

	<p>प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, एमपी और एसईजेड, मुंद्रा, कच्छ-गुजरात -370421 <b>OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOMS HOUSE, MP &amp; SEZ MUNDRA, KUTCH-GUJARAT</b> <b>PHONE : 02838-271426/271428</b> <b>FAX :02838-271425</b> <b>Mail: group3-mundra@gov.in</b></p>	
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<b>A</b>	फा. सं./ <b>FILE NO.</b>	F. No. CUS/APR/INV/402/2025-Gr 3
<b>B</b>	मूल आदेश संख्या/ <b>ORDER-IN-ORIGINAL NO.</b>	MCH/ADC/ZDC/128/2025-26
<b>C</b>	द्वारा पारित किया गया / <b>PASSED BY</b>	Dipak Zala Addl. Commissioner of Customs Mundra Customs House
<b>D</b>	आदेश की तिथि <b>DATE OF ORDER</b>	18.07.2025
<b>E</b>	जारी करने की तिथि <b>DATE OF ISSUE</b>	18.07.2025
<b>F</b>	कारण बताओ नोटिस संख्या & तिथि <b>SCN NUMBER &amp; DATE</b>	SCN and PH Waiver sought vide letter dated 15.07.2025
<b>G</b>	आयातक / नोटिस प्राप्तकर्ता <b>ImPORTER / NOTICEE</b>	M/s. Ashmeet Enterprises Village-Nimbri, Sanoli Road, Panipat, Haryana- 132103
<b>H</b>	डिन संख्या / <b>DIN NUMBER</b>	20250771MO000032323B

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

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

2. यदि कोई व्यक्ति इस आदेश से असंतुष्ट है तो वह सीमाशुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमाशुल्क अधिनियम 1962 की धारा 128 A के अंतर्गत प्रपत्र सीए- 1 में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

Any person aggrieved by this Order - in - Original may file an appeal under Section 128A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

“सीमाशुल्क आयुक्त (अपील),

चौथी मंजिल, हुडको बिल्डिंग, ईश्वरभुवन रोड,

नवरंगपुरा, अहमदाबाद 380 009”

“THE COMMISSIONER OF CUSTOMS (APPEALS), MUNDRA

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

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

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

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपये का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-

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

- (i) उक्त अपील की एक प्रति और A copy of the appeal, and
- (ii) इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं०-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।

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

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

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

6. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और सीमाशुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.

7. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (A) के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।

An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

**BRIEF FACTS OF THE CASE**

**1.** M/s Ashmeet Enterprises (IEC 3311009177), (hereinafter referred to as ‘the importer’ for the sake of brevity) having address at Village-Nimbri, Sanoli Road, Panipat, Haryana-132103 filed Bill of Entry No. 2692914 dated 16.06.2025 for import of goods declared as “100% Polyester Pile Fabrics” under HSN Code 60011020 through their authorised Customs Broker M/s. Believe Logistics CB code AFTPD2524CCH001 (hereinafter referred as ‘the CB’ for sake of brevity) at Mundra APSEZ port.

**2.1** The Bill of Entry was self-assessed by Importer. The above consignment was marked for examination by RMS system. After examination, the docks officers has remarked in the examination report dated 23.06.2025 as below:

***“Verified Container No and Seal No. and found as per Bill of Lading. Verified Seal Intact. Opened and visually examined under the supervision of Superintendent (DE) and in presence of Customs Broker. Verified declared product description and other details with invoice, packing list, bill of lading and other import document. Sample drawn vide TM No. 1283164/1283165/1283166/1283167/1283168 all dated 21.06.2025 and the same dispatched to CRCL, Kandla. Test report is still pending.”***

**CFS WT: 25700 Kgs**

**BL WT: 25573 Kgs**

**2.2** CRCL kandla uploaded test report in system for different TM as below:

TM No.	
1283164	The sample as received in the form of cutpiece of dyed (blue colour) knitted fabric having <b>cut pile</b> on one side. The Base Knitted fabric is composed of polyester filament yarns and pile is made of polyester fibre. GSM (as such)= 217.09. Selvages to Selvages width (cms)=150 cm. Sealed remnant samples returned herewith.
1283165	The sample as received in the form of cutpiece of dyed (light brown colour) knitted fabric having <b>cut pile</b> on one side with selvedge on one side. The Base Knitted fabric is composed of polyester filament yarns alongwith small amount of lycra and pile is made of polyester fibre. GSM (as such)= 196.74. % Composition = Polyester 95.60% wt by wt, lycra= balance. Sealed remnant samples returned herewith.
1283166	The sample as received in the form of cutpiece of dyed (brown colour) knitted fabric having brown colour <b>cut</b>

	<b>piles</b> , self-designed on one side. Base fabric is composed of Polyester fibres. GSM (as such)= 211.70 Selvages to Selvages width (cms)= one side selvages only. Sealed remnant samples returned herewith.
1283167	The sample as received in the form of cutpiece of dyed (green coloured) knitted fabric having <b>cut pile</b> on one side. The Base Knitted fabric is composed of polyester filament yarns and pile is made of polyester fibre. GSM (as such)= 259.8. Selvages to Selvages width (cms)=144 cm. Sealed remnant samples returned herewith.
1283168	The sample as received in the form of cutpiece of dyed (light pink colour) knitted fabric having <b>cut pile</b> , self-designed on one side. The Base Knitted fabric is composed of polyester filament yarns and pile is made of polyester fibre. GSM (as such)= 208.4. Selvages to Selvages width (cms)=150 cm. Sealed remnant samples returned herewith.

**2.3** The test report received from CRCL, Kandla has been examined with respect to the declaration made by Importer in the Import document. The goods were declared as “100% Polyester Pile fabric” and classified by Importer under HSN 60011020. Customs Tariff Heading 60011020 pertains to “Long Pile Fabric” of man-made fabric. However, the test report clearly depicts that the imported goods are knitted fabric with **cut piles**. Hence it appears that the goods are not merit classifiable under 60011020. As per the test result, the most appropriate CTH appears to be 60019200.

#### **2.4 Rejection of declared value & re-determination of assessable value**

DGFT vide Notification No. 05/2025-26 dated 23.04.2025 amended import policy of certain HSN code including 60069200. Import policy of the goods imported under this HSN code has been changed to “restricted”, however import is free if CIF value is 3.5 US Dollar/kg and above. As per the test report, goods imported vide Bill of Entry No. 2692914 dated 16.06.2025, were found to be mis-declared in terms of description and classification. Therefore, the value of item declared by the importer in the Bill of Entry does not appear to be the true transaction value under the provisions of Section 14 of the Customs Act, 1962 read with the provisions of the Customs Valuation (determination of Value of Imported Goods) Rules, 2007 and thus the same appear liable to be rejected in terms of Rule 12 of CVR, 2007. The value is required to be re-determined by sequentially proceeding in terms of Rules 4 to 9 of CVR, 2007. Whereas, the assessable value of the cargo is required to be re-determined as per the contemporary import data available on NIDB, in respect of the identical/ similar goods sold for export to India (from

China) and imported at or about the same time in view of rule 4 and 5 of the CVR, 2007. Whereas, it further appears that, the value of the imported goods could not be determined under Rule 4 ibid since the value of contemporaneous imports of identical goods of same nature, composition and description could not be found on NIDB. Proceeding sequentially, to Rule 5 ibid, as per contemporaneous import data available on NIDB, the rate of Polyester Knitted cut pile fabric under CTH 60019200 and having same quantity is found to be 3.5 USD/KG to 3.89 USD/KG. Further, sub-rule (3) of the said Rule-4 of CVR, 2007 states that, in applying these rules, if more than one transaction value of similar goods is found, the lowest such value shall be used to determine the value of imported goods. Further, sub-rule (2) of the said Rule-5 of CVR, 2007 states that, 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. Accordingly, the assessable value of the imported goods appears liable to be re-determined as follows: -

Sr. No.	Fabric	Qty in KGS	Value per KGS of similar goods (in USD)	Assessable Value of imported goods (in Rs) (1USD =86.75)
1	100% Polyester long Pile Fabric	23145	3.5	70,27,401

**2.5.** The duty on the importer goods is required to be re-determined on the basis of applicable rates. For CTH 60019200, applicate rate of Basic Customs Duty is higher of 20%, SWS 10% and IGST 5% which comes out to be total duty as 28.1%. Applicable Duty in respect of the imported goods is calculated in Table-G as follows:

**Duty in respect of Bill of Entry no. 2692914 dated 16.06.2025**

	HSN	Qty	AV	Duty (BCD+SWS+IGST)	Duty Amount in Rs
<b>Declared</b>	<b>60011020</b>	<b>23145</b>	<b>24,09,395</b>	<b>(BCD-10%, SWS-10%, IGST-5%, Total- 16.55%)</b>	<b>3,98,755/-</b>
<b>Found</b>	<b>60019200</b>	<b>23145</b>	<b>70,27,401</b>	<b>(BCD-20%, SWS-10%, IGST-5%, Total- 28.10%)</b>	<b>19,74,700/-</b>
<b>Difference</b>			<b>46,18,006</b>		<b>15,75,945/-</b>

### 3. **RELEVANT LEGAL PROVISIONS:**

#### **RELEVANT PROVISIONS OF CUSTOMS ACT, 1962:**

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

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

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

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

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

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

#### **Section 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:**

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

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

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

**Section 111.** Confiscation of improperly imported goods, etc. – *The following goods brought from a place outside India shall be liable to confiscation:-*

*(d) any goods which are imported or attempted to be imported or are brought within the India customs waters for the purpose of being imported contrary to any prohibition imposed by or under this Act or nay other law for the time being in force.*

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

*penalty not exceeding five times the value of goods.*

**(C) Relevant Provisions of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007:**

**“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;*

.....

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

**“Rule 5. Transaction value of similar goods .** - (1) *Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of similar goods sold for export to India and imported at or about the same time as the goods being valued:*

*Provided that .....*

(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.*

**Rule 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.*

#### **4. Summary of Case:**

**4.1** M/s Ashmeet Enterprises (IEC 3311009177), had filed Bill of Entry No. 2692914 dated 16.06.2025 for import of “100 % Polyester Pile Fabric falling under CTH-60011020 in the container no. MSBU7149067.

**4.2** Whereas, on the basis of the examination report, and test reports, the imported goods appear to be mis-declared in respect of nature, composition and description. The imported goods are actually found to be “Knitted Cut Pile Fabric” and are appropriately classifiable under CTH 60019200. Whereas, it appears that, the importer has failed to declared true and correct description, CTH as well as assessable value of the goods imported in the said BE. Further, the imported goods also appear to be undervalued in view of the contemporaneous import data and hence it appears that the above Bill of Entry are required to be re-assessed on the basis of NIDB data for the similar goods in view of Rule 5 of the CVR, 2007. In view of the same, the assessable value of the imported goods appears liable to be re-determined as discussed at para 2.4 above. Accordingly, total Customs duty on these imported goods also appears liable to be re-determined as discussed at para 2.5 above.

**4.3.** Importer vide letter dated 15.07.2025 has requested for waiver of Show Cause Notice and Personal hearing in this matter.

**4.4** DGFT vide Notification No. 05/2025-26 dated 23.04.2025 amended import policy of certain HSN code including 60019200. Import policy of the goods imported under these HSN code has been changed to "restricted", however import is free if CIF value is 3.5 US Dollar/kg and above. As per the test report the goods appears to be rightly classifiable under 60019200, hence the goods appear to be restricted as the declared value of the goods is 1.2USD/KG less than the 3.5USD/KG. The dispute regarding scope of prohibition has been long ago settled by Hon'ble Apex Court in the case of Sheikh Mohd. Omer Versus Collector of Customs, Calcutta and Others {1983(13)1439 ELT} wherein while referring to section 111 of the Act, it has been inter alia observed by the Court that Section 111 says is that any goods which are imported or attempted to be imported contrary to "any prohibition imposed by any law for the time being in force in this country" is liable to be confiscated. "Any prohibition" referred to in that section applies to every type of "prohibition". That prohibition may be complete or partial. Any restriction on import or export is to an extent a prohibition. **The expression "any prohibition" in Section 111(d) of the Customs Act, 1962 includes restrictions.** Merely because Section 3 of the Imports and Exports (Control) Act, 1947, uses three different expressions "prohibiting", "restricting" or "otherwise controlling", we cannot cut down the amplitude of the word "any prohibition" in Section 111(d) of the Act. "Any prohibition" means every prohibition. In other words, all types of prohibitions. **Restrictions is one type of prohibition.** As the imported goods are mis-declared in terms of classification, description and valuation and found to be restricted, the same appears to be liable for confiscation under Section 111 (d) and (m) of the Customs Act, 1962.

**4.5.** Thus, by the act of omission and commission at the level of importer, it appears that, the importer has contravened the provisions of Section 46 and Section 17 of the Customs Act, 1962, in as much as, they failed to make correct and true declaration and information to the Customs Officer in the form of Bill of Entry and also failed to declared goods correctly, failed to assess their duty liability, failed to comply with DGFT Notification and accordingly the goods imported by the importer appear liable to be confiscation under Section 111(d) and Section 111(m) of the Customs Act, 1962 and the importer M/s. Ashmeet Enterprises have rendered themselves liable for penalty under Section 112(a)(i) of the Customs Act, 1962.

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

- i. The classification of the goods i.e. 60011020 as declared by the importer in the Bill of Entry no. 2692914 dated 16.06.2025 is liable to be rejected and the goods are liable to be re-classified under CTH 60019200, as discussed in foregoing paras;

- ii. The assessable value of these mis-declared imported goods imported vide Bill of Entry no. 2692914 dated 16.06.2025 is liable to be re-determined as **Rs. 70,27,401/-** (*Rupees Seven Lakh Twenty-Seven Thousand Four Hundred and One Only*) (instead of Rs. 24,09,395/- as declared in the BE) under Rule 5 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with Section 14 of the Customs Act, 1962;
- iii. The goods have been imported by way of mis-declaration in contravention of Sec 46 of the Customs Act, 1962 and in contravention of DGFT Policy are therefore liable for confiscation under Section 111(d) and Section 111(m) of the Customs Act, 1962
- iv. Total Customs duty involved in the goods imported vide Bill of Entry no. 2692914 dated 16.06.2025 comes to **Rs. 19,74,700/-** (*Rupees Nineteen Lakh Seventy-Four Thousand and Seven Hundred Only*) instead of **Rs. 3,98,755/-** (*Rupees Three Lakh Ninety-Eight Thousand Seven Hundred and Fifty-Five only*) as declared in the BE;
- v. The said Bill of Entry no. 2692914 dated 16.06.2025 is liable to be re-assessed accordingly under Section 17(4) of the Customs Act, 1962;
- vi. The importer M/s. Ashmeet Enterprises (IEC No. 3311009177) is liable for Penalty under Section 112(a)(i) of the Customs Act, 1962;

## 6. Discussions and Findings

**6.1** I have carefully gone through the records of the case. I find that Importer M/s Ashmeet Enterprises vide letter dated 15.07.2025 has sought waiver for Show Cause Notice and Personal Hearing. Hence I proceed to decide the case on the basis of the documentary evidences available on records. The main issues before me in this case are to be decided as mentioned below:

- a) Whether the classification of the goods i.e. 60011020 as declared by the importer in the Bill of Entry no. 2692914 dated 16.06.2025 is liable to be rejected and the goods are liable to be re-classified under CTH 60019200, as discussed in foregoing paras;
- b) Whether the assessable value of these mis-declared imported goods imported vide Bill of Entry no. 2692914 dated 16.06.2025 is liable to be re-determined as **Rs. 70,27,401/-** (instead of Rs. 24,09,395/- as declared in the BE) under Rule 5 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with Section 14 of the Customs Act, 1962.
- c) Whether the goods have been imported by way of mis-declaration in contravention of Sec 46 of the Customs Act, 1962 and in contravention of DGFT Notification are therefore liable for confiscation under Section 111(d) and Section 111(m) of the Customs Act, 1962.

d) Whether the total Customs duty involved in the goods imported vide Bill of Entry no. 2692914 dated 16.06.2025 comes to **Rs. 19,74,700/-** (*Rupees Nineteen Lakh Seventy-Four Thousand and Seven Hundred Only*) instead of **Rs. 3,98,755/-** (*Rupees Three lakh Ninety Eight Thousand Seven Hundred and Fifty Five only*).

e) Whether the said Bill of Entry No. 2692914 dated 16.06.2025 is liable to be re-assessed accordingly under Section 17(4) of the Customs Act, 1962.

f) Whether the importer M/s. Ashmeet Enterprises (IEC No. 3311009177) is liable for Penalty under Section 112(a)(i) of the Customs Act, 1962.

**6.2** I find that M/s Ashmeet Enterprises (IEC 3311009177) filed Bill of Entry No. 2692914 dated 16.06.2025 for import of goods declared as “100% Polyester Pile Fabrics” under HSN Code 60011020 through their authorised Customs Broker M/s. Believe Logistics CB code AFTPD2524CCH001 at Mundra APSEZ port.

**6.3** I find that the Bill of Entry No. 2692914 dated 16.06.2025 was self-assessed by Importer. The above consignment was marked for examination by RMS system. After examination, the docks officers has remarked in the examination report dated 23.06.2025 as below:

***“Verified Container No and Seal No. and found as per Bill of Lading. Verified Seal Intact. Opened and visually examined under the supervision of Superintendent (DE) and in presence of Customs Broker. Verified declared product description and other details with invoice, packing list, bill of lading and other import document. Sample drawn vide TM No. 1283164/1283165/1283166/1283167/1283168 all dated 21.06.2025 and the same dispatched to CRCL, Kandla. Test report is still pending.”***

**CFS WT: 25700 Kgs**

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**6.4** I find that CRCL kandla uploaded test report in system for different TM as below:

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1283164	The sample as received in the form of cutpiece of dyed (blue colour) knitted fabric having <b>cut pile</b> on one side. The Base Knitted fabric is composed of polyester filament yarns and pile is made of polyester fibre. GSM (as such) = 217.09. Selvages to Selvages width (cms)=150 cm. Sealed remnant samples returned herewith.
1283165	The sample as received in the form of cutpiece of dyed (light brown colour) knitted fabric having <b>cut pile</b> on one side with selvedge on one side. The Base Knitted fabric is composed of polyester filament yarns alongwith small

	amount of lycra and pile is made of polyester fibre. GSM (as such)= 196.74. % Composition = Polyester 95.60% wt by wt, lycra= balance. Sealed remnant samples returned herewith.
1283166	The sample as received in the form of cutpiece of dyed (brown colour) knitted fabric having brown colour <b>cut piles</b> , self designed on one side. Base fabric is composed of Polyester fibres. GSM (as such)= 211.70 Selvages to Selvages width (cms)= one side selvages only. Sealed remnant samples returned herewith.
1283167	The sample as received in the form of cutpiece of dyed (green coloured) knitted fabric having <b>cut pile</b> on one side. The Base Knitted fabric is composed of polyester filament yarns and pile is made of polyester fibre. GSM (as such)= 259.8. Selvages to Selvages width (cms)=144 cm. Sealed remnant samples returned herewith.
1283168	The sample as received in the form of cutpiece of dyed (light pink colour) knitted fabric having <b>cut pile</b> , self-designed on one side. The Base Knitted fabric is composed of polyester filament yarns and pile is made of polyester fibre. GSM (as such)= 208.4. Selvages to Selvages width (cms)=150 cm. Sealed remnant samples returned herewith.

**6.5** The test report received from CRCL, Kandla has been examined with respect to the declaration made by Importer in the Import document. The goods were declared as “100% Polyester Pile fabric” and classified by Importer under HSN 60011020. Customs Tariff Heading 60011020 pertains to “Long Pile Fabric” of man-made fabric. However, the test report clearly depicts that the imported goods are knitted fabric with cut piles. Hence, I find that the goods do not merit classifiable under 60011020. The imported goods cut pile fabric merit classification under 60019200.

6001 Pile fabric including “Long pile” fabrics

600110 -Long Pile Fabric

60011020 ---Man-made Fabric

-Other

60019200 --Of Man Made Fibres

**6.6** I find that DGFT vide Notification No. 05/2025-26 dated 23.04.2025 amended import policy of certain HSN code including 60019200. Import policy of the goods imported under this HSN code has been changed to “restricted”, however

import is free if CIF value is 3.5 US Dollar/kg and above. As per the test report, goods imported vide B/E No. 2692914 dated 16.06.2025, were found to be mis-declared in terms of description and classification. Therefore, the value of item declared by the importer in the Bill of Entry is not true transaction value under the provisions of Section 14 of the Customs Act, 1962 read with the provisions of the Customs Valuation (determination of Value of Imported Goods) Rules, 2007 and thus the same is liable to be rejected in terms of Rule 12 of CVR, 2007. The value is required to be re-determined by sequentially proceeding in terms of Rules 4 to 9 of CVR, 2007. Whereas, the assessable value of the cargo is required to be re-determined as per the contemporary import data available on NIDB, in respect of the identical/ similar goods sold for export to India (from China) and imported at or about the same time in view of rule 4 and 5 of the CVR, 2007. I find that, the value of the imported goods could not be determined under Rule 4 *ibid* since the value of contemporaneous imports of identical goods of same nature, composition and description could not be found on NIDB. Proceeding sequentially, to Rule 5 *ibid*, as per contemporaneous import data available on NIDB, the rate of Polyester Knitted cut pile fabric under CTH 60019200 and having same quantity is found to be 3.5 USD/KG to 3.89 USD/KG. Further, sub-rule (3) of the said Rule-4 of CVR, 2007 states that, in applying these rules, if more than one transaction value of similar goods is found, the lowest such value shall be used to determine the value of imported goods. Further, sub-rule (2) of the said Rule-5 of CVR, 2007 states that, 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. Accordingly, the assessable value of the imported goods is liable to be re-determined as follows:

Sr. No.	Fabric	Qty in KGS	Value per KGS of similar goods (in USD)	Assessable Value of imported goods (in Rs) (1USD =86.75)
1	100% Polyester long Pile Fabric	23145	3.5	70,27,401

**6.7.** The duty on the importer goods is required to be re-determined on the basis of applicable rates. For CTH 60019200, applicate rate of Basic Customs Duty is higher of 20%, SWS 10% and IGST 5% which comes out to be total duty as 28.1%. Applicable Duty in respect of the imported goods is calculated as follows: -

**Duty in respect of Bill of Entry no. 2692914 dated 16.06.2025**

	HSN	Qty	AV	Duty (BCD+SWS+IGST)	Duty Amount in Rs
Declared	60011020	23145	24,09,395	(BCD-10%, SWS-10%, IGST-5%, Total- 16.55%)	3,98,755/-
Found	60019200	23145	70,27,401	(BCD-20%, SWS-10%, IGST-5%, Total- 28.10%)	19,74,700/-
Difference			46,18,006		15,75,945/-

**6.8** I find that on the basis of the examination report, and test reports, the imported goods has been mis-declared in respect of nature, composition and description. The imported goods are actually found to be “Knitted Cut Pile Fabric” and are appropriately classifiable under CTH 60019200. Whereas, the importer has failed to declared true and correct description, CTH as well as assessable value of the goods imported in the said BE. Further, the imported goods also undervalued in view of the contemporaneous import data and hence I find that the above Bill of Entry are required to be re-assessed on the basis of NIDB data for the similar goods in view of Rule 5 of the CVR, 2007. In view of the same, the assessable value of the imported goods is liable to be re-determined as discussed at para 6.6 above. Accordingly, total Customs duty on these imported goods also liable to be re-determined as discussed at para 6.7 above.

**6.9** I find that DGFT vide Notification No. 05/2025-26 dated 23.04.2025 amended import policy of certain HSN code including 60019200. Import policy of the goods imported under these HSN code has been changed to “restricted”, however import is free if CIF value is 3.5 US Dollar/kg and above. As per the test report the goods are rightly classifiable under 60019200, hence the goods are restricted as the declared value of the goods is 1.2USD/KG less than the 3.5USD/KG. The dispute regarding scope of prohibition has been long ago settled by Hon'ble Apex Court in the case of Sheikh Mohd. Omer Versus Collector of Customs, Calcutta and Others {1983(13)1439 ELT} wherein while referring to section 111 of the Act, it has been inter alia observed by the Court that Section 111 says is that any goods which are imported or attempted to be imported contrary to "any prohibition imposed by any law for the time being in force in this country" is liable to be confiscated. "Any prohibition" referred to in that section applies to every type of "prohibition". That prohibition may be complete or partial. Any restriction on import or export is to an extent a prohibition. **The expression "any prohibition" in Section**

**111(d) of the Customs Act, 1962 includes restrictions.** Merely because Section 3 of the Imports and Exports (Control) Act, 1947, uses three different expressions "prohibiting", "restricting" or "otherwise controlling", we cannot cut down the amplitude of the word "any prohibition" in Section 111(d) of the Act. "Any prohibition" means every prohibition. In other words, all types of prohibitions. **Restrictions is one type of prohibition.** As the imported goods are mis-declared in terms of classification, description and valuation and further goods found to be restricted, accordingly the goods are liable for confiscation under Section 111 (d) and (m) of the Customs Act, 1962. Thus, by the act of omission and commission at the level of importer, the importer has contravened the provisions of Section 46 and Section 17 of the Customs Act, 1962, in as much as, they failed to make correct and true declaration and information to the Customs Officer in the form of Bill of Entry and also failed to declared goods correctly, failed to assess their duty liability, failed to comply with DGFT Notification and accordingly the goods imported by the importer is liable to be confiscation under Section 111(d) and Section 111(m) of the Customs Act, 1962. However, I find that the condition on the import of the goods are fulfilled after the re-determination of the value @ 3.5 USD/KG, hence it would be appropriate to redeem the goods under Section 125 of the Customs Act, 1962. Further importer M/s. Ashmeet Enterprises has rendered themselves liable for penalty under Section 112(a)(i) of the Customs Act, 1962 which stipulates that any person who in relation to any 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 shall liable in case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty (not exceeding the value of the goods or five thousand rupees) whichever is the greater.

7. In view of the following I pass the following order:

### **ORDER**

**7.1** I hold that the classification of the imported goods i.e. 60011020 as declared by the importer in the Bill of Entry no. 2692914 dated 16.06.2025 is liable to be rejected and the goods are liable to be re-classified under CTH 60019200.

**7.2** I hold that the assessable value of these mis-declared imported goods imported vide Bill of Entry no. 2692914 dated 16.06.2025 is liable to be re-determined as **Rs. 70,27,401/-** (*Rupees Seventy Lakh Twenty-Seven Thousand Four Hundred and One Only*) (against Rs. 24,09,395/-as declared in the BE) under Rule 5 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with Section 14 of the Customs Act, 1962.

**7.3** I hold that the goods have been imported by way of mis-declaration in contravention of Sec 46 of the Customs Act, 1962 and in contravention of the policy restriction are therefore liable for confiscation under Section 111(d) and Section 111(m) of the Customs Act, 1962. However, I give an option to redeem the

goods on payment of redemption fine of **Rs. 2,50,000/-** (*Rupees Two Lakh Fifty Thousand Only*) under Section 125 of the Customs Act, 1962.

**7.4** I order to re-assess the Bill of Entry 2692914 dated 16.06.2025 accordingly under Section 17(4) of the Customs Act, 1962 with total consequential duty of **Rs. 19,74,700/-** (*Rupees Nineteen Lakh Seventy-Four Thousand Seven Hundred Only*) and differential duty of **Rs. 15,75,945/-** (*Rupees Fifteen Lakh Seventy-Five Thousand Nine Hundred and Forty-Five Only*).

**7.5.** I impose penalty of **Rs. 2,50,000/-** (*Rupees Two Lakh Fifty Thousand Only*) on M/s Ashmeet Enterprises under Section 112 (a) (i) of the Customs Act, 1962.

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

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

**BY Speed Post A.D / E-mail**

**To, (The Noticee):-**

M/s. Ashmeet Enterprises  
Village-Nimbri, Sanoli Road,  
Panipat, Haryana-132103

**Copy to:**

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