

**प्रधान आयुक्त का कार्यालय,सीमा शुल्क, अहमदाबाद**

"सीमाशुल्क भवन", पहली मंजिल, पुराने हाईकोर्ट के सामने, नवरंगपुरा, अहमदाबाद – 380 009

दूरभाष: (079) 2754 4630 **E-mail:** cus-ahmd-adj@gov.in फैक्स: (079) 2754 2343

**DIN:** 20261071MN0000BC2317

## PREAMBLE

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| A | फ़ाइल संख्या/ File No. | : | GEN/ADJ/ADC/984/2026-ADJN-O/o PR COMMR-CUS-AHMEDABAD |
| B | कारण बताओ नोटिस संख्या–तारीख /Show Cause Notice No. and Date | : | F.No. DRI/MZU/NS-I/INT-98/ENQ-37/2025 dated 13.06.2026 |
| C | मूल आदेश संख्या/ Order-In-Original No. | : | 97/ADC/SS/O&A/HQ/2026-27 |
| D | आदेश तिथि/ Date of Order-In-Original | : | 16.10.2026 |
| E | जारी करनेकी तारीख/ Date of Issue | : | 16.10.2026 |
| F | द्वारापारित/ Passed By | : | **S. Sathianarayanan, IRS** Additional Commissioner, Customs Ahmedabad |
| G | आयातक का नाम औरपता / Name and Address of Importer / Passenger | : | 1. M/s. Aditi Ventures (IEC-APJPR5240P), through its Proprietor, Shri Hashmukh Vala Ravaria, Address- Room No. 4, Mateshwari Society, LBS Nagar, 90 Feet Road, Sakinaka, Mumbai-400072, E-mail: aditiventures144@gmail.com<br><br>2. M/s. Gold Star Line Ltd. through their Indian agent namely Star Shipping Services (India) Pvt. Ltd., Third Floor, Raheja Centre Point, 294, C.S.T. Road, Kalina, Santacruz (E), Mumbai-400098 Email:- in.import@goldstarline.com |
| | यह प्रति उन व्यक्तियों के उपयोग के लिए निःशुल्क प्रदान की जाती है जिन्हे यह जारी की | | |

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| | गयी है। |
| (2) | कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्ति की तारीख के 60 दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क(अपील), चौथी मंज़िल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है। |
| (3) | अपील के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए और इसके साथ होना चाहिए: |
| (i) | अपील की एक प्रति और; |
| (ii) | इस प्रति या इस आदेश की कोई प्रति के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए। |
| (4) | इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को 7.5 % (अधिकतम 10 करोड़) शुल्क अदा करना होगा जहां शुल्क या ड्यूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने में असफल रहने पर सीमा शुल्क अधिनियम, 1962 की धारा 129 के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा। |

**Brief Facts of Case**

1. Intelligence developed by the Mumbai Zonal Unit of the Directorate of Revenue Intelligence (hereinafter referred to as 'DRI, MZU') indicated that the importer M/s Aditi Ventures (IEC-APJPR5240P), having registered office at Room No. 4, Mateshwari Society, LBS Nagar, 90 Feet Road, Sakinaka, Mumbai-400072 is importing goods 'Toys' and 'Cosmetics' by mis-declaring the same as 'Mini Decorative Plant 95059010'.

2. As per the import policy, the import of Toys (all items under EXIM Codes 95030010, 95030020, 95030030 and 95030090) shall be governed by BIS standards as specified in Policy Condition 2 of Chapter 95. Further, the Toys (Quality Control) Order, 2020 dated 25.02.2020, issued by DPIIT, mandated compulsory BIS Certification for safety of toys, and in the absence of BIS, the same are not allowed to be cleared for home consumption. However, as per the intelligence, no such certificate was available with M/s Aditi Ventures (IEC-APJPR5240P).

3. Further, the import of branded/un-branded Cosmetic Products requires a permission from the Central Drugs Standard Control Organization (CDSCO), which is governed by the Directorate General of Health Services, Ministry of Health &

Family Welfare, Government of India; however, no such Licences or permissions have been taken by M/s Aditi Ventures (IEC-APJPR5240P).

SCOPE OF INVESTIGATION

4.1 As per the intelligence, the goods pertaining to M/s Aditi Ventures (IEC-APJPR5240P) are covered under Bill of Lading No. GOSUGZH0563289 dated 19.06.2025 and stuffed in container no. ZCSU7871441. The above-mentioned mis-declared goods were imported by the said importer through Hazira Port, Surat.

4.2 The details of the goods imported and under investigation are as below:

Table-I

| | |
|---|---|
| Bill of Entry No./Date | Not filed |
| Importer | M/s Aditi Ventures (IEC-APJPR5240P) |
| CHA | NA |
| Items declared | 'Mini Decorative Plant 95059010' |
| Supplier | HY International Trade Co. Limited |
| Country of Origin | China |
| Port of Loading | Nansha, China |
| Container no. | ZCSU7871441 |
| Container Location | Seabird Marine Services Pvt. Ltd. CFS, Hazira |
| Declared Value | NA |
| IGM No/Date | IGM no. 1144559 dated 03.07.2025, Line No-127, Sub Line No-0, Inward Date- 13.07.2025 |

Further, the description and quantity of the goods declared in the said Bill of Lading No. GOSUGZH0563289 dated 19.06.2025 and stuffed in container no. ZCSU7871441 is mentioned below:-

TABLE-II

| Sr. No. | Declared Item | Cartons | Declared quantity |
|---|---|---|---|
| 1 | Mini Decorative Plant 95059010 | 509 | 15920 Kgs |

The said container no. ZCSU7871441 was put on hold at Seabird Marine Services Pvt. Ltd. CFS, Hazira on 14.07.2025, for 100% examination of the same to verify the intelligence and to take further necessary actions.

EXAMINATION AND PANCHNAMA PROCEEDINGS:-

5. The said goods pertaining to M/s Aditi Ventures (IEC-APJPR5240P) covered under Bill of Lading No. GOSUGZH0563289 dated 19.06.2025 and stuffed in Container No. ZCSU7871441, were examined 100% in the presence of the

representative of Shipping Line and CFS, under the panchnama proceedings dated 18.07.2025 (RUD-1). After examination of all cartons found stuffed in the said Container No. ZCSU7871441, it was seen that instead of the declared goods viz. 'Mini Decorative Plant 95059010', the container was stuffed with Undeclared goods i.e. 'Toys' and 'Cosmetics' in huge quantity. During the panchnama proceedings, the representative samples of the goods were drawn for the inspection by Chartered Engineer and for valuation purpose. The detailed inventory of the goods found is as below:-

Table-III

| Sr. no. | Description of the goods | No. of Cartons found | Quantity in One Carton | Total Quantity | CTH |
|---|---|---|---|---|---|
| 1 | Cactus Toys | 20 | 100 | 2,000 | 95030020 |
| 2 | Total Electronic Toys | 209 | 5431 | 18,182 | 95030010 |
| 3 | Knife Stainless Steel- Toy | 2 | 1440 | 2,880 | 95030020 |
| 4 | Forever 52- Ultra Definition Liquid Foundation | 100 | 216 | 21,600 | 33049900 |
| 5 | Revlon Touch and Glow Liquid Foundation | 35 | 288 | 10,080 | 33049900 |
| 6 | Lakme Mascara | 20 | 1440 | 28,800 | 33042000 |
| 7 | Lakme Eye Liner | 15 | 1440 | 21,600 | 33042000 |
| 8 | Bobbi brown upward Lash Extreme | 6 | 864 | 5,184 | 33042000 |
| 9 | Bobbi brown Liquid Eyeliner | 1 | 792 | 792 | 33042000 |
| 10 | Charmacy Milano CMC | 2 | 336 | 336 | 33049900 |
| 11 | Ferrarucci Double Head Mascara | 18 | 1032 | 12,168 | 33042000 |
| 12 | Huda Beauty Foundation | 20 | 288 | 5,760 | 33049900 |
| 13 | Lakme Foundation | 20 | 288 | 5,760 | 33049900 |
| 14 | MAC Foundation | 30 | 288 | 8,640 | 33049900 |

| | | | | | |
|---|---|---|---|---|---|
| 15 | Huda Beauty Liner Pencil | 10 | 3456 | 34,560 | 33042000 |
| 16 | RCMA Makeup | 5 | 192 | 960 | 33049900 |
| TOTAL | | 513 | | 1,79,302 | |

INSPECTION AND VALUATION OF GOODS BY CHARTERED ENGINEER :-

6.1 Afterwards, the said representative samples were handed over to Shri B. G. Bhatt, who is an empanelled Chartered Engineer of Customs, Ahmedabad Customs, for Inspection of the representative samples drawn during the panchnama proceedings dated 18.07.2025. The said inspection of the goods found during the examination, was scheduled to determine the value and nature of the goods. After carrying out the detailed inspection/examination of the representative samples of the goods, Shri B. G. Bhatt, Chartered Engineer, informed that, on visual inspection, the goods appeared to be 'Toys' and 'Cosmetics' only.

6.2 Shri B. G. Bhatt, Chartered Engineer, gave his detailed report vide reference no. BB/G-18/25/AV/HAZIRA/DRI dated 31.07.2025, wherein he categorically mentioned that:-

> 'The description of the goods is Toys of moulded plastic and Die cast wheel Cars, Wheel Car, scale models & Toys of moulded plastic articles other than the toy cars, Cosmetic items, Kitchen Knife'

In view of the above report of Shri B. G. Bhatt, Chartered Engineer, it appeared that the goods found during the panchnama proceedings in the container no. ZCSU7871441 were Toys, Cosmetics and the same were mis-declared as 'Mini Decorative Plant 95059010'.

Further, Shri B. G. Bhatt, Chartered Engineer gave an addendum valuation report vide reference no. BB/G-18/25/AV/HAZIRA/DRI dated 18.02.2026, wherein the valuation of each item of Toys and Cosmetics goods was given. In respect of the Cosmetics goods, the valuation was given for both genuine (i.e. original branded cosmetics) and non-genuine (i.e. fake/counterfeit cosmetics) goods. Further, IPR report were received from various brands confirmed whether the said/concerned goods were original i.e. genuine or fake/counterfeit goods. Accordingly, valuation was considered on the basis of Chartered Engineer Valuation, wherein the total assessable value (CIF Value) of the said goods arrived as Rs. 1,37,79,256/-.

SEIZURE

7.1 Further, the import of toys covered under Indian Trade (Harmonized System) Classification [ITC(HS) Codes 95030010, 95030020, 95030030 and 95030090 is

governed by Bureau of Indian Standards as specified in Policy Condition 2 of Chapter 95 and mandatorily requires BIS certification as per Toys (Quality Control) Order, 2020 dated 25.02.2020 issued by the Department of Promotion of Industry and Internal Trade (DPIIT). Thus, import of toys without BIS Certification is in violation of Foreign Trade Policy and Toys (Quality Control) Order, and is thus prohibited when the importer, M/Aditi Ventures, failed to produce BIS certification of the overseas supplier of said import goods.

7.2 The Toys (Quality Control) Order, 2020, dated 25.02.2020, effective from 01.09.2020, mandates conformity with the corresponding Indian standards for Toys, including imports. All toys intended for children under 14 years of age must comply with BIS standards. As per the General Notes regarding import policy of Foreign Trade Policy (FTP), Note 2 (A), the quality of the products that are subject to mandatory Indian Standards, as applicable to domestic goods, shall be required to comply with the quality specified for the product as per the same Indian Standards. For compliance of this requirement, all manufacturers/exporters of these products to India shall be required to obtain BIS license for using the Standards mark on their products. Further, as per Note 2 (D) of the import policy for Toys/ Dolls, etc., Import policy for Toys /Dolls and similar other recreational goods under any chapter will be governed by BIS standards as specified in Policy Conditions 2 of Chapter 95. As per the Policy condition 2 of Chapter 95, the Import of Toys (all items under EXIM Codes 95030010, 950330020, 95030030 and 95030090) shall be permitted freely when accompanied by the following certificates:

(i) A certificate that the toys being imported conform to the standards prescribed by Bureau of Indian Standards (BIS):

a) IS : 9873 (Part 1) – Safety of toys; Part – 1 Safety aspects related to mechanical and physical properties (Third Revision).

b) IS:9873 (Part 2) – Safety of Toys; Part-2 Flammability (Third Revision)

c) IS : 9873 (Part 3) – Safety to Toys; Part – 3 Migration of certain elements (Second Revision)

d) IS: 9873 (Part 4) Safety of Toys; Part-4 Swings, Slides and similar activities Toys for indoor and outdoor family domestic use.

e) IS : 9873 (Part 7) – Safety of Toys; Part – 7 Requirements and test methods for finger paints.

f) IS : 9873 (Part 9) – Safety of Toys; Part – 9 Certain phthalates esters in toys and Children's products.

g) IS : 15644 – Safety of Electric Toys.

(ii) A Certificate that the toys being imported conform to the standards prescribed in IS : 9873 Part – 1, Part-2, Part-3, Part-4, Part-7, Part-9 and 15644:2006.

(iii) A Certificate of Conformance from the manufacturer that representative sample of the toys being imported have been tested by an independent

laboratory which is accredited by NABL, India and found to meet the specifications indicated above. The Certificate would also link the toys in the consignment to the period of manufacture indicated in the Certificate of Conformity.

7.3 The cosmetics products are not freely importable into India and are governed by mandatory regulatory provisions under the Cosmetic Rules, 2020 and the Drugs & Cosmetics regulatory framework administered by the Ministry of Health and Family Welfare through the Central Drugs Standard Control Organisation (CDSCO). Rule 12 of Chapter III of the Cosmetic Rules, 2020 specifically provides that no cosmetic shall be imported into India unless the product is duly registered with the Central Licensing Authority or an authorized officer of CDSCO. The requirement for registration of imported cosmetic products has also been prescribed under the Drugs & Cosmetics Rules, 1945 and relevant notifications issued thereunder. Accordingly, import of cosmetic products without obtaining the requisite CDSCO registration certificate is not merely a procedural irregularity but constitutes a substantive violation of the governing statutory provisions, rendering such import restricted and non-compliant with law.

As per Section 2(23) of the Customs Act, 1962, "import" means bringing goods into India from a place outside India. Therefore, where cosmetic goods are brought into India without fulfilment of the mandatory conditions prescribed under the Cosmetic Rules, 2020, including registration with CDSCO, such goods become liable to be treated as "prohibited goods" under Section 2(33) of the Customs Act, 1962, since the conditions subject to which their import is permitted have not been complied with.

Thus, import of cosmetics without mandatory CDSCO registration, coupled with mis-declaration in customs documents and any attempt to alter the mode of clearance so as to impede or delay customs scrutiny, amounts to deliberate non-compliance with the Customs Act, 1962 and allied import regulations, rendering the goods liable for action under the law.

Cosmetic products, are not freely importable into India as these goods are governed by various mandatory provisions for import into India. The import of these products requires that the importer obtain a registration certificate from the Central Drugs Standard Control Organization [CDSCO] which is governed by the Ministry of Health and Family Welfare. The CDSCO is the national regulatory body for pharmaceuticals, medical devices and cosmetics, to ensure quality, safety and efficacy through import regulation, clinical trial approval and for setting drug standards. The relevant portion of the rule in respect of the same is as given below:

As mentioned above, the import of branded/un-branded cosmetic Products into India is regulated by the Central Drugs Standard Control Organization (CDSCO)

which is governed by the Directorate General of Health Services, Ministry of Health & Family Welfare, Government of India. The Gazette Notification G.S.R 426(E) dated 19th May 2010, which was issued for amending the Drugs & Cosmetics Rules, 1945, prescribes for registration of import of cosmetics into the Country. All cosmetic products that are imported for sale in India need to be registered with the licensing authority as defined under Rule 21 of the Drugs & Cosmetics Rules, 1945. It is restricted under Import Policy inasmuch as, it is mandatory to obtain registration certificate from the Central Drugs Standard Control Organization [CDSCO] under the Cosmetic Rules, 2020. Thus, without the said registration certificate, the import is violative of the provisions of Customs Act, 1962 and is accordingly prohibited.

7.4 Accordingly, given the facts mentioned above, the goods Toys and Cosmetics which were attempted to be smuggled into India in the name M/s Aditi Ventures (IEC-APJPR5240P) vide the above-mentioned consignment were seized under Section 110 of the Customs Act,1962, vide Seizure Memo dated 18.08.2025 under the reasonable belief that they are liable to confiscation under the provisions of Section 111 (d) and Section 111 (f) of the Customs Act,1962 vide Seizure Memo dated 18.08.2025.

8. PRESENT STATUS OF THE SEIZED GOODS:

The goods pertaining to M/s Aditi Ventures (IEC-APJPR5240P) covered under Bill of Lading No. GOSUGZH0563289 dated 19.06.2025 and stuffed in Container No. ZCSU7871441 have been handed over to the representative of Seabird Marine Services Pvt. Ltd. CFS, Hazira, Surat, Gujarat under a Supratnama dated 18.07.2025. The said goods are presently lying at Seabird Marine Services Pvt. Ltd. CFS, Hazira Surat Gujarat.

8.1 Extension of time limit for issuance of Show Cause Notice:- Since further investigations were still underway, extension of time upto 12.07.2026 for issuance of show cause notice as per provisions of Section 110(2) was obtained from the competent authority and conveyed under letter File No. DRI/MZU/NS-I/INT-98/ENQ-37/2025 dated 09.01.2026.

9. STATEMENTS:-

9.1 During the investigation, statement of Shri Prasad Sakharam Shelke, representative of Star Shipping Services (India) Pvt. Ltd, shipping line was recorded on 09.09.2025, wherein interalia he stated that :-

i. The container no. ZCSU7871441, covered under Bill of Lading No. GOSUGZH0563289 dated 19.06.2025, was booked from Nansha Port and was discharged at Hazira Port. The Bill of Lading for this container had been issued by Gold Star Line Ltd., which does not have any office in India and

operates through its agent Star Shipping Services (India) Pvt. Ltd. Based on the data received from the port of loading office of Gold Star Line Ltd., the IGM for the said container was filed by them.

ii. As per the copy of the Bill of Lading available with the agency, the freight charges had been prepaid at the load port.

iii. The goods declared in the Bill of Lading were "MINI DECORATIVE PLANT 95059010". However, during the examination of the consignment, a huge quantity of toys and cosmetics was found stuffed inside the container..

iv. The representative further clarified that the container had been booked under shipper's load, count, and seal terms at the port of loading and was declared to contain "MINI DECORATIVE PLANT 95059010" along with all relevant particulars such as quantity and weight. All such details were declared and stuffed solely by the shipper, and the carrier fulfils its responsibilities without knowledge of the actual contents of the container. Therefore, the shipper is fully liable for the declaration, and the carrier cannot be held responsible for the misdeclaration.

v. The consignee and notify party for the consignment was M/s Aditi Ventures (IEC- APJPR5240P).

vi. As per agency records, no pre-arrival notice had been sent to the consignee. However, the shipping agency sent an email on 04.08.2025 to M/s Aditi Ventures at aditiventures144@gmail.com, informing them that the container under the said Bill of Lading had not been cleared by them till date and requesting that the shipment be cleared on priority.

vii. No amendment had been carried out in the IGM to change the consignee's name or the port of destination, and the IGM was finalized in the name of M/s Aditi Ventures (IEC-APJPR5240P).

viii. No person or entity in India had agreed to bear the rental charges at the CFS or any other charges on behalf of the shipping agency.

9.2 Statement of Shri Hashmukh Vala Ravaria, Proprietor of M/s Aditi Ventures (IEC- APJPR5240P) was recorded on 17.11.2025, wherein interalia he stated that :-

i. His permanent address is Room No. 4, Mateshwari Society, LBS Nagar, 90 Feet Road, Sakinaka, Mumbai–400072. He mentioned that he was born and brought up in Bhachau, Kachchh, Gujarat, where he studied up to Class 10. In 2004, he began working in a garment shop, and later worked in a computer items shop in the Fort area of Mumbai. In 2010, he started his own computer items shop under the name M/s Aditi Computers. During the Covid-19 period, he suffered business losses and consequently closed the shop.

ii. He stated that he is currently engaged in the business of purchase and sale of Mini Decorative Plant 95059010. Subsequently, he decided to import Mini

Decorative Plant and accordingly opened an IEC in 2024 in the name of M/s Aditi Ventures (IEC-APJPR5240P) using his KYC documents.

iii. He further stated that only one previous import had been made in the name of M/s Aditi Ventures (IEC-APJPR5240P), vide Bill of Entry No. 2105251 dated 16.05.2025 at Hazira Port (INHZA1) in container no. TEMU7223130. The imported goods were Mini Decorative Plant sourced from Shenzen Huajia Supply Limited, China, and the goods were sold to different local vendors/pherīwalas in the Bhiwandi area.

iv. In 2022–23, during a stationery items exhibition, he met Mr. Leo from China. During their interaction, he expressed his intention to start importing Mini Decorative Plant. Mr. Leo informed him that he could arrange the loading of those goods from China. After obtaining the IEC for M/s Aditi Ventures, he contacted Mr. Leo and requested shipment of Mini Decorative Plant. Mr. Leo then arranged for the loading of the container and, after dispatch, Shri Hashmukh Ravaria sent remittances to Mr. Leo through banking channels only upon receiving the goods.

v. With respect to the current import consignment covered under Bill of Lading No. GOSUGZH0563289 dated 19.06.2025 in relation to container no. ZCSU7871441, he stated that the container had been ordered by him through Mr. Leo. He had instructed Mr. Leo to send Mini Decorative Plant, and Mr. Leo informed him that the goods were being sent through H Y International Trade Co. Ltd., China. Mr. Leo shared the Bill of Lading details. The container was loaded at Nansha Port and imported at Hazira Port, with the Bill of Lading issued by Gold Star Line Ltd.

vi. After going through the panchnama proceedings dated 18.07.2025 drawn at CFS Seabird Marine Services Pvt. Ltd., Hazira by officers of DRI, Surat Regional Unit, regarding the goods stuffed in container no. ZCSU7871441, wherein, the goods declared in the Bill of Lading were "MINI DECORATIVE PLANT 95059010", but upon examination, a huge quantity of toys and cosmetics was discovered in the container.

vii. After learning that the container had been placed on hold by DRI, he contacted Mr. Leo, who informed him that due to an inadvertent dispatch error, the container contained mixed types of plastic toys and similar items. The supplier had later notified that their team had mistakenly cross-stuffed goods meant for another buyer and destination. Once informed about the cross-stuffing, he communicated the same to DRI, Mumbai Zonal Unit via email dated 23.07.2025. He asserted that he had no prior knowledge of the misdeclaration and had ordered only Mini Decorative Plant, as per his regular business. He reiterated that the toys and cosmetics were not imported intentionally and were shipped mistakenly by Mr. Leo/the supplier.

viii, He stated that the communication with Mr. Leo relating to the wrong shipment was not presently available with him but that the documents would be produced in a few days.

ix. He clarified that he does not deal in the import, sale, or purchase of toys and cosmetics and only imports Mini Decorative Plant. He reiterated that the toys and cosmetics were sent inadvertently by the foreign supplier and there was no intention to import misdeclared goods.

x. He further stated that he does not possess the BIS or other mandatory compliance licenses required for the import of toys and cosmetics.

xi. Regarding the misdeclaration in the Bill of Lading and the IGM, he stated that the misdeclared goods were sent by mistake by Mr. Leo/the supplier and needed to be re-exported, as he had no use for them.

9.3 Statement of Shri Prasad Sakharam Shelke, representative of Star Shipping Services (India) Pvt. Ltd, was recorded on 01.12.2025, wherein interalia he stated that :-

i. The Star Shipping Services (India) Pvt. Ltd shipping line's load port office informed them on 10.07.2025 that the shipper had requested change of destination from Hazira (INHZA) to Hong Kong (HKHKG). As the IGM had already been filed on 03.07.2025, the request for change of destination could not be accepted. He further stated that, as per records, no person from the consignee side approached the shipping agency in India.

ii. The importer M/s Aditi Ventures approached the shipping agency on 11.07.2025 requesting change of port, which was declined as the IGM had already been filed. He further stated that on 14.07.2025 the importer informed the shipping agency of their intention to re-export the goods and to bear all related charges.

iii. The shipping agency received communication dated 01.07.2025 from Customs Broker ACP Shipping LLP, Hazira, requesting nomination of Seabird CFS, Hazira (IGM Code INHZA1SMS1) in the IGM so that the container could be moved to the said CFS after arrival.

iv. No amendment was carried out in the IGM to change the consignee or port of destination. The IGM remained in the name of M/s Aditi Ventures, and the request of the shipper to change the destination port from Hazira to Hong Kong could not be acted upon as the IGM was already filed.

9.4 Statement of Shri Hashmukh Vala Ravaria, Proprietor of M/s Aditi Ventures (IEC- APJPR5240P) was recorded on 04.12.2025, wherein interalia he stated that :-

i. On 14.07.2025 the supplier informed him that the goods in the container were not "Mini Decorative Plant" and were mis-declared due to cross-stuffing. Accordingly, on 15.07.2025 he informed Hazira Customs about the wrong shipment and requested permission for re-export, as he did not intend to clear the mis-declared goods.

ii. He does not deal in the import, sale, or purchase of toys and cosmetics and imports only "Mini Decorative Plant". He further stated that the toys and cosmetics were sent inadvertently by the foreign supplier without any intention on his part.

iii. He does not possess BIS or any other mandatory licences or compliances required for import of toys and cosmetics.

iv. He stated that communication with Mr. Leo/supplier was done through the WeChat application on his phone during June–July 2025, but the phone is currently not traceable. He would produce the relevant documents once the phone is traced.

9.5 Statement of Shri Rabish Kumar, H-Card Holder of ACP Shipping LLP, Customs Broker Firm, CHA Code- ACAFA2860LCH001, was recorded on 05.12.2025, wherein inter-alia he stated that:-

i. On 01.07.2025 he received a call from Shri Hashmukh Vala Ravaria, proprietor and IEC holder of M/s Aditi Ventures, informing him about the import of "Mini Decorative Plant" at Hazira Port and requesting arrangement of CFS and filing of Bill of Entry. The importer shared Bill of Lading No. GOSUGZH0563289 dated 19.06.2025 for Container No. ZCSU7871441. Accordingly, Seabird CFS, Hazira was nominated and the shipping line Star Shipping Services (India) Pvt. Ltd. was informed on 01.07.2025, which was confirmed by the shipping line on 02.07.2025.

ii. The importer shared only the Bill of Lading in respect of the said consignment on his personal phone. No other documents were provided by the importer. He retrieved the Bill of Lading from office records and submitted the same.

iii. No Bill of Entry was filed by his Customs Broker firm for the said container, as the importer informed them that the container was cross-stuffed by the shipper in China and that the goods would be re-exported without clearance for home consumption.

iv. No agency charges were paid by the importer in respect of the said container, as no Bill of Entry was filed.

v. He was not aware of the mis-declaration of goods. He was informed by the importer that the container was cross-stuffed by the shipper in China, but he was not aware of the exact nature or description of the goods found during examination.

10. INTELLECTUAL PROPERTY RIGHTS VERIFICATION OF COSMETICS GOODS: -

10.1 During the examination, the cosmetics goods having the marking of reputed brands i.e. Revlon, Huda Beauty, Lakme, M.A.C. Bobbi Brown etc. were found, hence it was imperative to verify the genuineness of the cosmetic goods found.

Accordingly, vide letter 25.09.2025, a request for Intellectual Property Rights verification of the said cosmetics goods was sent to the IPR Cell of the concerned port of import (Hazira Port Gujarat) i.e. IPR Cell, Preventive, Ahmedabad Customs Commissionerate. However, vide their letter dated 25.09.2025, the Additional Commission (P&V), Customs, Ahmedabad informed that – "as per records, no such details of IPR Right Holders and their respective brands/ products are registered with Customs, Hazira Port. Further, it is to inform that no application is pending for registration under IPR provisions at Hazira Port."

10.2 As per the Para no. 13 of the CBIC Circular No. 41/2007-Customs dated 29th October 2007, wherein it was mentioned that the right holder is not required to be registered at each of the Customs Port separately, instead, a single point registration is sufficient for providing protection to the right holder at all the ports.

10.3 Given the above, this office sent letters dated 10.10.2025 and reminder letter dated 15.12.2025, to the IPR cell, JNCH, Nhava Sheva and requested them to verify and intimate this office as to whether the cosmetics goods found during the panchnama proceedings dated 18.07.2025 were IPR infringing goods or otherwise as per the Intellectual Property Rights (Imported goods) Enforcement Rules, 2007.

10.4 In response of the same, the right holders of the respective brands of cosmetics found during the panchnama proceedings i.e. Revlon, Huda Beauty, Bobbi Brown, Lakme and M.A.C. inspected the samples of the said cosmetics goods and afterwards gave their inspection reports, wherein it was informed that the said cosmetics are not genuine and the same are counterfeit. Accordingly, the said fake cosmetics are to be treated as imported in violation of the provisions of the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007. Hence, the said goods are infringing intellectual property rights and the same are liable to confiscation under section 111 (d) of the Customs Act.

10.5 This office received a letter dated 20.01.2026 from IPR Cell, SIIB(I), JNCH, Nhava Sheva, wherein it is informed that the right holders of the markings 'Revlon, Huda Beauty, Bobbi Brown, Lakme and M.A.C.' have confirmed that the said cosmetic goods are counterfeit. However, the rest of the IPR right holders (i.e. Forever 52, Charmacy Milano, Ferarucci, RCMA) either have not joined the IPR verification proceedings or have not been found registered with the IPR Recordation Portal.

10.6 As the cosmetics goods of brand 'Revlon, Huda Beauty, Bobbi Brown, Lakme and M.A.C.' were found to be fake and not genuine, the same were considered counterfeit. However, in case of Forever 52, Charmacy Milano, Ferarucci, RCMA, the genuineness of the same could not be determined because of non-participation of the

IPR right holders, hence the same were considered as genuine. Further, the sampling of all the goods was done in the presence of the importer i.e. Shri Hashmukh Vala Ravaria vide panchnama proceedings dated 23.12.2025 and the importer did not disputed the genuineness of the said goods, hence the goods which were declared as counterfeit by the IPR right holders i.e. Revlon, Huda Beauty, Bobbi Brown, Lakme and M.A.C. were considered counterfeit and the rest of the goods were considered as genuine.

10.7 In view of the above the total CIF value of the goods mis-declared in the subject consignment will i.e. Toys and Cosmetics, be as considered as below: -

| Sr. no. | Description of the goods | Total Quantity | CTH | Genuine / Non-Genuine | CIF Value (INR) |
|---|---|---|---|---|---|
| 1 | Cactus Toys | 2,000 | 95030020 | NA | 2,98,800 |
| 2 | Total Electronic Toys | 18,182 | 95030010 | NA | 28,94,637 |
| 3 | Knife Stainless Steel-Toy | 2,880 | 95030020 | NA | 13,824 |
| 4 | Forever 52- Ultra Definition Liquid Foundation | 21,600 | 33049900 | Genuine | 57,02,400 |
| 5 | Revlon Touch and Glow Liquid Foundation | 10,080 | 33049900 | Counterfeit | 4,80,514 |
| 6 | Lakme Mascara | 28,800 | 33042000 | Counterfeit | 10,58,400 |
| 7 | Lakme Eye Liner | 21,600 | 33042000 | Counterfeit | 2,26,800 |
| 8 | Bobbi brown upward Lash Extreme | 5,184 | 33042000 | Counterfeit | 59,875 |
| 9 | Bobbi brown Liquid Eyeliner | 792 | 33042000 | Counterfeit | 9,148 |
| 10 | Charmacy Milano CMC | 336 | 33049900 | Genuine | 1,77,207 |
| 11 | Ferrarucci Double Head Mascara | 12,168 | 33042000 | Genuine | 15,33,168 |
| 12 | Huda Beauty Foundation | 5,760 | 33049900 | Counterfeit | 1,19,750 |
| 13 | Lakme Foundation | 5,760 | 33049900 | Counterfeit | 1,72,973 |
| 14 | MAC Foundation | 8,640 | 33049900 | Counterfeit | 3,17,520 |

| | | | | | |
|---|---|---|---|---|---|
| 15 | Huda Beauty Liner Pencil | 34,560 | 33042000 | Counterfeit | 2,54,016 |
| 16 | RCMA Makeup | 960 | 33049900 | Genuine | 4,60,224 |
| TOTAL | | 1,79,302 | | | 1,37,79,256 |

Accordingly, the re-determined assessable value of the goods found during the examination amounts to Rs. 1,37,79,256/-.

10.8 In view of the above, it stands conclusively established that the cosmetics goods of brand 'Revlon, Huda Beauty, Bobbi Brown, Lakme and M.A.C.' found during the panchnama proceedings dated 18.07.2025 were counterfeit/fake and not genuine products of the declared brands. Hence, the said cosmetics goods of brand 'Revlon, Huda Beauty, Bobbi Brown, Lakme and M.A.C.' are to be treated as imported in violation of the provisions of the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007. Notification No.51/2010-Cus. (NT), dated 30-6-2010 prohibits import of goods infringing specified provisions of Trademarks Act, Copyrights Act, Designs Act, Geographical Indications Act and Patent Act subject to the procedure prescribed under the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007 (IPR Rules) issued under Notification No. 47/ 2007-Cus. (NT), dated 8-5-2007. In view of the facts brought on record, the examination findings, and the reports submitted by the authorized representatives of the respective right holders, it is conclusively established that cosmetics goods of brand 'Revlon, Huda Beauty, Bobbi Brown, Lakme and M.A.C.' found during the panchnama proceedings dated 18.07.2025 were counterfeit/fake and not genuine products of the declared brands are counterfeit goods. The import of such goods is in contravention of the provisions of the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007 read with Notification No. 51/2010-Cus. (N.T.) dated 30.06.2010. Therefore, the impugned cosmetic goods are infringing intellectual property rights, rendering them prohibited goods for the purpose of import, and are liable to confiscation under Section 111(d) of the Customs Act, 1962, along with consequential penal action under the relevant provisions of the said Act.

11. REDETERMINATION OF VALUE OF GOODS:

11.1 The value declared in the import documents/invoice pertaining to the impugned seized Chinese Origin Toys and Cosmetics is not the true and actual value inasmuch as said impugned goods have been imported by way of mis-declaration/concealment and the said declared value pertained to the declared goods viz. 'Mini Decorative Plan'. Further, the goods are prohibited without BIS certification, and CDSCO registration and accordingly are liable for confiscation. The "transaction value" as envisaged under Section 14 (1) of the Customs Act, 1962 read with Rule 3(1) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, was not available to

arrive at its correct value and thus the declared value in the presented invoice for the impugned goods declared as 'Mini Decoration Plant' not toys is liable to be rejected under Rule 12(1) of the Valuation Rules, 2007, read with Rule 11 of Valuation Rules.

11.2 Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 – Rejection of declared value – (1) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, he may ask the importer of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such importer, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such imported goods cannot be determined under the provisions of sub-rule (I) of rule 3. Thus, under clause 1 of said Rule, the declared value is liable to be rejected.

Further, as per Clause 2 (iii) the proper officer shall have the powers to raise doubts on the truth or accuracy of the declared value based on certain reasons which may include - ……..(d) the misdeclaration of goods in parameters such as description, quality, quantity, country of origin, year of manufacture or production; (e) the non-declaration of parameters such as brand, grade, specifications that have relevance to value; (f) the fraudulent or manipulated documents.

11.3 Rule 3(4) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, lays down that if value cannot be determined as per Rule 3(1) ibid, determination of value has to be done sequentially through Rules 4 to 9 ibid.

11.4 As per Rule 4 of the Customs Valuation (Determination of Value of imported goods) Rules, 2007, 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, subject to certain conditions and parameters.

11.5 Likewise, as per Rule 5 of the Customs Valuation (Determination of Value of imported goods) Rules, 2007, 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, subject to certain conditions and parameters.

However, in absence of reliable data on identical or similar goods sold for export to India and imported at or about the same time at the same commercial level and in substantially the same quantity as the goods being valued, the value of the subject goods cannot be determined under Rules 4 or 5 of the said rules.

11.6 Rule 6 of the Customs Valuation (Determination of Value of imported goods) Rules, 2007 stipulates that where value cannot be determined under rules 3, 4

and 5, the value shall be determined under the provisions of rule 7 or, when the value cannot be determined under that rule, under rule 8. As per Rule 7 (Deductive value) of the Customs Valuation (Determination of Value of imported goods) Rules, 2007, 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 the imported goods shall be based on the unit price at which the imported goods/identical goods/similar goods are sold in the greatest aggregate quantity to persons who are not related to the sellers in India subject to certain deductions. However, in absence of reliable data of sale of such goods to persons who are not related to the sellers in India, the value of the subject goods cannot be determined under the said Rule 7.

11.7 As per Rule 8 of the Customs Valuation (Determination of Value of imported goods) Rules, 2007, the value of imported goods shall be based on a computed value. However, as no details of the cost of production/manufacture or processing of export goods have been provided by the importer or are available, the value of the subject goods cannot be determined under the said Rule 8.

11.8 As per Rule 9 of the Customs Valuation Rules (Determination of Price of imported goods), 2007, 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. Therefore, the value of the goods imported in the instant consignment is proposed to be re-determined under Rule 9 of the Valuation Rules, 2007.

11.9 Due to complete mis-declaration of the goods and non-availability of contemporary import price, as the goods were prohibited, the most fair, consistent and reasonable method to determine the value of the impugned seized goods is the valuation of the same from a Government Empanelled Chartered Engineer.

11.10 The Govt. Empanelled Chartered Engineer, who was present at the time of examination of subject goods in the container identified the goods in the container and ascertained fair value (CIF Value) of said goods vide his Report No. BB/G-18/25/AV/HAZIRA/DRI dated 31.07.2025 and addendum valuation report dated 18.02.2026. Vide the said valuation reports, the valuation of each item of Toys and Cosmetics goods was given. In respect of the Cosmetics goods, the valuation was given for both genuine (i.e. original branded cosmetics) and non-genuine (i.e. fake/counterfeit cosmetics) goods. Further, IPR reports were received from various brands confirming whether the said/concerned goods were original i.e. genuine or fake/counterfeit goods. Accordingly, valuation was considered on the basis of Chartered

Engineer Valuation, wherein the total assessable value (CIF Value) of the said goods arrived as Rs. 1,37,79,256/-.

11.11 In view of the above, the value of said imported consignment is liable to be rejected and to be re-determined according to Rule 9 of the Customs Valuation Rules (Determination of Price of imported goods), 2007. Thus, the re-determined assessable value (CIF Value) has been arrived at Rs. 1,37,79,256/-.

12. SUMMARY AND FINDINGS OF THE INVESTIGATION: -

i. Investigation revealed that Container No. ZCSU7871441, covered under Bill of Lading No. GOSUGZH0563289 dated 19.06.2025, was booked from Nansha Port, China, and discharged at Hazira Port. Examination of the container at CFS Seabird Marine Services Pvt. Ltd., Hazira, during panchnama proceedings dated 18.07.2025, revealed that instead of the declared goods, a huge quantity of toys and cosmetics was found stuffed inside the container.

ii. Shri Hashmukh Vala Ravaria, Proprietor of M/s Aditi Ventures, is engaged in the business of purchase and sale of Mini Decorative Plant and had opened IEC in 2024 for this purpose. He confirmed that only one previous import of Mini Decorative Plant had been made by him, which was sold to local vendors. He stated that he had ordered the subject container through Mr. Leo of China, with clear instructions to send Mini Decorative Plant, and that the shipment was arranged through H Y International Trade Co. Ltd., China. After dispatch of the goods from China, he received the Bill of Lading details and expected the same goods.

iii. As per the statement of shipping line and email conversations submitted by them, the load port office on 10.07.2025 informed them that the shipper had requested a change of destination from Hazira (INHZA) to Hong Kong (HKHKG) via email. However, since the IGM had already been filed on 03.07.2025, the request for change of destination could not be accepted.

iv. Subsequently, on 11.07.2025, the importer M/s Aditi Ventures approached the shipping line via email and requested to change of port from Hazira, which was also declined on the ground that the IGM had already been filed. Thereafter, on 14.07.2025, the importer informed the shipping agency of his intention to re-export the goods and expressed readiness to bear all charges relating to re-export.

v. Shri Hashmukh Vala Ravaria, stated that the container was ordered by him through Mr. Leo for import of "Mini Decorative Plant", and that the shipment was arranged through H Y International Trade Co. Ltd., China. After the container was put on hold, he contacted Mr. Leo, who informed him that due to an inadvertent dispatch error and cross-stuffing, mixed plastic toys and similar items had been loaded. He stated that the supplier informed him of the

mistake on 14.07.2025, and accordingly he intimated Hazira Customs on 15.07.2025 via email, requesting permission for re-export, as he did not intend to clear the mis-declared goods. He further stated that he requested change of port from Hazira to Nhava Sheva on 11.07.2025, which was refused by the shipping line due to prior filing of the IGM, and thereafter he conveyed his willingness to re-export the goods at his own cost. He consistently stated that he does not deal in toys and cosmetics, does not possess BIS or other mandatory licences, and that the wrong goods were sent inadvertently by the foreign supplier without any intention on his part.

vi. On 01.07.2025, the importer contacted Customs Broker for arrangement of CFS and filing of Bill of Entry and shared only the Bill of Lading. Accordingly, Seabird CFS, Hazira was nominated on 01.07.2025, and the shipping line was informed the same day, which was confirmed on 02.07.2025. However, no Bill of Entry was filed, as the importer later informed that the container was cross-stuffed in China and the goods would be re-exported. Later, the entry inward was done on 13.07.2025.

vii. From the statements and documentary evidences emerged during the investigation, it is consistently established that after filing of the IGM on 03.07.2025, multiple requests were made first by the shipper on 10.07.2025 for change of destination, then by the importer on 11.07.2025 for change of port, and finally on 14.07.2025 for re-export of the goods, all of which were communicated to the shipping agency and Customs, with re-export being the importer's stated intention after discovery of cross-stuffing.

viii. Thus, Shri Hashmukh Vala Ravaria claimed that the goods declared in the Bill of Lading and IGM as "MINI DECORATIVE PLANT 95059010" were not the goods actually stuffed in the container, and the mis-declared toys and cosmetics were stated to have been shipped due to cross-stuffing by the foreign supplier.

ix. However, this is to bring on record that in the first week of July 2025, DRI, MZU had put hold on several other consignments supplied by the supplier HY International Trade Co. Limited, China to the importers in India namely M/s Cargo Care Agency and M/s Belezza Global Overseas, having similar description 'Mini Decorative Plant' which led to the recovery of firecrackers and Toys. This had alerted the supplier and the importer M/s Aditi Ventures, that as all the consignments of supplier HY International Trade Co. Limited, China, having description 'Mini Decorative Plant', the present consignment in Container No. ZCSU7871441, covered under Bill of Lading No. GOSUGZH0563289 dated 19.06.2025, will also be put on hold; hence they tried to change the port of destination from Hazira (INHZA) to Hong Kong (HKHKG).

x. Further, the importer informed the concerned relevant authorities i.e. Hazira Customs, about the said cross-stuffing of the goods on 15.07.2025, after the said container was put on hold by DRI, MZU i.e. on 14.07.2025.

xi. On 01.07.2025, the importer contacted the Customs Broker firm M/s ACP Shipping LLP, Hazira, requesting them for nomination of Seabird CFS, Hazira. However, afterwards no communication was done with the said Customs Broker, also no bill of entry was filed for the said consignment. This clearly shows that earlier the importer was planning to clear the goods through Seabird CFS, but he got alerted that as the consignments having similar supplier and similar goods were being intercepted by DRI, he didn't file the bill of entry even lapse of 2 weeks of nomination of CFS and tried to change the port of destination and re-export of the goods. This shows that the importer intentionally didn't file the bill of entry and tried to change the port of destination.

xii. Hence, it is amply clear that the importer and the supplier in collusion tried to change the port from Hazira (INHZA) to Hong Kong (HKHKG), to hoodwink the Customs Authorities as well as DRI, to save the consignment intercepted and examined by DRI. Further, the plan of re-export of the goods is an afterthought of the importer as he has apprehension that if the said container will arrive into India, the same may be put on hold for examination by DRI.

xiii. It is further observed that although the importer has claimed that the subject container was cross-stuffed with wrong cargo at the supplier's end, M/s Aditi Ventures did not inform the Customs authorities about the alleged cross-stuffing or wrong shipment at the earliest point of time. Records reveal that the container was placed on hold by DRI, Mumbai Zonal Unit on 14.07.2025, and only thereafter, on 15.07.2025, the importer intimated Hazira Customs regarding the alleged cross-stuffing and sought permission for re-export of the goods. Thus, the disclosure regarding the wrong cargo was made subsequent to the DRI intervention as an afterthought, and not voluntarily prior to detection, which is a relevant factor in assessing the importer's conduct in relation to the import of the mis-declared toys and cosmetics. From the above, it appeared that Shri Hashmukh Vala Ravaria has imported toys and cosmetics without the mandatory BIS and compliance permissions. Although he contends that he intended to import only Mini Decorative Plant' and was unaware of the misdeclaration, he has nonetheless claimed the goods and sought their re-export, asserting that the wrong shipment occurred at the supplier's end.

xiv. In this case, it is seen that Shri Hashmukh Vala Ravaria was the main person who imported the said goods covered under Bill of Lading No. GOSUGZH0563289 dated 19.06.2025, covering container no. ZCSU7871441 and done all the arrangement with supplier for the import of the said goods. He was the person who used his IEC for the import of the said Toys and Cosmetics. He knew the fact that he didn't have BIS, CDSCO certificate

required for the import of the said goods. However, he still imported the said restricted goods and tried to clear the goods on his IEC. Thus, it is apparent that he had complete control over the import of the goods of the said Toys and Cosmetics vide Bill of Lading No. GOSUGZH0563289 dated 19.06.2025, covering container no. ZCSU7871441.

xv. The import policy for Toys is governed by BIS standards as specified in Policy Condition 2 of Chapter 95. Further, the Toys (Quality Control) Order, 2020 issued by DPIIT, mandated compulsory BIS Certification for safety of toys; and such goods shall bear the standard mark under a license from BIS, which are equally applicable for imported goods. However, no such Licences or permissions in respect of the overseas supplier have been submitted by M/s Aditi Ventures (IEC-APJPR5240P).

xvi. Further, the import of branded/un-branded Cosmetic Products requires a permission from the Central Drugs Standard Control Organization (CDSCO) which is governed by the Directorate General of Health Services, Ministry of Health & Family Welfare, Government of India; however, no such Licences or permissions have been taken by M/s Aditi Ventures (IEC-APJPR5240P).

xvii. Further, as per the inspection reports submitted by the respective right holders of the cosmetic brands viz. 'Revlon, Huda Beauty, Bobbi Brown, Lakme and M.A.C.', it appeared that the cosmetic goods found and seized during the panchnama proceedings dated 18.07.2025 were counterfeit/fake and not genuine products of the declared brands. It therefore appeared that the said goods were mis-declared and imported in violation of the provisions of the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007.

xviii. All the goods contained in container no. ZCSU7871441 under Bill of Lading No. GOSUGZH0563289 dated 19.06.2025 under IGM no. 1144559 dated 03.07.2025, were completely mis-declared. As opposed to the declared goods, i.e. Mini Decorative Plant, mis-declared goods, Toys and Cosmetics were found without necessary certification and documentation.

12. RELEVANT PROVISIONS OF LAW APPLICABLE IN THIS CASE:

The relevant legal provisions, insofar as they relate to the facts and circumstances of the subject imports, are as under:

12.1 Customs Act, 1962 -

(i) Section 2(23) of the Customs Act, 1962 defines "import", with its grammatical variations and cognate expressions, means bringing into India from a place outside India;

(ii) Section 2(25) of the Customs Act, 1962 defines "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;

(iii) Section 2(26) of the Customs Act, 1962 defines "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;

(iv) Section 2(33) of the Customs Act, 1962 defines "prohibited goods" as any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with;

(v) Section 2(39) of the Customs Act, 1962 defines "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;

(vi) Section 2(41) of the Customs Act, 1962 defines "value", in relation to any goods, means the value thereof determined in accordance with the provisions of sub-section (1) or sub-section (2) of Section 14;

(vii) Section 11 of the Customs Act defines, Power to prohibit importation or exportation of goods (1) If the Central Government is satisfied that it is necessary so to do for any of the purposes specified in sub-section (2), it may, by notification in the Official Gazette, prohibit either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be specified in the notification, the import or export of goods of any specified description.

(viii) Section 110. Seizure of goods, documents and things. –

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

Provided that where it is not practicable to remove, transport, store or take physical possession of the seized goods for any reason, the proper officer may give custody of the seized goods to the owner of the goods or the beneficial owner or any person holding himself out to be the importer, or any other person from whose custody such goods have been seized, on execution of an undertaking by such person that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer:

(2) Where any goods are seized under sub-section (1) and no notice in respect thereof is given under clause (a) of section 124 within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:

Provided that the Principal Commissioner of Customs or Commissioner of Customs may, for reasons to be recorded in writing, extend such period to a further period not exceeding six months and inform the person from whom such goods were seized before the expiry of the period so specified:

(ix) Section 30. Delivery of [arrival manifest or import manifest] or import report

(i) a vessel; or

(ii) an aircraft; or

(iii) a vehicle,

carrying imported goods 3 [or export goods] or any other person as may be specified by the Central Government, by notification in the Official Gazette, in this behalf shall, in the case of a vessel or an aircraft, deliver to the proper officer 4 [an 1 [arrival manifest or import manifest] by presenting electronically prior to the arrival] of the vessel or the aircraft, as the case may be, and in the case of a vehicle, an import report within twelve hours after its arrival in the customs station, in 5 [such form and manner as may be prescribed] and if the 1 [arrival manifest or import manifest] or the import report or any part thereof, is not delivered to the proper officer within the time specified in this sub-section and if the proper officer is satisfied that there was no sufficient cause for such delay, the person-in-charge or any other person referred to in this sub-section, who caused such delay, shall be liable to a penalty not exceeding fifty thousand rupees:]

6 [Provided that the 7 [Principal Commissioner of Customs or Commissioner of Customs] may, in cases where it is not feasible to deliver 1 [arrival manifest or import manifest] by presenting electronically, allow the same to be delivered in any other manner.]

(2) The person delivering the 1 [arrival manifest or import manifest] or import report shall at the foot thereof make and subscribe to a declaration as to the truth of its contents.

(3) If the proper officer is satisfied that the 1 [arrival manifest or import manifest] or import report is in any way incorrect or incomplete, and that there was no fraudulent intention, he may permit it to be amended or supplemented.

12.2 The relevant provisions under the Customs Act, 1962 for confiscation of improperly imported goods in the present case are as below:-

(1) Section 111(d) provides for confiscation of 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.

(2) Section 111 (f) any dutiable or prohibited goods required to be mentioned under the regulations in an [arrival manifest or import manifest] or import report which are not so mentioned;

(3) Section 111 (i) any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof;

12.3 Penalty provisions under the Customs Act, 1962 in the present case are discussed below:-

(i) Section 112(a) provides inter-alia for penalty on any person 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.

(ii) Section 112(b) provides inter-alia for penalty on any person 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 reasons to believe are liable to confiscation under Section 111.

(iii) 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.

Section 124. Issue of show cause notice before confiscation of goods, etc.

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.

12.4 Sea Cargo Manifest and Transhipment Regulations, 2018.

Notification No. 38 / 2018-Customs (N.T.) dated 11th May, 2018

Delivery of an Arrival Manifest. - (1) An authorised sea carrier carrying imported goods, export goods or coastal goods, shall deliver the arrival manifest to the proper officer electronically:

Provided that where it is not practicable to deliver the arrival manifest or any part thereof electronically, then the manifest or any part thereof shall be submitted manually in duplicate with the approval of the Commissioner of Customs or any other officer authorized by him:

Provided further that for the vessels carrying only coastal goods and operating from exclusive berths meant for coastal goods at the loading as well as the unloading ports, there shall be no requirement of delivering arrival manifest.";

(2) The arrival manifest shall consist of, -

(a) an application for entry inwards in Form-II (except in case of vessel carrying exclusive coastal goods);

(b) a general declaration in Form-III;

(c) vessel's stores list in Form- IV;

(d) list of private property in the possession of the Master and crew, in Form- V

(e) cargo declaration: - (i) for vessel arriving at an Indian port from a Foreign port in Form-VIA; or (ii) for vessel arriving at an Indian Port from another Indian Port directly or through designated foreign route in Form-VIB;

(f) any other declaration which, under the provisions of the Customs Act or any other Act for the time being in force is required to be delivered to the proper officer on arrival of vessel.

(3) The general declaration and cargo declaration shall be delivered before the departure of the vessel from last port of call and the rest of the arrival manifest shall be delivered before arrival of the vessel.

(4) Notwithstanding anything contained in sub-regulation (3), the authorised sea carrier may update the information furnished in Form- VIA and Form-VIB, -

(i) before 48 hours of expected arrival at the destination customs port, for the vessels on voyage of more than ninety-six hours between departure from the last port of call and arrival at the next port;

(ii) before 24 hours of expected arrival at the destination customs port, for the vessels on voyage of forty-eight to ninety-six hours between departure from the last port of call and arrival at the next port;

(iii) before 6 hours of expected arrival at the destination customs port for the vessels on voyage of less than forty-eight hours between departure from the last port of call and arrival at the next port:

Provided that for vessels carrying non-containerized cargo, whether or not carrying containerized cargo, the authorised sea carrier may, irrespective of the voyage duration, update the arrival manifest before entry inwards at the destination customs port."

12.5 Import Manifest (Vessels) Regulations, 1971

Notification No. 35-Cus., dated 17th April, 1971 as amended by Notification No. 17/95-Cus.(N.T.), dated 13-3-1995 and No. 112/2003 dated 19-12-2003

In exercise of the powers conferred by section 157 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs hereby makes the following regulations, namely :-

1. Short title and commencement.-

(1) These regulations may be called the Import Manifest (Vessels) Regulations, 1971.

2. Definition.- In these regulations, unless the context otherwise requires, "Form" means a Form appended to these regulations.

3. Import Manifest.- (1) Every import manifest shall –

(a) be delivered in duplicate;

(b) cover all the goods carried in a vessel; and

(c) consist of –

(i) an application for entry inwards in Form I [See Form 56 ],

(ii) a general declaration in Form II [See Form 57 ],

(i) a cargo declaration in Form III [See Form 58 ],

(iv) a vessel's stores list in Form IV [See Form 59 ],

(v) a list in Form V of private property in the possession of the Master, officers and crew.] [See Form 59A ].

(2) Any person who delivers the import manifest to proper officer under section 30 of the Customs Act, 1962 (52 of 1962), shall apply for registration with the Customs in Form VI.

Sizes of Forms I, II, III, IV and V.- 4. Each of the Forms I, II, III, IV and V shall be on paper of durable quality and the forms shall have the following sizes, namely :-

Forms I, II, IV and V - 210 x 297 millimetres.

Forms III - 430 x 340 millimetres.

5. Manner of declaring cargo.-

(1) The cargo declaration shall be delivered in separate sheets in respect of each of the following categories of cargo, namely :-

(a) cargo to be landed;

(b) unaccompanied baggage;

(c) goods to be transhipped;

(d) same bottom or retention cargo :

Provided that in respect of cargo to be landed as also in respect of unaccompanied baggage the details shall be set out in the order of the ports of loading :

Provided further that in respect of same bottom or retention cargo it will be sufficient if details relating to the nature of the cargo and number of the packages are declared.

(2)

(a) Notwithstanding anything contained in sub-regulation (1), the cargo declaration in respect of –

(i) arms;

(ii) ammunition;

(iii) explosives;

(iv) narcotics;

(v) dangerous drugs;

(vi) gold;

(vii) silver,

irrespective of whether for landing, for transhipment, or for being carried as same bottom cargo, shall be delivered in separate sheets and shall be set out in the order of the ports of loading.

(b) If a vessel does not carry any of the cargoes referred to in clause (a), a nil declaration shall be delivered. Delivery of vessel's stores list and

6. list of private property.- The vessel's stores list and the list of private property in the possession of the Master, officer and crew at the time of departure from the last port of call may be delivered along with the cargo declaration.

12.6 Customs Valuation (Determination of Value of Imported Goods) Rules, 2007:

**i) 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.

ii) **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.

iii) **Rule 6. Determination of value where value cannot be determined under rules 3, 4 and 5.-**

If the value of imported goods cannot be determined under the provisions of rules 3, 4 and 5, the value shall be determined under the provisions of rule 7 or, when the value cannot be determined under that rule, under rule 8.

Provided that at the request of the importer, and with the approval of the proper officer, the order of application of rules 7 and 8 shall be reversed.

iv) **Rule 7. Deductive value.-**

(1) Subject to the provisions of rule 3, if the goods being valued or identical or similar imported goods are sold in India, in the condition as imported at or about the time at which the declaration for determination of value is presented, the value of imported goods shall be based on the unit price at which the imported goods or

identical or similar imported goods are sold in the greatest aggregate quantity to persons who are not related to the sellers in India, subject to the following deductions : -…….. sub-rule (1).

v) **Rule 8. Computed value.-**

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

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

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

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

vi) **Rule 9. Residual method.-**

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

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.

vii) 12. Rejection of declared value. –

(1) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, he may ask the importer of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such importer, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such imported goods cannot be determined under the provisions of sub-rule (1) of rule 3.

(2) At the request of an importer, the proper officer, shall intimate the importer in writing the grounds for doubting the truth or accuracy of the value declared in relation to goods imported by such importer and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (1).

Explanation.- (1) For the removal of doubts, it is hereby declared that:-

(i) This rule by itself does not provide a method for determination of value, it provides a mechanism and procedure for rejection of declared value in cases where there is reasonable doubt that the declared value does not represent the transaction value; where the declared value is rejected, the value shall be determined by proceeding sequentially in accordance with rules 4 to 9.

(ii) The declared value shall be accepted where the proper officer is satisfied about the truth and accuracy of the declared value after the said enquiry in consultation with the importers.

(iii) The proper officer shall have the powers to raise doubts on the truth or accuracy of the declared value based on certain reasons which may include –

(a) the significantly higher value at which identical or similar goods imported at or about the same time in comparable quantities in a comparable commercial transaction were assessed;

(b) the sale involves an abnormal discount or abnormal reduction from the ordinary competitive price;

(c) the sale involves special discounts limited to exclusive agents;

(d) the misdeclaration of goods in parameters such as description, quality, quantity, country of origin, year of manufacture or production;

(e) the non declaration of parameters such as brand, grade, specifications that have relevance to value;

(f) the fraudulent or manipulated documents.

12.7 Foreign Trade (Development and Regulation) Act, 1992 -

(i) Section 3 (3) All goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly

(ii) Section 5 of the Foreign Trade (Development and Regulation) Act, 1992 provides inter-alia, for formulation of the export and import policy by the Central Government from time to time.

(iii) Section 7 of the Foreign Trade (Development and Regulation) Act, 1992, states that no import can take place without a valid Import Export Code Number unless otherwise exempted.

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

12.8 Foreign Trade (Regulation) Rules, 1993 -

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

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

12.9 Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007:-

Rule 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.

Rule 7. Suspension of clearance of imported goods.-
(1)(a) Where the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, based on the notice given by the right holder has a reason to believe that the imported goods are suspected to be goods infringing intellectual property rights, he shall suspend the clearance of the goods.

(b)The Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, may, on his own initiative, suspend the clearance of goods, in respect of which he has prima-facie evidence or reasonable grounds to believe that the imported goods are goods infringing intellectual property rights.

(2) The Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, shall immediately inform the importer and the right holder or their respective authorised representatives through a letter issued by speed post or through electronic mode of the suspension of clearance of the goods and shall state the reasons for such suspension.

(3) Where clearance of the goods suspected to be infringing intellectual property has been suspended and the right holder or his authorised representative does not join the proceedings within a period of ten working days from the date of suspension of clearance leading to a decision on the merits of the case, the goods shall be released provided that all other conditions of import of such goods under the Customs Act, 1962, have been complied with: Provided that the above time-limit of ten working days may be extended by another ten days in appropriate cases by the Commissioner or an officer authorized by him in this behalf.

(4) Where the Deputy Commissioner of Customs or Assistant Commissioner of Customs , as the case may be, has suspended clearance of goods on his own initiative and right holder does not give notice under rule 3 of the Rules or does not fulfill the obligation under Rule 5, within five days from the date of suspension of clearance, the goods shall be released provided that all other conditions of import of such goods under the Customs Act, 1962, have been complied with.

(5) Where the clearance of goods has been suspended, customs may, where it acts on its own initiative, seek from the right holder any information or assistance, including technical expertise and facilities for the purpose of determining whether the suspect goods are counterfeit or pirated or otherwise infringe an intellectual property right.

(6) Where the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, has suspended clearance of goods on his own initiative and right holder has given notice under rule 3 of the Rules and fulfilled the obligations under Rule 5, but , the right holder or his authorised representative does not join the proceedings within a period of ten working days from the date of suspension of clearance leading to a decision on the merits of the case, the goods shall be released provided that all other conditions of their import under the Customs Act, 1962, have been complied with: Provided that the above time- limit of ten working days may be extended by

another ten working days in appropriate cases by the Commissioner or an officer authorized by him in this behalf.

(7) In the case of perishable goods suspected of infringing intellectual property rights, the period of suspension of release shall be three working days which may be extended by another four days subject to the satisfaction of the Commissioner or the officer authorized by him in this behalf that such extension shall not affect the goods.

(8) Notwithstanding anything contained in these Rules, in the case of suspension of clearance of perishable goods on the basis of notice of the right holder or his authorized representative, the right holder or his authorized representative shall join the proceedings as required under these Rules within three working days or the extended period as provided in sub-rule (7) and in case of suspension of clearance of perishable good by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, on his own initiative, the right holder shall give notice, execute a bond and join the proceedings as required under these Rules within three working days or the extended period as provided in sub-rule (7) , as the case may be, failing which the goods shall be released.

(9) If within ten working days or the extended period under sub-rule (6), as the case may be, and within three working days or the extended period as provided in sub-rule (7) of this rule in the case of perishable goods, the right-holder or his authorized representative joins the proceedings, the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, having reasons to believe that the goods are goods infringing intellectual property rights and liable to confiscation under section 111 (d) of the Customs Act, may seize the same under section 110 of the Customs Act.

Rule 8. Examination of goods by right holder.-

The Commissioner or the officer duly authorized in this behalf shall allow a right holder and the importer or their duly authorized representatives to examine the goods, the clearance of which has been suspended, and may provide representative samples for examination, testing and analysis to assist in determining whether the goods are pirated, counterfeit or otherwise infringe an intellectual property right, without prejudice to the protection of confidential information.

Rule 9. Supply of information to the right holder. –

At the request of the right holder, the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, shall inform the name and address of the importer and without prejudice to the protection of confidential information the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, may also provide additional

relevant information relating to the consignment which has been suspended from clearance.

Rule 10. Supply of information to the importer. - At the request of the importer or his duly authorized representative, Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, shall inform the name and address of the right holder and without prejudice to the protection of confidential information the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, may also provide additional relevant information relating to the consignment which has been suspended from clearance.

Rule 11. Disposal of infringing goods. –
(1). Where upon determination by the Deputy Commissioner of Customs or Assistant Commissioner of Customs , as the case may be, it is found that the goods detained or seized have infringed intellectual property rights, and have been confiscated under section 111 (d) of the Customs Act, 1962 and no legal proceedings are pending in relation to such determination, the Deputy Commissioner of Customs or Assistant Commissioner of Customs , as the case may be, shall, destroy the goods under official supervision or dispose them outside the normal channels of commerce after obtaining "no objection" or concurrence of the right holder or his authorized representative: Provided that if the right holder or his authorized representative does not oppose or react to the mode of disposal as proposed by the Deputy Commissioner of Customs or Assistant Commissioner of Customs , as the case may be, within twenty working days after having been informed, or within such extended period as may have been granted by the Commissioner at the request of the right holder, not exceeding another twenty working days, he shall be deemed to have concurred with the mode of disposal as proposed by the Deputy Commissioner of Customs or Assistant Commissioner of Customs , as the case may be: Provided further that the costs toward destruction, demurrage and detention charges incurred till the time of destruction or disposal, as the case may be, shall be borne by the right holder.
(2) There shall not be allowed the re-exportation of the goods infringing intellectual property rights in an unaltered state.
(3) The Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, may on his own, or at the request of the right holder, retain samples of goods infringing intellectual property rights prior to their destruction or disposal and provide the same to the right holder or importer if such samples are needed as evidence in pending or future litigations.

13.1 REQUIREMENT OF BIS STANDARD FOR IMPORTATION OF TOYS:

i. The Toys (Quality Control) Order, 2020 dated 25.02.2020 issued by DPIIT mandated compulsory BIS Certification for safety of toys; and clearance for home consumption, and in the absence of BIS, the same are not allowed to be cleared for home consumption. The mandatory BIS requirement is equally applicable to overseas manufacturing supplier of such goods to India. The said order is produced below for reference:

**MINISTRY OF COMMERCE AND INDUSTRY**

**(Department for Promotion of Industry and Internal Trade)**

**ORDER**

New Delhi, the 25th February, 2020

**S.O. 853(E).**—In exercise of the powers conferred by sub-sections (1) and (2) of section 16 read with section 17 and sub-section (3) of section 25 of the Bureau of Indian Standards Act, 2016 (11 of 2016), the Central Government, after consulting the Bureau, is of the opinion that it is necessary and expedient so to do in the public interest, hereby makes the following Order, namely:—

1. **Short title and commencement**.—(1) This Order may be called the Toys (Quality Control) Order, 2020.

(2) It shall come into force with effect from 01.09.2020.

2. **Application**.-In this order, unless the context otherwise requires—

(a) This Quality Control Order shall apply to (Toys) Product or material designed or clearly intended, whether or not exclusively, for use in play by children under 14 years of age or any other product as notified by the Central Government from time to time;

3. **Conformity to standard and compulsory use of Standard Mark**.—The goods or articles specified in the column (1) of the Table below shall conform to the corresponding Indian Standard (s) mentioned in the column (2) of the Table and shall bear the Standard Mark under a licence from the Bureau as per Scheme-I of Schedule-II of BIS (Conformity Assessment) Regulations, 2018:

Provided that nothing in this order shall apply to goods or articles meant for export.

4. **Certification and enforcement authority**.—The Bureau shall be the certifying and enforcement authority for the goods or articles specified in column (1) of the following Table.

**TABLE**

| Goods or articles | Indian Standard | Title of Indian Standard |
|---|---|---|
| (1) | (2) | (3) |
| Toys | IS 9873 (Part 1) : 2018 | Safety of Toys Part l Safety Aspects Related to Mechanical and Physical Properties. |
| | IS 9873 (Part 2) : 2017 | Safety of Toys Part 2 Flammability. |
| | IS 9873 (Part 3) : 2017 | Safety Requirements for Toys Part 3 Migration of Certain Elements. |
| | IS 9873 (Part 4) : 2017 | Safety of Toys Part 4 Swings, Slides and Similar Activity Toys for Indoor and Outdoor Family Domestic Use. |
| | IS 9873 (Part 7) : 2017 | Safety of Toys Part 7 Requirements and Test Methods for Finger Paints. |
| | IS 9873 (Part 9) : 2017 | Safety of Toys Part 9 Certain Phthalates Esters in Toys and **Children's Products.** |
| | IS 15644: 2006 | Safety of Electric Toys. |

**Note :** For the purposes of Table, the latest version of Indian Standards including the amendments issued thereof, as notified by the Bureau from time to time, shall apply from date of such notification.

[F. No. 11(4)/2017-C.I]

MANMEET K. NANDA, Jt. Secy.

ii. As per Section 16 of the BIS Act, 2016 - (1) If the Central Government is of the opinion that it is necessary or expedient so to do in the public interest or for the protection of human, animal or plant health, safety of the environment, or

prevention of unfair trade practices, or national security, it may, after consulting the Bureau, by an order published in the Official Gazette, notify—

(a) goods or article of any scheduled industry, process, system or service; or

(b) essential requirements to which such goods, article, process, system or service, which shall conform to a standard and direct the use of the Standard Mark under a licence or certificate of conformity as compulsory on such goods, article, process, system or service.

iii. As per Section 17 of BIS Act, 2016 (1) No person shall manufacture, import, distribute, sell, hire, lease, store or exhibit for sale any such goods, article, process, system or service under sub-section (1) of section 16—

(a) without a Standard Mark, except under a valid licence; or

(b) notwithstanding that he has been granted a license, apply a Standard Mark, unless such goods, article, process, system or service conforms to the relevant standard or prescribed essential requirements.

(2) No person shall make a public claim, through advertisements, sales promotion leaflets, price lists or the like, that his goods, article, process, system or service conforms to an Indian standard or make such a declaration on the goods or article, without having a valid certificate of conformity or licence from the Bureau or any other authority approved by the Central Government under sub-section (2) of section 16.

(3) No person shall use or apply or purport to use or apply in any manner, in the manufacture, distribution, sale, hire, lease or exhibit or offer for sale of any goods, article, process, system or service, or in the title of any patent or in any trade mark or design, a Standard Mark or any colourable imitation thereof, except under a valid licence from the Bureau.

iv. As per the General Notes Note 2 (A) of Foreign Import Policy, the quality of the products that are subject to mandatory Indian Standards, as applicable to domestic goods, shall be required to comply with the quality specified for the product as per the same Indian Standards. For compliance of this requirement, all manufacturers/exporters of these products to India shall be required to obtain BIS license for using the Standards mark on their products. Further, as per Note 2 (D) of Foreign Import Policy for Toys/ Dolls and similar other recreational goods under any chapter will be governed by BIS standards as specified in Policy Conditions 2 of Chapter 95.

v. As per the Policy condition 2 of Chapter 95, the Import of Toys (all items under EXIM Codes 95030010, 950330020, 95030030 and 95030090) shall be permitted freely when accompanied by following certificates.

(i) A certificate that the toys being imported conform to the standards prescribed by Bureau of Indian Standards (BIS):

a) IS : 9873 (Part 1) – Safety of toys; Part – 1 Safety aspects related to mechanical and physical properties (Third Revision).
b) IS:9873 (Part 2) – Safety of Toys; Part-2 Flammability (Third Revision)
c) IS : 9873 (Part 3) – Safety to Toys; Part – 3 Migration of certain elements (Second Revision)
d) IS: 9873 (Part 4) Safety of Toys; Part-4 Swings, Slides and similar activities Toys for indoor and outdoor family domestic use.
e) IS : 9873 (Part 7) – Safety of Toys; Part – 7 Requirements and test methods for finger paints.
f) IS : 9873 (Part 9) – Safety of Toys; Part – 9 Certain phthalates esters in toys and Children's products.
g) IS : 15644 – Safety of Electric Toys.

(ii) A Certificate that the toys being imported conform to the standards prescribed in IS : 9873 Part – 1, Part-2, Part-3, Part-4, Part-7, Part-9 and 15644:2006.

(iii) A Certificate of Conformance from the manufacturer that representative sample of the toys being imported have been tested by an independent laboratory which is accredited by NABL, India and found to meet the specifications indicated above. The Certificate would also link the toys in the consignment to the period of manufacture indicated in the Certificate of Conformity.

vi. Section 3(3) of Foreign Trade (Development & Regulation Act), 1992 - Powers to make provisions relating to imports and exports —

(1) The Central Government may, by Order published in the Official Gazette, make provision for the development and regulation of foreign trade by facilitating imports and increasing exports.

(2) The Central Government may also, by Order published in the Official Gazette, make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the 1[import or export of goods or services or technology]:

Provided that the provisions of this sub-section shall be applicable, in case of import or export of services or technology, only when the service or technology provider is availing benefits under the foreign trade policy or is dealing with specified services or specified technologies.]

(3) All goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly.

(4) Without prejudice to anything contained in any other law, rule, regulation, notification or order, no permit or licence shall be necessary for import or export of any goods, nor any goods shall be prohibited for import or export except, as may be required under this Act, or rules or orders made thereunder.

13.2REQUIREMENT OF CENTRAL DRUGS STANDARD CONTROL ORGANISATION (CDSCO) LICENSE FOR IMPORT OF COSMETICS :-

The cosmetics products are not freely importable into India and are governed by mandatory regulatory provisions under the Cosmetic Rules, 2020 and the Drugs & Cosmetics regulatory framework administered by the Ministry of Health and Family Welfare through the Central Drugs Standard Control Organization (CDSCO). Rule 12 of Chapter III of the Cosmetic Rules, 2020 specifically provides that no cosmetic shall be imported into India unless the product is duly registered with the Central Licensing Authority or an authorized officer of CDSCO. The requirement for registration of imported cosmetic products has also been prescribed under the Drugs & Cosmetics Rules, 1945 and relevant notifications issued thereunder. Accordingly, import of cosmetic products without obtaining the requisite CDSCO registration certificate is not merely a procedural irregularity but constitutes a substantive violation of the governing statutory provisions, rendering such import restricted and non-compliant with law.

As per Section 2(23) of the Customs Act, 1962, "import" means bringing goods into India from a place outside India. Therefore, where cosmetic goods are brought into India without fulfilment of the mandatory conditions prescribed under the Cosmetic Rules, 2020, including registration with CDSCO, such goods become liable to be treated as "prohibited goods" under Section 2(33) of the Customs Act, 1962, since the conditions subject to which their import is permitted have not been complied with.

Thus, import of cosmetics without mandatory CDSCO registration, coupled with mis-declaration in customs documents and any attempt to alter the mode of clearance so as to impede or delay customs scrutiny, amounts to deliberate non-compliance with the Customs Act, 1962 and allied import regulations, rendering the goods liable for action under the law.

Cosmetic products, are not freely importable into India as these goods are governed by various mandatory provisions for import into India. The import of these products requires that the importer obtain a registration certificate from the Central Drugs Standard Control Organization [CDSCO] which is governed by the Ministry of Health and Family Welfare. The CDSCO is the national regulatory body for pharmaceuticals, medical devices and cosmetics, to ensure quality, safety and

efficacy through import regulation, clinical trial approval and for setting drug standards. The relevant portion of the rule in respect of the same is as given below:

As mentioned above, the import of branded/un-branded cosmetic Products into India is regulated by the Central Drugs Standard Control Organization (CDSCO) which is governed by the Directorate General of Health Services, Ministry of Health & Family Welfare, Government of India. The Gazette Notification G.S.R 426(E) dated 19th May 2010, which was issued for amending the Drugs & Cosmetics Rules, 1945, prescribes for registration of import of cosmetics into the Country. All cosmetic products that are imported for sale in India need to be registered with the licensing authority as defined under Rule 21 of the Drugs & Cosmetics Rules, 1945. It is restricted under Import Policy inasmuch as, it is mandatory to obtain registration certificate from the Central Drugs Standard Control Organization [CDSCO] under the Cosmetic Rules, 2020. Thus, without the said registration certificate, the import is violative of the provisions of Customs Act, 1962 and is accordingly prohibited.

14. CONFISCATION OF GOODS :

14.1 Confiscability under Section 111(d) of the Customs Act,1962: -

i. As discussed in forgoing para's M/s Aditi Ventures (IEC-APJPR5240P), had illegally imported goods Toys and Cosmetics vide Bill of Lading No. GOSUGZH0563289 dated 19.06.2025 and stuffed in Container No. ZCSU7871441, by mis-declaring the same as ''Mini Decorative Plant 95059010" having re-determined value of Rs. 1,37,79,256/-.

ii. The Toys (Quality Control) Order, 2020, dated 25.02.2020, effective from 01.09.2020, mandates conformity with the corresponding Indian standards for Toys, including imports. All toys intended for children under 14 years of age must comply with BIS standards. Section 111(d) of the Customs Act,1962 covers 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. In the present case, the goods, i.e. Toys, are permitted to be imported with a valid license issued to overseas manufacturer/ supplier from the Bureau of Indian Standards and otherwise are prohibited. The goods found in the present consignment covered under Bill of Lading No. GOSUGZH0563289 dated 19.06.2025 and stuffed in Container No. ZCSU7871441 were falling under Heading 9503 require mandatory BIS compliance under the import policy for Toys as specified in Policy Condition 2 of Chapter 95. Further, the Toys (Quality Control) Order, 2020, dated 25.02.2020, issued by DPIIT, mandated compulsory BIS Certification for the safety of toys; and such goods shall bear the standard mark under a license from BIS. However, these goods have been found without the requisite standard mark under the mandatory BIS certification as per the

requisite Indian Standards, i.e. IS 9873 (Part 1,2,3,4,7,9) and IS 15644: 2006, as applicable. As per the General Notes regarding import policy of Foreign Trade Policy (FTP), Note 2 (A), the quality of the products that are subject to mandatory Indian Standards, as applicable to domestic goods, shall be required to comply with the quality specified for the product as per the same Indian Standards. For compliance of this requirement, all manufacturers/exporters of these products to India shall be required to obtain BIS license for using the Standards mark on their products. Further, as per Note 2 (D) of the import policy for Toys, etc., Import policy for Toys and similar other recreational goods under any chapter will be governed by BIS standards as specified in Policy Conditions 2 of Chapter 95. Given the above, it is clear that the Import of Toys can be done only after obtaining a valid BIS certificate, which is not available in the present case. Hence, the goods fall under the prohibited category. As the importer failed to produce the mandatory BIS certification issued to the overseas supplier and goods were imported by mis-declaring the same, the subject goods fall under the prohibited category and the said goods appeared liable for confiscation under Section 111 (d) of the Customs Act, 1962.

iii. Further, the import of branded/un-branded cosmetic Products into India is regulated by the Central Drugs Standard Control Organization (CDSCO) which is governed by the Directorate General of Health Services, Ministry of Health & Family Welfare, Government of India. The Gazette Notification G.S.R 426(E) dated 19th May 2010, which was issued for amending the Drugs & Cosmetics Rules, 1945, prescribes for registration of import of cosmetics into the Country. All cosmetic products that are imported for sale in India need to be registered with the licensing authority as defined under Rule 21 of the Drugs & Cosmetics Rules, 1945. It is restricted under Import Policy inasmuch as, it is mandatory to obtain registration certificate from the Central Drugs Standard Control Organization [CDSCO] under the Cosmetic Rules, 2020. Thus, without the said registration certificate, the import is violative of the provisions of Customs Act, 1962 and is accordingly prohibited. In the present case, M/s Aditi Ventures (IEC: APJPR5240P) imported cosmetic products under Bill of Lading No. GOSUGZH0563289 dated 19.06.2025, stuffed in Container No. ZCSU7871441, without obtaining the requisite Cosmetic Import Registration Certificate issued by CDSCO. As per the provisions of the Drugs and Cosmetics Act, 1940, read with the Cosmetics Rules, 2020, import of cosmetics without valid CDSCO registration is prohibited, and production of such registration certificate at the time of import is mandatory. On verification of the import documents, physical examination of the goods, and during the course of investigation, it was found that no valid CDSCO registration certificate was declared or produced in respect of the said cosmetic goods. Accordingly, the imported cosmetic products, having been brought into India in contravention of the prohibitions imposed under the aforesaid statutory provisions, are liable for confiscation under Section 111(d) of the Customs Act, 1962.

(iv) Further, as per the letter dated 20.01.2026 issued by the IPR Cell, SIIB(I), it was informed that, as per the inspection conducted by the authorised representative and reports submitted by them, which state that the cosmetics goods of brand 'Revlon, Huda Beauty, Bobbi Brown, Lakme and M.A.C.' inspected by them are counterfeit goods. Hence, the said cosmetics goods of brand 'Revlon, Huda Beauty, Bobbi Brown, Lakme and M.A.C.' are to be treated as imported in violation of the provisions of the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007. Notification No.51/2010-Cus. (NT), dated 30-6-2010 prohibits import of goods infringing specified provisions of Trademarks Act, Copyrights Act, Designs Act, Geographical Indications Act and Patent Act subject to the procedure prescribed under the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007 (IPR Rules) issued under Notification No. 47/ 2007-Cus. (NT), dated 8-5-2007. In view of the facts brought on record, the examination findings, and the reports submitted by the authorized representatives of the respective right holders, it is conclusively established that cosmetics goods of brand 'Revlon, Huda Beauty, Bobbi Brown, Lakme and M.A.C.' found during the panchnama proceedings dated 18.07.2025 were counterfeit/fake and not genuine products of the declared brands are counterfeit goods. The import of such goods is in contravention of the provisions of the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007 read with Notification No. 51/2010-Cus. (N.T.) dated 30.06.2010. Therefore, the impugned cosmetic goods are infringing intellectual property rights, rendering them prohibited goods for the purpose of import, and are liable to confiscation under Section 111(d) of the Customs Act, 1962, along with consequential penal action under the relevant provisions of the said Act.

Accordingly, the impugned goods Toys and Cosmetics have been imported in contravention of the aforesaid statutory provisions and are therefore liable to confiscation under Section 111(d) of the Customs Act, 1962, being goods imported contrary to prohibition imposed under law.

14.2 Confiscability under Section 111(f) of the Customs Act,1962:-

In the present case, the goods stuffed in container no. ZCSU7871441 were imported under IGM no. 1144559 dated 03.07.2025, Line No-127, Sub Line No-0 and bill of lading viz. Master BL No. -GOSUGZH0563289 dated 19.06.2025. The description of the goods mentioned in the said IGM was "Mini Decorative Plant 95059010". However, during the examination, the goods found in the container were Toys and cosmetics. It was noticed that the description of the goods mentioned in the IGM did not correspond with the goods found in the container No. ZCSU7871441. Apparently, these goods were not declared/ mis-declared in IGM, thus contravening the provisions of Section 30 of the Customs Act, 1962 read with Import Manifest (Vessels) Regulations, 1971. Hence, the mis-declared goods, i.e. Toys and Cosmetics being smuggled in container no. ZCSU7871441 by M/s Aditi

Ventures (IEC-APJPR5240P) are also liable for confiscation under Section 111(f) of the Customs Act, 1962.

14.3 Confiscability under Section 111(i) of the Customs Act,1962:-

Further, Section 111 (i) of the Customs Act, 1962 reads as below:-

Section 111 (i) any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof;"

The goods found concealed in container no. ZCSU7871441 were imported under IGM no. 1144559 dated 03.07.2025, Line No-127, Sub Line No-0 and bill of lading viz. Master BL No. -GOSUGZH0563289 dated 19.06.2025, are liable for confiscation under Section 111 (i) of the Customs Act, 1962.

In absence of the BIS compliance as per the Toys (Quality Control) Order, 2020 dated 25.02.2020, the goods have not complied with the necessary BIS requirement under IS 9873 (Part 1,2,3,4,7,9) and IS 15644: 2006. Further, the cosmetics goods were also not accompanied with the mandatory CDSCO license. Hence, the goods Toys and Cosmetics fall under the category of smuggled goods within the meaning of Section 2(39) of Customs Act, 1962 read with the provisions of Section 2(33) of the Customs Act, 1962.

14.4 In view of the above, the imported mis-declared/ undeclared goods i.e. Toys and Cosmetics covered under Bill of Lading No. GOSUGZH0563289 dated 19.06.2025 and stuffed in Container No. ZCSU7871441, having re-determined value of Rs. 1,37,79,256/- (One Crore Thirty-Seven Lakhs Seventy-Nine Thousand Two Hundred Fifty-Six only), is liable for confiscation under Section 111(d), Section 111 (f) and Section 111(i) of the Customs Act, 1962 read with Toys (Quality Control) Order, 2020 dated 25.02.2020 and in terms of the provisions of the Drugs and Cosmetics Act, 1940, read with the Cosmetics Rules, 2020.

15. ROLES AND CULPABILITY OF PERSONS INVOLVED IN THE CASE

From the evidence collected during the investigation, it appeared that the M/s Aditi Ventures through its Proprietor Shri Hashmukh Vala Ravaria hatched a conspiracy and accordingly played a crucial role in the execution of a well-organised modus operandi for the illegal import of toys and Cosmetics of Chinese origin by way of mis-declaration/ concealment. For the respective acts of omission and commission on their part, it appeared to have rendered said goods liable to confiscation under Section 111 (d), 111 (f) and 111 (i) of the Customs Act, 1962 and accordingly, also rendered themselves liable for penalty, which is discussed below: -

15.1 M/s Aditi Ventures (IEC-APJPR5240P) through its proprietor Shri Hashmukh Vala Ravaria:

Investigations conducted in the case reveal that Shri Hashmukh Vala Ravaria is the Proprietor of M/s Aditi Ventures (IEC: APJPR5240P) and was legally

responsible for managing, controlling and conducting all the affairs of the said firm. The evidence on record establishes that he used the IEC of M/s Aditi Ventures to import restricted goods, namely Toys and Cosmetic Products, under Bill of Lading No. GOSUGZH0563289 dated 19.06.2025, stuffed in Container No. ZCSU7871441. The goods were deliberately mis-declared in the Bill of Lading and Import General Manifest (IGM) as "Mini Decorative Plant" under CTH 95059010, whereas on examination, the consignment was found to contain toys and cosmetic products not declared/concealed, attracting mandatory statutory compliances.

It is observed that Shri Hashmukh Vala Ravaria was the main person who arranged the entire importation, including placing orders with the overseas supplier, coordinating shipment, appointing the Customs Broker, and ensuring clearance of the goods using the IEC of M/s Aditi Ventures. He ensured that his own details appeared on the House Bill of Lading, thereby exercising effective and complete control over the importation process. During his statement before DRI he admitted that the subject consignment covered under Bill of Lading No. GOSUGZH0563289 dated 19.06.2025 belonged to him and that the IEC of M/s Aditi Ventures was used by him for the said import.

During the first week of July 2025, several consignments supplied by the same overseas supplier, M/s HY International Trade Co. Limited, China, and imported by entities such as Cargo Care Agency and Belezza Global Overseas, all declared as "Mini Decorative Plant", were put on hold by DRI, MZU and, upon examination, were found to contain firecrackers and toys. This development alerted both the overseas supplier and Shri Hashmukh Vala Ravaria that consignments originating from the said supplier and bearing identical description were under enhanced scrutiny by Customs and DRI authorities and were likely to be interdicted. In this background, it is evident that the subject consignment in Container No. ZCSU7871441, covered under Bill of Lading No. GOSUGZH0563289, dated 19.06.2025, was also expected by him to be intercepted by DRI, MZU at Hazira Port. Accordingly, Shri Hashmukh Vala Ravaria, attempted to change the port of destination from Hazira (INHZA) to Hong Kong (HKHKG) with the clear intent to evade Customs examination and prevent interception of the consignment.

Further, records reveal that on 01.07.2025, Shri Hashmukh Vala Ravaria had approached the Customs Broker firm M/s ACP Shipping LLP, Hazira, for nomination of Seabird CFS, Hazira, thereby indicating his initial intention to clear the goods for home consumption. However, thereafter, he deliberately ceased all communication with the Customs Broker and failed to file the Bill of Entry for the said consignment even after a lapse of around two weeks from the nomination of the CFS. Such deliberate inaction, coupled with the subsequent attempt to divert the consignment and seek re-export, clearly establishes that Shri Hashmukh Vala

Ravaria, upon becoming aware that consignments of identical description and supplier were being put on hold by DRI, intentionally refrained from filing the Bill of Entry and adopted evasive measures to avoid Customs scrutiny, thereby evidencing his conscious involvement and culpable role in the attempted mis-declared importation.

It is further observed that despite being the importer, Shri Hashmukh Vala Ravaria failed to act with due diligence upon dispatch of the goods from the port of origin. Though he later claimed that the container was cross-stuffed with wrong cargo at the supplier's end, he did not inform the Customs authorities at the earliest point of time nor did he place any contemporaneous documentary evidence on record prior to detection. Records reveal that the container was put on hold by DRI, Mumbai Zonal Unit on 14.07.2025, and it is only thereafter, on 15.07.2025, he intimated Hazira Customs regarding the alleged cross-stuffing and seek permission for re-export. Such delayed disclosure, subsequent to official intervention, clearly indicates absence of bona fide intent and lack of proactive compliance.

Thus, it appeared that Shri Hashmukh Vala Ravaria knowingly and deliberately imported the subject goods with by mis-declaring, concealing, and without the mandatory BIS certification and regarding statutory & other compliances as under Drugs and Cosmetics Act thereof. Thus, through his aforementioned acts of omission and commission, he rendered the said goods liable for confiscation under Sections 111(d), 111(f) and 111(i) of the Customs Act, 1962. Accordingly, for his acts of commission and omission, Shri Hashmukh Vala Ravaria, Proprietor of M/s Aditi Ventures, appeared liable to penalty under Sections 112(a) and of the Customs Act, 1962.

Shri Hashmukh Vala Ravaria accepted that all business activities of the firm M/s Aditi Ventures, from the supply of goods from China up to the sale of said goods to Indian buyers, shipping and then clearance from Customs, as well as financial transactions, were being managed and controlled by him. Shri Hashmukh Vala Ravaria is the person who arranged the loading of the said shipment from China in the name of the his firm M/s Aditi Ventures. He accepted that the subject consignment was ordered to a Chinese supplier by him. He accepted that for the import of Toys and Cosmetics, he did not have any BIS licence and CDSCO license, but he was aware that for the import of Toys and Cosmetics, a BIS license and CDSCO license respectively, were mandatory. He also admitted that there was a lapse on their part when goods had been mis-declared/undeclared in consignment without having a BIS licence and CDSCO license. Shri Hashmukh Vala Ravaria, having been alerted that consignments of identical description and supplier were under Customs scrutiny, deliberately refrained from filing the Bill of Entry and, in collusion with the overseas supplier, attempted to divert the consignment by changing the port of destination to evade interception by Customs and DRI

authorities. Therefore, it appeared that Shri Hashmukh Vala Ravaria, attempted to smuggle toys of Chinese origin and cosmetics, including counterfeit/fake cosmetics by mis-declaring them as 'Mini Decorative Plant. Hence, Shri Hashmukh Vala Ravaria appeared liable to penalty under Section 112 (b) of the Customs Act, 1962, for dealing with the prohibited goods for which he knew and he had reason to believe that they were liable for confiscation under Section 111 of the Customs Act, 1962.

Investigation has revealed that the subject container bearing No. ZCSU7871441, covered under Bill of Lading No. GOSUGZH0563289 dated 19.06.2025, was imported in the name of M/s Aditi Ventures, proprietary concern of Shri Hashmukh Vala Ravaria, and all arrangements relating to procurement, shipment and import of the goods were made by him through the overseas supplier namely M/s HY International Trade Co. Limited, China. The Bill of Lading and other shipping particulars, on the basis of which the Import General Manifest (IGM) No. 1144559 dated 03.07.2025 was filed under Section 30 of the Customs Act, 1962, declared the goods as "Mini Decorative Plant 95059010". However, upon examination of the container, the goods were found to be entirely different, namely Toys and Cosmetics, including counterfeit cosmetic products, which were neither declared in the import documents nor permissible for import without fulfilment of mandatory BIS, CDSCO and IPR requirements.

It is evident that the particulars furnished by the overseas supplier and acted upon for filing of the IGM were materially false and incorrect. Shri Hashmukh Vala Ravaria, being the importer and beneficial owner of the goods, had arranged the import, used his IEC for the transaction, coordinated with the supplier regarding shipment of the container and initiated customs clearance arrangements through the Customs Broker. Further, investigation has brought on record that after similar consignments of the same supplier came under scrutiny by DRI, attempts were made to change the destination of the container and thereafter to re-export the goods, indicating prior knowledge of the true nature of the consignment and an attempt to avoid customs examination. In these circumstances, it appeared that Shri Hashmukh Vala Ravaria, in active connivance with the overseas supplier, caused the filing and use of import documents containing false and incorrect declarations regarding the description and nature of the goods, which ultimately resulted in the filing of a false IGM under Section 30 of the Customs Act, 1962 through the shipping line, in connivance with overseas supplier. Therefore, he appeared liable to a penalty under Section 114 AA of the Customs Act, 1962.

15.2 Gold Star Line Ltd. through their Indian agent namely Star Shipping Services (India) Pvt. Ltd.

The Import General Manifest (IGM) declaration for the consignment imported under Bill of lading No. GOSUGZH0563289 dated 19.06.2025 in the container no.

ZCSU7871441 were imported under IGM no. 1144559 dated 03.07.2025, Line No-127, Sub Line No-0 by the importer - M/s Aditi Ventures were filed by Gold Star Line Ltd. through their Indian agent namely Star Shipping Services (India) Pvt. Ltd. The declarations mentioned in the said Import General Manifest were Mini Decorative Plant. However, Toys and Cosmetics were found to be imported in the said consignment. Therefore, the declaration filed by Gold Star Line Ltd. through their Indian agent namely Star Shipping Services (India) Pvt. Ltd in their IGM under Section 30 of the Customs Act, 1962 read with import manifest (Vessels) Regulations, 1971, was false and incorrect, thus rendering the goods liable for confiscation under Section 111 (f) of the Customs Act, 1962. Hence, for their acts of omission and commission, they appeared liable for penalty under Section 112 (a) of the Customs Act, 1962, read with Section 117 of the Customs Act, 1962.

16. Accordingly, a Show Cause Notice bearing SCN No. DRI/MZU/NS-1/INT-98/ENQ-37/2025 dated 13.06.2026 was issued to M/s Aditi Ventures (IEC-APJPR5240P) through its proprietor Shri Hashmukh Vala Ravaria, and Gold Star Line Ltd. through their Indian agent namely Star Shipping Services (India) Pvt. Ltd., as to why

(i) The value for the imported goods (mis-declared as "Mini Decorative Plant" should not be rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and the value of the imported goods (Toys and Cosmetics) should not be re-determined and held as Rs. 1,37,79,256/- (One Crore Thirty Seven Lakhs Seventy Nine Thousands Two Hundred Fifty Six only) as under Rule 9 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, read with Section 14 of the Customs Act, 1962.

(ii) The said mis-declared goods Toys and Cosmetics seized vide seizure memo dated 18.08.2025 and having value of Rs. 1,37,79,256/- (One Crore Thirty Seven Lakhs Seventy Nine Thousands Two Hundred Fifty Six only) should not be confiscated under Section 111(d), Section 111 (f) and Section 111(i) of the Customs Act, 1962.

(iii) Penalty under Section 112 (a) and 112 (b) of the Customs Act, 1962 should not be imposed on M/s Aditi Ventures.

(iv) Penalty under Section 114 AA of the Customs Act, 1962 should not be imposed on M/s Aditi Ventures.

(v) Penalty under Section 112 (a) of the Customs Act, 1962, read with Section 117 of the Customs Act, 1962 should be imposed on Gold Star Line Ltd. through their Indian agent namely Star Shipping Services (India) Pvt. Ltd.

**17. Defense reply and record of personal hearing:**

17.1 Defense Reply of Noticee No. 1 i.e M/s Aditi Ventures - The noticee has submitted his written defence reply vide email dated 04.09.2026 forwarding a letter dated 18.08.2026 wherein it was informed that the matter may be decided on the basis of the below submission and documents available on record and they don't ish to avail any further personal hearing and submitted that they had placed an order only for Mini Decorative Plants and that the toys, cosmetics and other goods found in the subject container were allegedly shipped due to a mistake/cross-stuffing by the overseas supplier. It was contended that, upon noticing the discrepancy, the supplier was contacted and is stated to have admitted the error, whereupon steps were initiated for amendment of documents and re-export of the wrongly shipped goods. The noticee further submitted that it is merely a victim of the supplier's mistake, had neither ordered nor authorized the shipment of the impugned goods, and that their statements recorded during investigation consistently maintained the same.

The noticee further contended that no Bill of Entry was filed for clearance of the subject goods and, therefore, there was no attempt to clear the goods by misdeclaration. It was also submitted that the request for amendment of documents and re-export cannot be construed as evidence of prior knowledge, collusion or conscious involvement in the import of the impugned goods. The noticee stated that they are not engaged in the business of importing such goods, did not possess the requisite regulatory approvals for their import, has no claim over the impugned goods and does not seek their release. Lastly, it was argued that mere issuance of the Bill of Lading in their name, in the absence of evidence establishing conscious involvement in ordering, arranging or importing the impugned goods, is insufficient to attract penal liability.

**17.2** Defense Reply of Noticee No. 2 i.e., Gold Star Line Ltd. through their Indian agent namely Star Shipping Services (India) Pvt. Ltd.

The Noticee's vide letter dated 23.06.2026 submitted that that the container was stuffed and sealed at the shipper's/factory premises in China and was handed over at the Port of Loading in sealed condition on CY/CFS basis. The Bill of Lading was issued on "Shipper's Load, Stow and Count (SLAC)" basis. Accordingly, the carrier claims that it had no role in stuffing, counting or verification of the actual contents of the container.

(i) The Noticee has further submitted that the **Import General Manifest (IGM)** was filed under Section 30 of the Customs Act solely on the basis of the information and documents supplied by the shipper at the Port of Loading. It has stated that it had no independent means of verifying the contents of a sealed container.

(ii) It has also been contended that the container reached the Port of Discharge with the **seal intact**. The Panchnama dated **18.07.2025** is relied upon, wherein the seal was reportedly verified and found intact. According to the Noticee, this establishes that there was no opportunity for the carrier to know the actual contents of the container during transit.

(iii) The Noticee has argued that the allegations essentially relate to **misdeclaration/concealment by the importer/exporter**, and that no specific role, knowledge, abetment, collusion or intentional act/omission has been attributed to the carrier. It has therefore claimed that the essential ingredients for imposition of penalty under Section 112(a) are not established against it.

(iv) In support of its submissions, the Noticee has relied upon various judicial decisions, particularly **Commissioner of Customs (Import) v. Trinetra Impex Pvt. Ltd.**, wherein the Delhi High Court considered the absence of mens rea/conscious knowledge and active involvement in deciding the sustainability of penalty against a customs agent. The Noticee has also relied upon other CESTAT decisions concerning penalties under Sections 112/117 and the requirement of knowledge or active involvement.

(v) The Noticee has accordingly requested that the **SCN against the carrier be dropped in toto** and that no fine or penalty under **Section 112(a) read with Section 117 of the Customs Act, 1962** be imposed, on the ground that there is no evidence establishing its knowledge, involvement, abetment or collusion in the alleged misdeclaration.

Both noticees were given opportunity for personal hearing on 22.07.2026, 06.08.2026 & 19.08.2026. The letters for personal hearings were issued to both noticees at their recorded address, as well as copies were also emailed to the provided email ID of the noticee.

In response to the PH letters, M/s Aditi Ventures (Noticees No. 01) failed to appear and represent their case. In the instant case, M/s Aditi Ventures (Noticees No. 01) have been granted sufficient opportunity of being heard in person on three occasions, but they failed to appear on any of them. Further, I observe that M/s. Aditi Ventures(Noticee No. 1) neither requested for any adjournment nor appeared in any PH and vide their letter dated 18.08.2026 (received on email on 04.09.2026) have informed that the matter may be decided on the basis of the below submission and documents available on record and they do not wish to avail any further personal hearing.

Further, the Noticee No. 02, also attended Personal Hearing on 30.07.2026 through their authorized representative for the Noticee's and stated that they reiterated their submissions.

**18. Discussion and Findings:**

18.1 I have carefully gone through the Show Cause Notice, the submissions made by the noticees in written as well as during the course of the personal hearing and available records of the case. The issues for consideration before me in these proceedings are as under:-

**(i)** Whether the impugned mis-declared goods Toys and Cosmetics seized vide seizure memo dated 18.08.2025 liable to be confiscated under Section 111(d), Section 111 (f) and Section 111(i) of the Customs Act, 1962 or not.

**(ii)** Whether the value for the imported goods (mis-declared as "Mini Decorative Plant" liable to be rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and the value of the imported goods (Toys and Cosmetics) liable to be re-determined and held as Rs. 1,37,79,256/- (One Crore Thirty Seven Lakhs Seventy Nine Thousands Two Hundred Fifty Six only) as under Rule 9 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, read with Section 14 of the Customs Act, 1962 or not.

**(iii)** Whether Penalty under Section 112(a), Section 112(b) and Section 114AA of the Customs Act, 1962 should be imposed on M/s. Aditi Ventures or not.

**(iv)** Whether Penalty under Section 112 (a) of the Customs Act, 1962, read with Section 117 of the Customs Act, 1962 liable to be imposed on Gold Star Line Ltd. through their Indian agent namely Star Shipping Services (India) Pvt. Ltd. or not.

***Whether the impugned mis-declared goods Toys and Cosmetics seized vide seizure memo dated 18.08.2025 liable to be confiscated under Section 111(d), Section 111 (f) and Section 111(i) of the Customs Act, 1962 or not.***

18.2 I have carefully gone through the Show Cause Notice, the Panchnama dated 18.07.2025, statements recorded under Section 108 of the Customs Act, 1962, the Chartered Engineer's reports, the IPR verification reports, the written submissions dated 18.08.2026 filed by Shri Hashmukh Vala Ravaria on behalf of M/s Aditi Ventures and the records available on file. The noticee submitted that the goods found in the container were not ordered by them and that the toys and cosmetics were shipped due to cross-stuffing or mistake at the supplier's end. The noticee has further contended that no Bill of Entry was filed, the goods were never sought to be cleared for home consumption.

18.3 I find that the subject container No. ZCSU7871441 covered under Bill of Lading No. GOSUGZH0563289 dated 19.06.2025 was imported in the name of M/s Aditi

Ventures and the consignee named in the Bill of Lading as well as in the Import General Manifest was M/s Aditi Ventures. Shri Hashmukh Vala Ravaria himself admitted in his statements that the subject container had been ordered by him through Mr. Leo and that the shipment was arranged through M/s. HY International Trade Co. Limited, China. Thus, I observe that the subject import transaction was undertaken under the IEC held by the noticee.

18.4 I further observe that the defence of "wrong shipment" or "cross-stuffing" remains a mere assertion unsupported by cogent evidence. The noticee stated that the relevant communications were available in a mobile phone which is untraceable. Accordingly, the contention is devoid of evidentiary support and such unsupported explanation cannot displace the documentary evidence. I find that the noticee has failed to substantiate his claim that the toys and cosmetics were erroneously shipped by the supplier without his knowledge. Despite repeated assertions to that effect, no contemporaneous documentary evidence, such as purchase orders, supplier correspondence, email or chat records, commercial negotiations, debit notes, or other supporting documents, has been produced either during the investigation or adjudication.

18.5 I find that the sequence of events is inconsistent with the defence of inadvertent cross-stuffing. The records reveal that after filing of the IGM on 03.07.2025, the overseas supplier sought change of destination from Hazira to Hong Kong on 10.07.2025, followed by a request from the importer on 11.07.2025 for change of port, and thereafter a request for re-export on 14.07.2025. Significantly, the plea of cross-stuffing was raised only after the container was put on hold by DRI on 14.07.2025 and was communicated to Customs on 15.07.2025. I further find that, during the first week of July 2025, DRI had already intercepted other consignments imported from the same supplier, H Y International Trade Co. Limited, declared as “Mini Decorative Plant”, which were found to contain toys and firecrackers. In these circumstances, the requests for change of destination, change of port and subsequent re-export appear to pre-empt the likelihood of Customs scrutiny rather than a genuine attempt to rectify an inadvertent supplier error. Accordingly, I do not find the plea of cross-stuffing or wrong shipment to be acceptable and hold the same to be an afterthought which was canvassed only after departmental intervention.

18.6 I also do not find merit in the contention that since no Bill of Entry was filed, no offence was committed. A plain reading of Sections 2(23), 2(25), 2(26), 111(d), 111(f) and 111(i) of the Customs Act, 1962 makes it clear that confiscability of goods is not dependent upon filing of a Bill of Entry. The subject goods had already entered Indian Customs waters and were imported in the name of the noticee. The goods were found to be entirely different from the goods declared in the Bill of Lading and

IGM. Therefore, the absence of a Bill of Entry does not obliterate the acts of importation, misdeclaration and concealment already completed prior to detection.

18.7 I find that examination of the container under Panchnama dated 18.07.2025 conclusively established that instead of the declared goods "Mini Decorative Plant", the container was stuffed with huge quantities of toys and cosmetics. A total quantity of 1,79,302 units comprising toys and cosmetic products was found in the container. The Chartered Engineer also confirmed that the goods were toys, cosmetic items and related products and not decorative plants. Therefore, the misdeclaration of the imported goods stands conclusively established through physical examination and independent expert verification.

18.8 I further find that the toys imported in the subject consignment were not accompanied by the mandatory BIS certification required under the Toys (Quality Control) Order, 2020 and Policy Condition 2 of Chapter 95. Similarly, the cosmetic products were imported without the mandatory CDSCO registration prescribed under the Cosmetics Rules, 2020 and the Drugs and Cosmetics regulatory framework. Shri Hashmukh Vala Ravaria himself admitted that he did not possess BIS certification or CDSCO permissions required for import of such goods. Consequently, the goods were imported in contravention of statutory restrictions and therefore assume the character of prohibited goods within the meaning of Section 2(33) of the Customs Act, 1962.

18.9 I also find that the IPR verification conducted through the concerned right holders established that substantial quantities of cosmetic products bearing the brands Revlon, Huda Beauty, Lakme, Bobbi Brown and M.A.C. were counterfeit and not genuine products of the respective brands. Therefore, in addition to the violations under the BIS and CDSCO regime, a part of the seized cosmetics were also imported in contravention of the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007, rendering them liable for confiscation under Section 111(d) of the Customs Act, 1962.

18.10 I have also considered the plea that the noticee does not deal in toys and cosmetics and is engaged only in the business of Mini Decorative Plants. However, I find that the mere assertion regarding the nature of the business cannot outweigh the documentary trail and the actual goods imported in the noticee's name. The entire import transaction, from placement of order to movement of the container and nomination of the CFS, was undertaken using the IEC of the noticee. Therefore, the noticee cannot completely disassociate himself from the importation by merely blaming the foreign supplier.

18.11 In view of the foregoing discussions and findings, I hold that the defence of cross-stuffing and wrong shipment advanced by M/s Aditi Ventures is not supported by reliable evidence and does not inspire confidence. I further hold that the goods imported under Bill of Lading No. GOSUGZH0563289 dated 19.06.2025 were grossly misdeclared as Mini Decorative Plants whereas the actual goods imported were toys and cosmetics, including counterfeit cosmetic products, imported without mandatory BIS certification and CDSCO registration. **I therefore hold that the impugned goods are liable to confiscation under Sections 111(d), 111(f) and 111(i) of the Customs Act, 1962.**

***Whether the value for the imported goods (mis-declared as "Mini Decorative Plant" liable to be rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and the value of the imported goods (Toys and Cosmetics) liable to be re-determined and held as Rs. 1,37,79,256/- (One Crore Thirty Seven Lakhs Seventy Nine Thousands Two Hundred Fifty Six only) as under Rule 9 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, read with Section 14 of the Customs Act, 1962 or not.***

18.12 I find that once the description and nature of the goods are found to be materially incorrect, reasonable doubt arises regarding the truth and accuracy of the declared transaction value. Accordingly, the declared value becomes unacceptable in terms of Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

18.13 I observe that Rule 12 of the Customs Valuation Rules, 2007 provides that where the proper officer has reason to doubt the truth or accuracy of the declared value and such doubt persists after considering the available information, the declared transaction value shall not be accepted under Rule 3. In the present case, since the goods themselves were found to be materially different from those declared by the importer, the foundation on which the declared transaction value was based stood vitiated. Therefore, I hold that the assessable is required to be re-determined by sequentially proceeding in terms of Rules 4 to 9 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

18.14 Since the import data extracted with respect to contemporaneous imports was general in nature, and contemporaneous data for imports of identical or similar goods was not available or found, the value could not be determined under Rules 4 and 5 of the CVR, 2007. As per Rule 6 ibid, if the value cannot be determined under Rules 3, 4, and 5, it shall be determined under Rule 7; and if it cannot be determined under Rule 7, then under Rule 8. However, the domestic market lacks sufficient sales data for identical or similar goods with comparable variety, specifications, quality, and dimensions necessary for valuation under Rule 7. Further, substantial data

related to the cost or value of materials, fabrication, or other processing employed in producing the imported goods, which is required to compute the value under Rule 8, is also not available. Therefore, the valuation of the impugned goods could not be ascertained under Rules 7 or 8, and hence, the value is to be determined in terms of Rule 9 of the CVR, 2007. Therefore, the value of the subject import consignments is to be determined on the basis of the valuation submitted by the Govt. approved Charted Engineer as per the provision of the Section 14 of the Customs Act, 1962 read with Rule 3 and Rule 9 of the Customs Valuation (Determination of value of the Imported Goods) Rules, 2007. For this purpose, reliance was placed on the Govt. Empanelled Chartered Engineer's valuation report No. BB/G-18/25/AV/HAZIRA/DRI dated 31.07.2025 and the addendum valuation report dated 18.02.2026 and the assessable value arrived as Rs. 1,37,79,256/-.

18.15 Further, to fortify my above stand for re-valuation of aforesaid goods, I rely on the ratio of the following decision:

(a) **Hon'ble Tribunal in the case of R.N. Metal (India) Pvt. Limited v. Commissioner — 2019(366) E.L.T. 568 (Tri.- Del.) has held as under:**

> "15. It has been emphasised again and again before us on behalf of the appellant that the Pre-inspection Certificate obtained at the load port has certified the goods as scrap. But we are of the view that for purposes of assessment of imported goods, the examination of goods at the port in India is more relevant. Hence, we are inclined to give more credence to the opinion of the experts obtained locally. The three experts commissioned by Customs has unanimously opined that the impugned goods were new 'Grinding Media Balls'. Sh. I.P.S. Arora, Chartered Engineer who has originally given a contrary opinion, has during cross-examination, retracted his original view. In the above scenario, we are of the view that the order passed by the lower authority, who has gone by the majority of the opinions, merits no interference. His views are quoted below with our approval.
>
> "In light of the facts as mentioned above available on records as discussed in point Nos. (A) to (H) above I find that for classifying the goods under above heading there is no pre-condition of fulfilment of condition of specification as per IS standard. As well as in all the report of experts, every expert including National Test House, CRCL, independent expert, chartered engineer have accepted that goods in questions are Grinding Media Balls. As regards whether the imported grinding media balls are new or old one, in my opinion the same can be verified by visual inspection of all the three experts Sh. B.K. Sharma, Sh. P.C. Sanghi and Sh. V.K. Sanghi have opined that the goods imported were Grinding Media Balls. As regards National Test House reports it is provided that goods examined by them are grinding media balls having size as per packing slip and ball diameter within specified value, but not confirming to the IS specification in respect of hardness and chemical composition. Sh. Rakesh Saini, Scientist Incharge of National Test House in his statement has stated that as

their test house is not technically equipped to test and make comments in respect of the condition of the Grinding Media Balls samples i.e. whether New or Old forwarded by appellant to their office. In the Customs Tariff Act, [1975], for classification of the goods under Chapter Headings 7325 and 7326, there is no pre-condition of fulfilment of condition of IS specification, end use of the goods, etc. In the panchnama dated 20-11-2013 it is also described that old and used grinding media balls which cannot be used as Grinding Media Balls already not included in the quality of seized goods. I therefore, uphold the findings of the Adjudicating Authority regarding classification of goods in question.

12. The appellant has declared the goods in their documents submitted to the department at the time of importation classified the same as Alloy Melting Scrap falling under Chapter 7204 29 90 of the Customs Tariff Act, 1975. As discussed in the previous para it is clear that the classification of the goods i.e. Grinding Media Balls 53.240 MT falling under Chapter 7325 of the Customs Tariff Act, 1975 as determined by the department after investigation of the case. Therefore, after investigation, the fact of the misdeclaration of classification of goods in question was detected. **Once, the misdeclaration of classification of goods was sustained, the value declared by the appellant would automatically be required to be redetermined.** Thus, the view taken by the Adjudicating Authority in the matter is correct, accordingly I uphold the same.""

18.16 Accordingly, I hold that the value for the imported goods (mis-declared as "Mini Decorative Plant" liable to be rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and the value of the imported goods (Toys and Cosmetics) re-determined as Rs. 1,37,79,256/- (One Crore Thirty Seven Lakhs Seventy Nine Thousands Two Hundred Fifty Six only) as under Rule 9 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, read with Section 14 of the Customs Act, 1962 for the purpose of determining the applicable customs duties and other levies in accordance with law.

***Whether Penalty under Section 112(a), Section 112(b) and Section 114AA of the Customs Act, 1962 should be imposed on M/s. Aditi Ventures or not.***

**18.17 Penalty under Section 112(a) and 112(b) of the Customs Act, 1962**

18.17.1 I have carefully considered the written submissions filed by Shri Hashmukh Vala Ravaria and the evidences available on record. The noticee has contended that the toys and cosmetics found in the container were not ordered by him and that the same were shipped mistakenly by the overseas supplier due to cross-stuffing. However, I do not find merit in the said contention. I find that the subject consignment was admittedly imported in the name of M/s Aditi Ventures under the IEC held by the noticee and that the entire import transaction, including

placement of order, coordination with the overseas supplier, transportation of the cargo and nomination of CFS, was undertaken by the noticee himself.

18.17.2 I further find that examination of Container No. ZCSU7871441 revealed that instead of the declared goods "Mini Decorative Plant", the container was stuffed with toys and cosmetics in huge quantities. The noticee admittedly did not possess BIS compliance for import of toys nor CDSCO registration for import of cosmetics. Consequently, the imported goods were prohibited goods and stood imported in contravention of statutory restrictions. The goods have already been held liable to confiscation under Sections 111(d), 111(f) and 111(i) of the Customs Act, 1962.

18.17.3 I further find that several consignments imported from the same overseas supplier and declared as "Mini Decorative Plant" had already come under DRI scrutiny during the first week of July 2025. Thereafter, attempts were made first by the supplier to change the port of destination and subsequently by the importer to alter the course of the shipment and seek re-export. These events indicate that the noticee was aware of the serious irregularities associated with the consignment and sought to avoid Customs examination after becoming aware of the likelihood of interception.

18.17.4 Accordingly, I hold that by his acts and omissions discussed hereinabove, Shri Hashmukh Vala Ravaria rendered the impugned goods liable to confiscation under Sections 111(d), 111(f) and 111(i) of the Customs Act, 1962. Therefore, I hold that the ingredients of Section 112(a) stand fully established and M/s. Aditi Ventures is liable to penalty under Section 112(a) of the Customs Act, 1962.

18.17.5 As regards the proposal for penalty under Section 112(b), I find that the said provision is intended to cover a person who acquires possession of, carries, removes, deposits, harbours, keeps, conceals, sells, purchases or otherwise deals with goods which he knows or has reason to believe are liable to confiscation. Thus, the gravamen of the offence is already covered by Section 112(a). No separate or distinct evidence has been brought on record to establish an independent role falling within the scope of Section 112(b), over and above the acts for which the importer is being penalized under Section 112(a). I also find that imposition of simultaneous penalties under Sections 112(a) and 112(b) on the same set of facts, without establishing separate and distinct acts attracting each clause independently, would not be justified. Since the culpability of the importer has already been addressed under Section 112(a), and the evidence on record does not disclose any separate conduct warranting invocation of Section 112(b). **Accordingly, I hold that no**

**separate penalty is imposable upon the noticee under Section 112(b) of the Customs Act, 1962.**

**18.18 Penalty under Section 114AA of the Customs Act, 1962**

18.18.1 I find that Section 114AA contemplates penalty only where a person knowingly or intentionally makes, signs, 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 under the Customs Act. Thus, the essential ingredient for invocation of Section 114AA is the existence of conscious knowledge and deliberate use of a false or incorrect document.

18.18.2 I find that the subject goods were imported under Bill of Lading No. GOSUGZH0563289 dated 19.06.2025 wherein the goods were declared as "Mini Decorative Plant 95059010". However, examination revealed that the container actually contained toys and cosmetics including counterfeit cosmetics. The declaration in the shipping documents was thus materially false and incorrect.

18.18.3 I further find that the noticee was not a stranger to the transaction. He himself arranged the import, coordinated with the overseas supplier, used his IEC for the import transaction and initiated Customs clearance arrangements through the Customs Broker. The evidence on record also reveals that after consignments of the same supplier came under DRI scrutiny, attempts were made to change the destination and subsequently re-export the goods. The non-filing of Bill of Entry by the importer before the arrival of the goods as required under the Section 46 of the Customs Act, 1962 prima facie establishes his knowledge of the goods being imported and associated risks in clearance.

18.18.4 I find that the false declaration describing the goods as "Mini Decorative Plant" formed the basis for the Bill of Lading and the Import General Manifest filed before Customs. By arranging the import and causing these documents to be used in Customs proceedings despite the goods actually consisting of toys and cosmetics, including restricted and counterfeit products, the noticee knowingly caused false and incorrect material particulars to be used in connection with importation of goods.

18.18.5 Accordingly, I hold that the ingredients required for invocation of Section 114AA of the Customs Act, 1962 stand established. **Therefore, I hold that M/s. Aditi Ventures is liable to penalty under Section 114AA of the Customs Act, 1962.**

***Whether Penalty under Section 112 (a) of the Customs Act, 1962, read with Section 117 of the Customs Act, 1962 liable to be imposed on Gold Star Line Ltd. through their Indian agent namely Star Shipping Services (India) Pvt. Ltd. or not.***

18.19 I have carefully considered the Show Cause Notice, written submissions, statement of Shri Prasad Sakharam Shelke and the records available on file. The Noticee has submitted that the subject container was received in sealed condition "Shipper's Load, Stow and Count (SLAC)" basis; that the Bill of Lading and IGM were filed on the basis of declarations furnished by the shipper; and that neither the carrier nor its Indian agent had any knowledge of the actual contents of the container.

18.20 I have carefully considered the above submissions. I find that the container was received by the carrier in sealed condition and the particulars declared in the Bill of Lading and IGM were based on the cargo declaration furnished by the shipper. The statement of Shri Prasad Sakharam Shelke corroborates that the carrier had no role in stuffing or verification of the cargo at the foreign port. Further, the investigation has not brought on record any evidence showing that the carrier had access to the contents of the sealed container prior to its arrival in India.

18.21 I further find that the Panchnama dated 18.07.2025 records that the container seal was found intact at the time of examination. No evidence has been brought on record to establish tampering, substitution or handling of the cargo by the carrier during transit. These facts support the contention that the carrier had no opportunity to verify or ascertain the actual contents of the container.

18.22 I also find that the allegation in the Show Cause Notice relates to misdeclaration of the goods as “Mini Decorative Plant”, whereas the actual goods were found to be toys and cosmetics. The investigation attributes such misdeclaration to the importer and the overseas supplier. No evidence has been adduced to establish that the carrier or its Indian agent knowingly participated in, abetted or facilitated such misdeclaration. Mere filing of the IGM on the basis of documents received from the shipper cannot, by itself, establish knowledge or involvement in the offence.

18.23 I have also gone through the judicial decisions relied upon by the Noticee, including Commissioner of Customs (Import) v. Trinetra Impex Pvt. Ltd.. and find that that penalty cannot be imposed in the absence of conscious knowledge, active involvement, connivance or abetment. In the present case, no evidence has been brought on record establishing that the carrier was aware of the actual contents of the container. Accordingly, the ratio of the aforesaid decisions supports the case of the Noticee.

18.24 I further find that Section 112(a) of the Customs Act, 1962 requires an act, omission or abetment which renders the goods liable to confiscation. The evidence on record does not establish that Gold Star Line Ltd. or its Indian Agent Star Shipping Services (India) Pvt. Ltd., has committed any such act or omission, nor is there any material evidencing knowledge, connivance or abetment in the import of the misdeclared goods. The carrier merely transported the container and filed the IGM in the ordinary course of business based on the declarations furnished by the shipper.

18.25 As regards the proposal for penalty under Section 117 of the Customs Act, 1962, I find that the investigation has not established any independent contravention of the provisions of the Act, Rules or Regulations by the carrier. No evidence has been brought on record to show deliberate filing of incorrect particulars or failure to comply with any statutory obligation despite knowledge of the true facts.

18.26 In view of the foregoing discussions and findings, I hold that there is no conscious knowledge, active involvement, connivance or abetment on the part of Gold Star Line Ltd. or its Indian Agent Star Shipping Services (India) Pvt. Ltd. in relation to the impugned import. Accordingly, I hold that the ingredients required for imposition of penalty under Section 112(a) and Section 117 of the Customs Act, 1962 are not established and therefore, I refrain from imposing any penalty upon Gold Star Line Ltd. through its Indian Agent Star Shipping Services (India) Pvt. Ltd.

19. In view of the above discussion and findings, I pass the following order:

## ORDER

i. I reject the value of impugned goods (mis-declared as "Mini Decorative Plant") under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and I determine the value of the imported goods (Toys and Cosmetics) to **Rs. 1,37,79,256/- (Rupees One Crore Thirty Seven Lakh Seventy Nine Thousands Two Hundred Fifty Six Only**) in terms of the Rule 3 and Rule 9 of the Customs Valuation (Determination of value of the Imported Goods) Rules, 2007.

ii. I order for absolute confiscation of the mis-declared goods **"Toys and Cosmetics"** seized vide seizure memo dated 18.08.2025 under Section 111(d), 111(f) and Section 111(i) of the Customs Act, 1962.

iii. I impose a penalty of **Rs. 50,00,000/- (Rupees Fifty Lakh Only)** on M/s. Aditi Ventures under Section 112(a) of the Customs Act, 1962.

iv. I impose a penalty of **Rs. 25,00,000/- (Rupees Twenty Five Lakh Only)** on M/s. Aditi Ventures under Section 114AA of the Customs Act, 1962.

v. I refrain from imposing penalty on M/s. Gold Star Line Ltd., through their Indian agent namely Star Shipping Services (India) Pvt. Ltd under Sections 112(a) of the Customs Act, 1962, read with Section 117 of the Customs Act, 1962.

20. This Order is issued without prejudice to any other action that may be taken against the importer or persons or imported goods under the provisions of the Customs Act, 1962 or any other law for the time being in force in India.

Digitally signed by
S SATHIANARAYANAN
Date: 16-10-2026
11:30:30

(S. Sathianarayanan)
Additional Commissioner
Ahmedabad Customs

F.No. GEN/ADJ/ADC/984/2026-ADJN-O/o PR COMMR-CUS-AHMEDABAD
DIN-20261071MN0000BC2317

To
1. M/s. Aditi Ventures (IEC-APJPR5240P),
through its Proprietor, Shri Hashmukh Vala Ravaria,
Address- Room No. 4, Mateshwari Society, LBS Nagar,
90 Feet Road, Sakinaka, Mumbai-400072,
E-mail: aditiventures144@gmail.com

2. M/s. Gold Star Line Ltd. through their Indian agent namely Star Shipping Services (India) Pvt. Ltd.,
Third Floor, Raheja Centre Point, 294,
C.S.T. Road, Kalina, Santacruz (E), Mumbai-400098
Email:- in.import@goldstarline.com

Copy to:
(i) The Commissioner, Customs Ahmedabad (K/A: RRA Section).
(ii) The Deputy/Assistant Commissioner of Customs, Hazira Port.
(iii) The Superintendent, Customs, H.Q. (Systems), Ahmedabad
(iv) The Superintendent (Task Force), Customs-Ahmedabad
(v) Guard File