
	OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOMS HOUSE, MP & SEZ MUNDRA, KUTCH-GUJARAT -370421 PHONE : 02838-271426/271428 FAX :02838-271425	
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A	File No.	CUS/AG/MISC/1010/2025-Gr 3-O/o Pr Commr-Cus-Mundra
B	OIO No.	MCH/ADC/ZDC/94/2025-26
C	Date of Order	19.06.2025
D	Passed by	Dipak Zala Additional Commissioner, Import Assessment, Custom House, Mundra.
E	SCN No./IR No. & Date	CUS/SIIB/MISC/312/2025-SIIB dated 10.06.2025
F	Noticee / Party / Importer	M/s. Shiva Enterprises G-6, Vinayak Tower, Central Spine, Vidhyadhar Nagar, Jaipur-302039
G	DIN	20250671MO000000D8BE

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

The Commissioner of Customs (Appeal), MUNDRA,
Office at 7th floor, Mridul Tower, Behind Times of India,
Ashram Road, Ahmedabad-380009

3. Appeal shall be filed within Sixty days from the date of Communication of this Order.
4. Appeal should be accompanied by a Fee of Rs. 5/- (Rupees Five Only) under Court Fees Act it must accompanied by (i) copy of the Appeal, (ii) this copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five Only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.
5. Proof of payment of duty / interest / fine / penalty / deposit should be attached with the appeal memo.
6. While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respect.
7. An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty or Penalty are in dispute, where penalty alone is in dispute.

Brief facts of the case

M/s. Shiva Enterprises (IEC: ANQPP6845F) (hereinafter referred to as 'the importer' for the sake of brevity) having address at G-6, Vinayak Tower, Central Spine, Vidhyadhar Nagar, Jaipur-302039, had filed Bill of Entry (for SEZ Import Z Type) No. 8175375 dated 04.02.2025 for import of the following declared goods having weight of 16541.30 kgs under Bill of Lading No. EGLV143469553252 dated 03.01.2025 through Container No. EISU8551416:

Item Sr. No. in the BE	Declared CTH	Declared Goods	Declared Unit Price (in USD)	Declared Quantity	Declared Assessable Value (in Rs.)	Declared Duty (in Rs.)
1	54075290	Polyester Dyed Fabric width 58 inch	0.475156/SQM	1585.1632 SQM	65,604/-	45,390/-
2	54075300	Polyester Yarn Dyed Fabric width 58 inch	1.357589/SQM	61575.04576SQM	72,81,003/-	24,97,626/-
3	60063200	Polyester Knitted Fabric width 58 inch	6/KGS	2276.4 KGS	11,89,647/-	3,61,845/-
4	55162200	Viscose Nylon Blended Fabric width 58 inch	8.5/KGS	2549 KGS	18,87,152/-	5,35,972/-
Total					1,04,23,406/-	34,40,833/-

2. The above said consignment was put on hold by DRI, Ahmedabad Zonal Unit for examination on the basis of intelligence on suspected misdeclaration/mis-classification in import of fabrics through Mundra SEZ. The consignment was examined by the DRI officers under Panchnama dated 19.02.2025 in the SEZ Warehouse of M/s. Holistic Global Corporation, FTWZ, Mundra in the presence of the Panchas and Shri Amol Prakash Patil, Warehouse Executive of M/s. Holistic Global Corporation. During the examination, weight of the goods was found to be 16240 kgs and quantity of goods was found tallied with detailed packing list and samples of the above said 4 items were drawn for testing.

2.1. Samples were sent to the Central Revenues Control Laboratory, New Delhi by DRI, AZU under following Test Memos for which Test Reports are as under:

Query Sr. No.	Test Memo No.	01/Shiva Enterprises/BE No. 8175375 dated 26.02.2025	02/Shiva Enterprises/BE No. 8175375 dated 26.02.2025	03/Shiva Enterprises/BE No. 8175375 dated 26.02.2025	04/Shiva Enterprises/BE No. 8175375 dated 26.02.2025
	Item Description in	Polyester Dyed	Polyester Yarn		Viscose Nylon

	BE	Fabric CTH: 54075290	Dyed Fabric CTH: 54075300	Polyester Knitted Fabric CTH: 60063200	Blended Fabric CTH: 55162200
1.	Description of the sample as received	Cut piece of dyed (grey coloured) woven fabric	Cut piece of yarn dyed (white and pink coloured) woven fabric	Cut piece of bonded fabric	Cut piece of yarn dyed (green and blue coloured) woven fabric
2.	Composition	Polyester and elastomeric yarns	Polyester	Both layers (black & dark green) are knitted fabric made of Polyester along with elastomeric yarn	Viscose and nylon
3.	%age composition	Polyester = 90.08% Elastomeric yarns = 9.92%	Wholly made of polyester	Polyester=93.11 Elastomeric yarn=5.28 Adhesive = balance	Viscose= 83.97% Nylon = balance
4.	Whether coated/impregnated	NA	NA	NA	NA
5.	Whether staple spun yarn/filament yarn/staple fibre	Filament yarn	Spun yarn	Filament yarn	Spun yarn / Monofilament yarn
6.	Whether Texturized/ Non-Texturized	Textured	NA	NA	NA
7.	Whether fabric is bleached/unbleached/dyed/yarns of different colors	Dyed	Yarn Dyed	Dyed	Yarn Dyed
8.	GSM	129	164	315.0	94.0
9.	Tenacity of yarn	NA	NA	NA	NA
10.	Bonded fabric or not	Other	Other	Yes	Other
11.	Whether pile fabric or not	Other	Other	Other	Other

2.1.1 Subsequently, the matter was then transferred by DRI, AZU to SIIB, Custom House, Mundra vide their letter dated 26.03.2025 for further investigation/recovery under the Customs Act, 1962.

2.2. The above said Test Reports were shared with the importer who vide their email dated 28.04.2025 has confirmed and accepted all the test reports.

3. As per the above said Test Reports, item nos. 1 and 4 appear to be rightly classified by the importer in the BE whereas item no. 2 and 3 appear to be misclassified by the importer, detailed as under:

Item Sr. No. in BE	Description of Goods in the BE	Declared CTH	Appropriate CTH as per Test Reports
1	Polyester Dyed Fabric width 58 Inch	54075290	54075290
2	Polyester Yarn Dyed Fabric width 58 Inch	54075300	55121910
3	Polyester Knitted Fabric width 58 Inch	60063200	60041000
4	Viscose Nylon Blended Fabric width 58 Inch	55162200	55162200

3.1. Item No. 1 of the subject BE has been classified by the importer

under CTH: 54075290. The entries under the CTH 5407 are as under:

5407 Woven fabrics of synthetic filament yarn, including woven fabrics obtained from materials of heading 5404

....

-Other woven fabrics, containing 85% or more by weight of textured polyester filaments :

....

5407 -Dyed :

52 -

5407 -Polyester shirtings

52 10 -

-

5407 -Polyester suitings

52 20 -

-

5407 -Terylene and dacron sarees

52 30 -

-

5407 -Polyester sarees

52 40 -

-

5407 -Other

52 90 -

-

As per the test report received from CRCL, New Delhi, sample of item no. 1 is dyed woven fabric composed of textured 90.08% Polyester and 9.92% elastomeric yarns. Since the sample is dyed woven fabric and contains more than 85% of textured polyester filaments, it has been rightly classified by the importer under CTH 54075290 as can be seen from above entries under CTH 5407.

3.2. Item No. 2 of the subject BE has been classified by the importer under CTH: 54075300 whereas as per the Test Report, correct CTH of the goods appear to be 55121910. The entries under the CTH 5512 are as under:

5512 Woven fabrics of synthetic staple fibres, containing 85% or more by weight of synthetic staple fibres

-Containing 85% or more by weight of polyester staple fibres :

5512 11 --Unbleached or bleached :

5512 11 --Unbleached

10 -

5512 11 --Bleached

20 -

5512 19 --Other :

5512 19--Dyed

10 -
 5512 19--Printed
 20 -
 5512 19--Other
 90 -

From the plain reading of CTH 5512, it is clear that woven fabrics of synthetic staple fibres, containing 85% or more by weight of synthetic staple fibres are classifiable under the CTH. As per the test report of sample of item no. 2 of the BE, goods are yarn dyed woven fabric composed wholly of polyester spun yarn.

Spun yarn is made by straightening and twisting short/small staple fibres and hence, described in terms of staple fibres. That is why, in headings of Chapter 55, the description is given in terms of staple fibres and not as spun yarns. Hence, item no. 2 viz. yarn dyed woven fabric composed wholly of polyester spun yarn, is rightly classifiable under CTH 55121910.

Duty structure for the declared CTH: 54075300 is BCD: 20% or **Rs. 30 per sq. mtr.**, whichever is higher, SWS: 0%, IGST: 5% and for the ascertained CTH: 55121910 is BCD: 20% or **Rs. 25 per sq. mtr.**, whichever is higher, SWS: 0%, IGST: 5%. SWS is exempted for CTH: 54075300 and 551219 under Notification No. 11/2018-Customs dated 02.02.2018 as amended; however, the exemption has not been claimed by the importer against the said item while filing the subject bill of entry. In view of the same, duty comparison for both the CTHs is as below:

Customs Duty	Duty under declared CTH: 54075300	Duty under Appropriate CTH: 55121910
Quantity (in Sq.Mtr.)	61,575.05	61,575.05
Assessable Value	72,81,003/-	72,81,003/-
BCD	18,47,252/- (Rs. 30 x Qty in sq. mtr)	15,39,376/- (Rs. 25 x Qty in sq. mtr)
SWS	1,84,725/-	0
IGST	4,65,649/-	4,41,019/-
Total	24,97,626/-	19,80,395/-

Hence, duty for the ascertained CTH is lower compared to the declared CTH.

3.3. Item No. 3 of the subject BE has been classified by the importer under CTH: 60063200 whereas as per the Test Report, correct CTH of the goods appear to be 60041000. The entries under the CTH 6004 are as under:

6004 Knitted or crocheted fabrics of a width exceeding 30 cm, containing by weight 5% or more of elastomeric yarn or rubber thread, other than those of heading 6001

6004 -Containing by weight 5% or more of elastomeric yarn but not containing rubber

10 thread :
00

From the plain reading of CTH 6004, it is clear that Knitted or Crocheted fabric containing by weight 5% or more of elastomeric yarn but not containing rubber thread are rightly classifiable under HSN code 60041000. As per the test report received from CRCL, New Delhi, sample of item no. 3 is having 5.28% elastomeric yarn. Hence, goods mentioned at Sr.No. 3 prima facie appears to be rightly classifiable under CTH 60041000 instead of declared HSN code 60063200.

Duty structure for the declared CTH: 60063200 and for the ascertained CTH: 60041000 is same which is BCD: 20%, SWS: 2%, IGST: 5% and hence, there is no revenue involvement.

3.4. Item No. 4 of the subject BE has been classified by the importer under CTH: 55162200. The entries under the CTH 5516 are as under:

5516 Woven fabrics of artificial staple fibres

....

-Containing less than 85% by weight of artificial staple fibres, mixed mainly or solely with man-made filaments :

5516 --Unbleached or bleached :

21

5516 --Unbleached

21 10 -

5516 --Bleached

21 20 -

5516 --Dyed

22 00

As per the test report received from CRCL, New Delhi, sample of item no. 4 is yarn dyed woven fabric composed of textured 83.97% viscose and 16.03% nylon. Since the sample is yarn dyed woven fabric containing less than 85% by weight of artificial staple fibres viz. viscose, mixed mainly or solely with man-made filaments viz. nylon and made of Spun yarn/ Monofilament yarn, it has been rightly classified by the importer under CTH 55162200 as can be seen from above entries under CTH 5516.

04. Summary of the duty calculation is as below:

Item Sr. No. in BE	As declared in the BE			As per CTH ascertained on the basis of Test Report	
	Description of Goods	CTH	Duty	CTH	Duty
1	Polyester Dyed Fabric width 58 Inch	54075290	45,390/-	54075290	45,390/-
2	Polyester Yarn Dyed Fabric width 58 Inch	54075300	24,97,626/-	55121910	19,80,395/-
3	Polyester Knitted Fabric	60063200	3,61,845/-	60041000	3,61,845/-

	width 58 Inch				
4	Viscose Nylon Blended Fabric width 58 Inch	55162200	5,35,972/-	55162200	5,35,972/-
	Total		34,40,833/-		29,23,602/-

On the basis of above duty calculation, it can be observed that there is no differential duty involved in the instant case; on the contrary, duty for item no. 2 is lower compared to the declared duty.

05. Based on CRCL, New Delhi Test Reports, prima facie, it appears that out of 4 items imported vide BE No. 8175375 dated 04.02.2025, item nos. 1 and 4 have been found as declared whereas item nos. 2 and 3 have been found misdeclared in terms of classification. Therefore, it appears that the importer has contravened the provisions of Section 17 and Section 46 of the Customs Act, 1962 in as much as they failed to correctly classify item nos. 2 and 3 in the subject Bill of Entry filed by them. These acts of omission and commission on the part of importer has made the imported goods mentioned at Sr. No. 2 and 3 of the impugned BE having assessable value of Rs. 84,70,650/- liable for confiscation under Section 111(m) of the Act and has thus rendered themselves liable for penal action under Section 112(a)(ii) of the Act.

06. RELEVANT LEGAL PROVISIONS:

(A) RELEVANT PROVISIONS OF THE SEZ ACT, 2005 AND RULES MADE THEREUNDER:

SEZ ACT, 2005

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

.....

(o) “import” means—

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

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

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

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

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

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

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

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

Provided that no investigation, inspection, search or seizure shall be carried out in a Special Economic Zone by any agency or officer other than those referred to in sub-section (2) or sub-section (3) of section 21 without prior approval of the Development Commissioner concerned:

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

SEZ RULES, 2006

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

NOTIFICATION NO. 2665(E) AND 2667(E) DATED 05.08.2016

S.O. 2665(E). In exercise of the powers conferred by sub-section (1) of section 21 of the Special Economic Zones Act, 2005 (28 of 2005) (hereinafter referred as the Act), the Central Government hereby, notifies the offences contained in the under-mentioned sections of the Customs Act, 1962 (52 of 1962), the Central Excise Act, 1944 (1 of 1944) and the Finance Act, 1994 (32 of 1994) as offences under the Act:-

The Customs Act, 1962	
1.	Section 28, 28AA and 28AAA
2.	Section 74 and 75
3.	Section 111
4.	Section 113
5.	Section 115
6.	Section 124
7.	Section 135
8.	Section 104

.....

.....

S.O. 2667(E).—In exercise of the powers conferred by section 22 of the Special Economic Zones Act, 2005 (28 of 2005) (hereinafter referred as the Act), the Central Government authorises the jurisdictional Customs Commissioner, in respect of offences under the Customs Act, 1962 (52 of 1962) and Commissioner of Central Excise in respect of offences under the Central Excise Act, 1944 (1 of 1944) and the Finance Act, 1994 (32 of 1994) and notified under the Act, for the reasons to be recorded in writing, to carry out the investigation, inspection, search or seizure in a Special Economic Zone or Unit with prior intimation to the Development Commissioner, concerned.

(B) RELEVANT PROVISIONS OF THE CUSTOMS ACT, 1962:

Section 2. Definitions-

In this Act, unless the context otherwise requires,

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

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

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

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

(3 9) "smuggling", in relation to any goods, means any act or omission which will render such goods liable to confiscation under

section 111 or section 113.

Section 11A. Definitions-

In this Act, unless the context otherwise requires,

(a) “illegal import” means the import of any goods in contravention of the provisions of this Act or any other law for the time being in force.

Section 17. Assessment of duty. –

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

....

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

Section 46. Entry of goods on importation. –

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

....

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

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

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

Section 111. Confiscation of improperly imported goods, etc. –

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

.....

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

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

Any person,-

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

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

shall be liable,-

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

07. Summary of Investigations Conducted:

7.1. The importer M/s. Shiva Enterprises (IEC: ANQPP6845F) had filed Bill of Entry (for SEZ Import Z Type) No. 8175375 dated 04.02.2025 for import of 4 fabric items as detailed in Table of Para-1 above. On the basis of Panchnama, CRCL Test Reports and investigation carried out, quantity of goods was found tallied with detailed packing list, item nos. 1 and 4 of the subject BE are found as declared and item no. 2 and 3 are found to be misclassified by the importer under incorrect CTH detailed as below:

Item Sr. No. in BE	As declared in the BE			As per CTH ascertained on the basis of Test Report	
	Description of Goods	CTH	Duty	CTH	Duty
1	Polyester Dyed Fabric width 58 Inch	54075290	45,390/-	54075290	45,390/-
2	Polyester Yarn Dyed Fabric	54075300	24,97,626/-	55121910	19,80,395/-

	width 58 Inch				
3	Polyester Knitted Fabric width 58 Inch	60063200	3,61,845/-	60041000	3,61,845/-
4	Viscose Nylon Blended Fabric width 58 Inch	55162200	5,35,972/-	55162200	5,35,972/-
	Total		34,40,833/-		29,25,602/-

7.2. Accordingly, it is found that the importer has failed to correctly classify the item nos. 2 and 3 in the subject BE. Thus, by the act of omission and commission at the level of importer, it appears that the importer has contravened the provisions of Section 17 and Section 46 of the Customs Act, 1962, in as much as, they have failed to make correct and true declaration and information to the Customs Officer in the form of Bill of Entry.

7.3. The importer M/s. Shiva Enterprises vide their email dated 28.04.2025 has confirmed and accepted all the test reports. Further, the importer vide letter dated 26.05.2025 has informed that they don't want any Personal Hearing and Show Cause Notice with reference to Bill of Entry No. 8175375 dated 04.02.2025 and submitted that they are ready to pay differential duty, if any, along with applicable fine and penalty.

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

- i. The classification of the goods mentioned at Sr.No. 2 of Bill of Entry No. 8175375 dated 04.02.2025 i.e. 54075300 declared by the importer is liable to be rejected and these goods are liable to be re-classified under CTH 55121910;
- ii. The classification of the goods mentioned at Sr.No. 3 of Bill of Entry No. 8175375 dated 04.02.2025 i.e. 60063200 declared by the importer is liable to be rejected and these goods are liable to be re-classified under CTH 60041000;
- iii. Bill of Entry No. 8175375 dated 04.02.2025 is liable to be re-assessed accordingly under Section 17(4) of the Customs Act, 1962;
- iv. The goods mentioned at Sr.No. 2 and 3 of Bill of Entry No. 8175375 dated 04.02.2025 having combined assessable value of Rs. 84,70,650/- have been misclassified by the importer and therefore, liable for confiscation under Section 111(m) of the Customs Act, 1962;
- v. The importer M/s. Shiva Enterprises (IEC: ANQPP6845F) is liable for Penalty under Section 112(a)(ii) of the Customs Act, 1962.

09. WAIVER OF NOTICE AND PERSONAL HEARING

The importer vide Letter dated 26.05.2025 has informed that they do not want any Show Cause Notice or Personal Hearing in the matter and necessary adjudication proceeding/action may be initiated in respect of the said Bill of Entry as per the Customs Act, 1962.

DISCUSSION & FINDING

10. I have carefully gone through the Investigation report No. 32/2025-26 dated 10.06.2025 issued by the Deputy Commissioner of Customs (SIIB), Mundra and I find that Importer M/s Shiva Enterprises vide their letter dated 26.06.2025 has requested for waiver of the show cause notice and personal hearing in the matter. Therefore I find that the principle of natural justice as provided in section 122A of the Customs Act, 1962 has been completed. Hence I proceed to decide the case on the basis of the documentary evidence available on records.

11. Ongoing through the facts of the case, I find that the following issues needed to be decided in the present proceedings:

- i. Whether the declared classification of the goods needs to be rejected and the same is liable to be re-classified or otherwise.
- ii. Whether the declared value of the goods is liable to be rejected and redetermined or otherwise.
- iii. Whether the Importer is liable for penalty under Section 112(a) (ii) of the Customs Act, 1962.

12. I find that the above said consignment was put on hold by DRI, Ahmedabad Zonal Unit for examination on the basis of intelligence on suspected misdeclaration/mis-classification in import of fabrics through Mundra SEZ. The consignment was examined by the DRI officers under Panchnama dated 19.02.2025 in the SEZ Warehouse of M/s. Holistic Global Corporation, FTWZ, Mundra in the presence of the Panchas and Shri Amol Prakash Patil, Warehouse Executive of M/s. Holistic Global Corporation. During the examination, weight of the goods was found to be 16240 kgs and quantity of goods was found tallied with detailed packing list and samples of the above said 4 items were drawn for testing. The details of the Bill of Entry is as under:

TABLE-A

Item Sr. No. in the BE	Declared CTH	Declared Goods	Declared Unit Price (in USD)	Declared Quantity	Declared Assessable Value (in Rs.)	Declared Duty (in Rs.)
1	54075290	Polyester Dyed Fabric width 58 inch	0.475156/SQM	1585.1632 SQM	65,604/-	45,390/-
2	54075300	Polyester Yarn Dyed Fabric width 58 inch	1.357589/SQM	61575.04576SQM	72,81,003/-	24,97,626/-
3	60063200	Polyester Knitted Fabric width 58 inch	6/KGS	2276.4 KGS	11,89,647/-	3,61,845/-
		Viscose Nylon				

4	55162200	Blended Fabric width 58 inch	8.5/KGS	2549 KGS	18,87,152/-	5,35,972/-
Total					1,04,23,406/-	34,40,833/-

13. I find that the based on the Test report received, the SIIB in their Investigation Report stated that the item nos. 1 and 4 appear to be rightly classified by the importer in the BE whereas item no. 2 and 3 appear to be misclassified by the importer. I hold that the classification has been rightly determined by the SIIB which is reproduced below:

TABLE-B

Item No. in BE	Sr. BE	Description of Goods in the BE	Declared CTH	Appropriate CTH as per Test Reports
1		Polyester Dyed Fabric width 58 Inch	54075290	54075290
2		Polyester Yarn Dyed Fabric width 58 Inch	54075300	55121910
3		Polyester Knitted Fabric width 58 Inch	60063200	60041000
4		Viscose Nylon Blended Fabric width 58 Inch	55162200	55162200

14. Based on the above CTHs, summary of the duty calculated in the Investigation Report is as below. I hold that the same has been rightly worked out by the Investigation Team.

TABLE-C

Item Sr. No. in BE	As declared in the BE			As per CTH ascertained on the basis of Test Report	
	Description of Goods	CTH	Duty	CTH	Duty
1	Polyester Dyed Fabric width 58 Inch	54075290	45,390/-	54075290	45,390/-
2	Polyester Yarn Dyed Fabric width 58 Inch	54075300	24,97,626/-	55121910	19,80,395/-
3	Polyester Knitted Fabric width 58 Inch	60063200	3,61,845/-	60041000	3,61,845/-
4	Viscose Nylon Blended Fabric width 58 Inch	55162200	5,35,972/-	55162200	5,35,972/-
	Total		34,40,833/-		29,23,602/-

It is observed that there is no differential duty involved in the instant case; on the contrary, duty for item no. 2 is lower compared to the declared duty. However, I find that the consignment is found mis-declared in respect of classification and Hence, the consignment is liable for confiscation under Section 111(m) of the Customs Act, 1962. Furthermore, for the said act of omission and commission, the importer appears liable

for the penal action under the provisions of Section 112(a)(ii) of the Customs Act, 1962. Considering there is no revenue loss in this case, I prefer imposing lenient fine and penalty in this case. Nonetheless, the misclassification of item no-2 and 3 cannot be ignored, and it is essential to acknowledge the lapse. Therefore, considering the circumstances, a lenient approach will be adopted in imposing the fine and penalty, while still emphasizing the importance of accurate declaration in the documents.

15. I find that the importer while filing the impugned Bill of Entry has subscribed to a declaration regarding correctness of the contents of Bill of Entry under Section 46(4) of the Act, *ibid*. Further, Section 46 (4A) of the Act, casts an obligation on the importer to ensure accuracy of the declaration and authenticity of the documents supporting such declaration. In the instant case, the importer failed to discharge the statutory obligation cast upon him and made wrong declaration about the classification of imported goods mentioned at Sr no-2 and 3.

16. Section 125 of the Customs Act, 1962 Provide that Whenever confiscation of any goods is authorized by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation where is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods an option to pay in lieu of confiscation such fine as the said officer thinks fit. I find that said provision makes it mandatory to grant an option to owner of the confiscated goods to pay fine in lieu of confiscation in case the goods are not prohibited. I find it appropriate to allow for redeem under section 125 of the Customs Act, 1962.

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

ORDER

- i. I reject the declared classification CTH-54075300 of the goods mentioned at Sr no-2 of Bill of Entry NO-8175375 dated 04.02.2025 and order to re-classify the same under CTH 55121910.
- ii. I reject the declared classification CTH-60063200 of the goods mentioned at Sr no-3 of Bill of Entry NO-8175375 dated 04.02.2025 and order to re-classify the same under CTH 60041000.
- iii. I order to re-assess the Bill of Entry No. 8175375 dated 04.02.2025 under Section 17(4) of the Customs Act, 1962 as per the Table –C above.
- iv. I order to confiscate the said goods mentioned at Srno- 2 and 3 of Bill of Entry No. 8175375 dated 04.02.2025 having combined assessable

value of Rs. 84,70,650/- (Rs Eighty Four Lakhs Seventy Thousand Six Hundred and Fifty Only) under Section 111(m) of the Customs Act, 1962. However, considering facts of the case and provisions of the Section 125 of the Customs Act, 1962, I give an option to the importer to re-deem the same on payment of Redemption Fine of Rs. 2,00,000/- (Rs Two Lakhs Only) in lieu of confiscation.

- v. I impose the penalty of Rs 5000/- (Rs Five Thousand only) on the importer M/s. Shiva Enterprises under Section 112 (a) (ii) of Customs Act, 1962.

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

Zala Dipakbhai
Chimanbhai
ADDITIONAL COMMISSIONER
ADC/JC-III-O/o Pr
Commissioner-customs-mundra

To
M/s. Shiva Enterprises,
G-6, Vinayak Tower, Central Spine,
Vidhyadhar Nagar, Jaipur-302039

Copy to:

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