized representative of M/s SRV Shipping.

As per the weighment slips, the net weight of the goods in the container are as follows:

| Sr. NO. | Bill of entry no. and Date | Container No. | B/L weight (Kg) | CFS weight (Kg) | Difference (kgs) |
|---------|----------------------------|---------------|-----------------|-----------------|------------------|
| 1 | 7395606 dated 22.12.2024 | IAAU1947251 | 27900 | 27730 | 170 |

I find that the weight mentioned on the slips was 27730 as against declared 27900 which results in difference of 170 Kgs.

18.4 I find that the details of goods found during examination are as under : -

| Conatiner No. | Goods Description | No. of Rolls | Length of Each roll | Total Length |
|---------------|----------------------------------|--------------|---------------------|--------------|
| IAAU1947251 | Plain Polyester PA Coated Fabric | 1413 | 100 Meter | 141300 Meter |

18.5 I find that during examination, goods were found as fabric. However, the actual nature, description, and composition of the goods i.e. fabrics cannot be ascertained visually. Therefore, to accurately determine the relevant characteristics, in respect of goods mentioned above, randomly, 02 representative sample (in triplicate) were drawn and same were forwarded to Textile Committee, Mumbai for testing purpose vide Test Memo No. 259 and 260 both dated 13.01.2025. The Textile Committee test reports in respect of Test Memo No. 259 and 260 were received on 24.02.2025. I find that the gist of test report is as under: -

Table-H

| Test Memo No. | Description found |
|---------------|-------------------|
| | |

| | |
|-----|--|
| 259 | Base fabric is made of Polyester Woven Fabric. Base fabric is coated with Thermoplastic Polyurethane. Polyester is 92.5 % and Polyurethane is 7.5%. GSM is 129.6. Warp and Weft fabric is made of texturised yarn. Fabric is bleached. |
| 260 | Base fabric is made of Polyester Woven Fabric. Base fabric is coated with Thermoplastic Polyurethane. Polyester is 91.4% and Thermoplastic Polyurethane is 8.6 %. GSM is 132.1. Warp and Weft fabric is made of texturised yarn. Fabric is Dyed. |

18.6 In light of Test report received from Textile Committee, I find that the goods under import are Polyester woven Fabric wherein, Base fabric is coated with Thermoplastic Polyurethane. Hence, in light of above mentioned GIR Rule 1, as far as the entries at heading level are concerned, I find that heading 5903 covers Textile Fabric impregnated, coated, covered or laminated with plastics, other than those of heading 59.02 which reads as under :-

5903 Textile Fabric impregnated, coated, covered or laminated with plastics, other than those of heading 59.02
590310 - With Polyvinyl chloride:
59031010 --- Imitation leather fabrics of Cotton
59031090 --- Other
590320 - With Polyurethane:
59032010 --- Imitation leather fabrics, of cotton
59032090 --- Other
590390 - Other:
59039010 --- Of Cotton
59039020 --- Polyethylene laminated jute fabrics
59039090 --- Other.

Since Thermoplastic Polyurethane is a type of plastics. Hence, I find that the said goods rightly fall under the ambit of CTH 59032090 as there is 2nd single dash (-) level entry for fabric covered with polyurethane. I further find that the importer has accepted the test reports and classification of the said goods in their statement dated 25.06.2025.

18.7 Further, I find that on examination 1413 Rolls of Fabrics were found wherein each roll was found to be 100 Meter as per marking attached on each roll which totals to 141300 Mtrs (213966 Sqm) instead of 141139 Mtr (215096 Sqm) as declared by the importer.

19. Now, coming to the aspect of valuation. I find that during examination, the goods imported vide B/E No. 7395606 dated 22.12.2024, were found mis-declared in terms of description, classification and weight. Further, I find that the value of item declared by the importer in the Bill of Entry does not appear to be the true transaction value under the provisions of Section 14 of the Customs Act, 1962 read with the provisions of the Customs Valuation (determination of

Value of Imported Goods) Rules, 2007 and therefore, I reject the same in terms of Rule 12 of CVR, 2007. However, I proceed to re-determine the value of the goods sequential in terms of Rules 4 to 9 of CVR.

19.1 I find that, data of data of import of identical goods i.e. brand name, supplier name etc. is not available, hence, value of the goods cannot be determined using Rule 4. Subsequently Rule 5 of Customs Valuation Rules 2007 is to be applied to arrive at the correct value of the subject consignment.

19.2 As per Rule 5 of Customs Valuation Rules, 2007, Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of similar goods sold for export to India and imported at or about the same time as the goods being valued. As per contemporary data available for similar item, I find that some importers have imported similar type of goods having similar thickness, description, nature etc. during the month of December, 2024 vide various Bills of Entry filed at various Ports/ICD as detailed below. Accordingly, Randomly 03 B/E having lowest price for the month of December, 2024 been taken for reference as detailed below :-

| Sr. No. | B/E No. & Date | Description of goods | COO | CTH | Port of Import | Quantity | Unit Assessable Value |
|---------|--------------------------|--|-------|----------|----------------|-----------|-----------------------|
| 1 | 7424307 dated 24.12.2024 | 100% Polyester PU Coated Dyed Woven Fabric | CHINA | 59032090 | INMAA1 | 51016 SQM | 76.43 |
| 2 | 7401115 dated 23.12.2024 | 100% Polyester PU Coated Dyed Woven Fabric | CHINA | 59032090 | INMAA1 | 31652 SQM | 81.45 |
| 3 | 7424011 dated 24.12.2024 | 100% Polyester PU Coated Dyed Woven Fabric | CHINA | 59032090 | INMAA1 | 26178 SQM | 74.63 |

19.3 In light of sub rule 3 of Rule (4) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, if more than one transaction value of identical goods is found, the lowest such value shall be used to determine the value of imported goods. As per details mentioned above in Table -F, the lowest transaction value is Rs. 74.63/SQM. Hence, the same is being taken as reference for re determination of valuation of imported goods vide B/E No. 7395606 dated 22.12.2024 which is as under :-

Table-I

(Exchange unit price 1USD = Rs. 85.95)

| B/E No. | Goods Descri | Qty. Foun | Redete | Redeter | Redetermin | Declared | Diff |
|---------|--------------|-----------|--------|---------|------------|----------|------|
|---------|--------------|-----------|--------|---------|------------|----------|------|

| & Date | ption | d | rmine d CTH | mined U nit Value | ed Assessa ble Value | Assessabl e Value | eren ce |
|---------------------------------|--|-------------------------------------|----------------|-------------------------------|-------------------------|----------------------|---------------------|
| 7395606 dated 22. 12.2024 | Polyester wit h PU coated woven fabric | 141300 M eter/ 213966 S QM | 59032 090 | Rs. 74.6 3/ M ² | 1,59,68,28 3 | 14,55,70 8 | 1,45 ,12, 575 |

Note :- in respect of B/E No. 7395606 dated 22.12.2024, as per photos of cargo attached in examination report dated 07.01.2025, Length of fabric roll is 100 Metre, weight of the goods has been ascertained vide examination report dated 07.01.2025, GSM has been reported by Textile Committee, Mumbai. On the basis of the same, total SQM has been calculated based on length, weight and GSM for calculation of assessable value and duty.

19.4 In view of the above, I re-determine the value of Imported Goods Rs. 1,59,68,283/- (Rupees One Crore Fifty-Nine Lacs Sixty Thousand Two Hundred Eighty-Three) under Rule 5 of Customs Valuation (Determination of value of imported goods) Rules, 2007 as

20 On the basis of re determined value in above table, duty leviable on goods imported vide B/E No. 7395606 dated 22.12.2024 is being re calculated. The duty structure for 59032090 is @ 36.640% (BCD @ 20% + SWS@ 2% + IGST @ 12%). Further, CBIC vide notification No. 14/2022-Customs (ADD) dated 20.05.2022 imposed anti-dumping duty at the rate of 0.46 USD/Metre in case goods have been imported from CHINA and producer is other than M/s Anhui Anli Material Technology Co., Ltd.. Since, in this case, supplier is other than M/s Ahnui Anli. Hence, ADD @ .46 USD/Metre is applicable.

In view of above, applicable duty for goods imported vide B/E No. 7395606 dated 22.12.2024 has been re calculated which is as under:-

| (Exchange unit price 1USD = Rs. 85.95) | | | | | | | | | |
|--|--------------------------------------|--------------------------------|-----------------|-------------------------|----------------|-----------------|------------------|-----------------------|---------------------|
| B/E No. | Redetermined Assessable Va lue | Total Found Qty. | BC D | ADD @ 0 .46USD /M | SW S | IGS T | Tota l | Declar ed Du ty | Differ ence |
| 7395606 da ted 22.12.2 024 | 1,59,68,283/- | 141300 Met re/213966 SQM | 319 365 7 | 5586578 | 31 93 66 | 300 814 6 | 121 077 48 | 53337 2 | 1,15, 74,37 6 |

20.1 From the **Table-G above**, I find that the total duty liability of the importer is Rs. 1,21,07,748/-. However, I find that the importer has declared the total duty As Rs. 5,33,372/-. Therefore, I confirm the differential duty liability comes as Rs. 1,15,74,376/- which needs to be paid by/ recovered from the importer.

20.2 I find that Statement of Shri Raju Yonna Sanap, Proprietor of M/s R S Impex was recorded on 25.06.2025 under section 108 of the Customs Act, 1962 wherein he interalia stated that they have received test report dated 24.02.2025 issued by Textile Committee, Mumbai and they completely agree with test

report dated 24.02.2025 issued by Textile Committee, Mumbai. He further stated that he completely agrees that ADD is applicable on PU Coated Fabric. He further stated that he has no idea about mis-declaration as the shipper has directly loaded the goods, he was not present there. He further stated that he sold the goods in local market.

21. In view of the above, I find that importer M/s RS Impex has willingly mis declared the description, qty., mis classified and undervalued the goods imported vide B/E No. 7395606 dated 22.12.2024 in order to evade custom duties along with Anti-Dumping Duty leviable on higher assessable value. Further I find that the declared assessable value of the goods was Rs. 14,55,708/- and total duty leviable is of Rs.5,33,372. The re-determined value was established as Rs. 1,59,68,283/- under Rule 5 of the Customs Valuation Rules (CVR), 2007. I find that the importer's deliberate misdeclaration, misclassification, and undervaluation resulted in a differential duty liability of Rs. 1,15,74,376/-. I find that by the act of omission and commission on the part of M/s R S Impex, 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 and by mis-declaring the quantity, classification and valuation of declared items, the Importer has led the goods of re-determined value **Rs. 1,59,68,283/-** rendered for confiscation under Section 111(l) and 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 not presented correct facts at the time of filing B/E. The importer has presented false and incorrect documents before the Customs Department for import of the subject consignment by mis-declaring the quantity, valuation and classification of declared items. Thus, 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.

22. In view of the discussions in the foregoing paras, I pass following order:

-

ORDER

- i. I hold that the declared quantity i.e. 27900 Kgs. of goods imported vide impugned Bill of Entry no. 7395606 dated 22.12.2024 is liable to be rejected and same is to be re-determined to 27730 Kg. I also hold that the declared length i.e. 141139 MTR, 215096 SQM is liable to be rejected and same is to be redetermined to 141300 Metre, 213966 SQM.
- ii. I hold that the declared classification of the goods imported vide impugned Bill of Entry no. 7395606 dated 22.12.2024 declared by the importer is liable to be rejected and the same is to be re-classified under CTH 59032090
- iii. I hold that the declared description i.e. PA Coated Fabric of the goods imported vide impugned B/E No. 7395606 dated 22.12.2024 is liable to be rejected and is to be re-determined as "Thermoplastic Polyurethane coated Polyester Woven Fabric".
- iv. I hold that the declared assessable value of the goods i.e. Rs. 14,55,708/- (*Rupees Fourteen Lakh Fifty Five Thousand Seven Hundred and Eight Only*) of the imported goods imported vide B/E No. 7395606 dated 22.12.2024 is liable to be rejected under Rule 12 of the CVR, 2007 and same is to be re-determined at **Rs. 1,59,68,283/-** (*Rupees One Crore Fifty Nine Lakh Sixty Eight Thousand Two Hundred Eighty Three Only*) under rule 5 of CVR, 2007.
- v. I hold that these mis-declared goods of re-determined value **Rs. 1,59,68,283/-** (*Rupees One Crore Fifty Nine Lakh Sixty Eight Thousand Two Hundred Eighty Three Only*) imported vide B/E No. 7395606 dated 22.12.2024 is liable for confiscation under Section 111(l) and 111(m) of the Customs Act, 1962. However, I give an option to redeem the goods for home consumption on payment of fine of **Rs. 15,00,000/-** (Fifteen Lakh only) as per Section 125 of the Customs Act, 1962.
- vi. I order to re-assess the Bill of Entry 7395606 dated 22.12.2024

accordingly under Section 17(4) of the Customs Act, 1962 with total consequential duty of **Rs. 1,21,07,748/-** (*Rupees One Crore Twenty-One Lakh Seven Thousand Seven Hundred and Forty-Eight only*) and differential duty of **Rs. 1,15,74,376/-** (*Rupees One Crore Fifteen Lakh Seventy Four Thousand Three Hundred and Seventy Six Only*).

- vii. I impose penalty of **Rs.10,00,000 /-** (*Rupees Ten Lakh Only*) on M/s R S Impex under Section 112 (a) (ii) of the Customs Act, 1962
- viii. I impose penalty of **Rs.2,00,000/-** (*Rupees Two Lakh only*) on M/s R S Impex under Section 114AA of the Customs Act, 1962.

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 RS Impex
403, Plot No. 123, Shree Ganesh Residency,
Sector No. 05, Ulwe, Navi Mumbai-410206

Copy to:

1. The Addl. Commissioner (SIIB), Customs House, Mundra.
2. The Deputy/Assistant Commissioner, 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