

		OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS CUSTOMS HOUSE, MP & SEZ MUNDRA, KUTCH-GUJARAT -370421 PHONE : 02838-271426/271428 FAX :02838-271425	 सत्यमेव जयते
A	File No.	CUS/APR/INV/111/2023-Gr 5-6-O/o Pr Commr-Cus-Mundra	
B	OIO No.	MCH/ADC/MK/91/2023-24	
C	Passed by	Mukesh Kumari, Additional Commissioner (Import), Custom House, Mundra.	
D	SCN No. & Date	Importer requested for waiver in PH/SCN vide their letter dated Nil	
E	Noticee / Party / Importer	M/s Vij Impex, BG-1/37B, Block-BG, Shalimar Bagh, North West Delhi-110088	
F	DIN	20230671M0000088058E	

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

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.

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Brief Facts of the Case

1. M/s Vij Impex, BG-1/37B, Block-BG, Shalimar Bagh, North West Delhi-110088 (IEC No. ACBPV7551N) filed SEZ Bills of Entry No. 1003571 dated 21.02.2023 (IAAU1919476) and 1003745 dated 24.02.2023 (SEKU4119938) for import of Small Party Ribbon Spray (CTH-95059090) & Small Party Snow Spray (CTH-95059090) from China for warehousing the same in M/s Rudraksh Terminal LLP, SEZ Warehouse, Adani Port & Mundra SEZ, Mundra.

2. Intelligence was gathered by the SIIB, Custom House, Mundra that the goods stuffed in Container No. SEKU4119938 and IAAU1919476 lying at M/s Rudraksh Terminal LLP, SEZ Warehouse, Adani Port & Mundra SEZ, Mundra either are undervalued or mis-declared. Therefore, the above containers were put on hold for examination by the SIIB. The examination of both the aforesaid containers were carried out by the SIIB at M/s Rudraksh Terminal LLP, SEZ Warehouse, Adani Port & Mundra SEZ, Mundra under Panchnama dated 25.02.2023 in presence of independent panchas and Shri Avnish Jain, Operation Manager, M/s Rudraksh Terminal LLP, SEZ Warehouse.

3. On inquiry about the aforesaid containers, Shri Avnish Jain informed that the Bills of Entry under which the said containers were imported into India have been filed by them i.e. M/s Rudraksh Terminal LLP and provided import document duly signed by him in respect of both the containers. The details of the documents were as under:

Container No. SEKU4119938 / 40HQ

Sr. No.	Description Heading	Description Details
1.	BL No.	A33DX00334 dated 20.01.2023
2.	Shipper/ Exporter	Guangzhou Light Industrial Products I and E Limited
3.	Consignee	VIJ Impex , BG1/37B Block 5G Shalimar Bagh, North West Delhi – 110088
4.	Notify Party	Rudraksh Terminal LLP, Block-B, Plot No. 01A, Sector 12 S, APSEZ Mundra – 370421
5.	No. of Cartons	1275 cartons
6.	Description of Goods	Party Item , HS Code- 950590000
7.	SEZ BE No.(In-Bond BE)	1003745 dated 24.02.2023

Container No. IAAU1919476 / 40HQ

Sr. No.	Description Heading	Description Details
1.	BL No.	A33DX02556 dated 20.01.2023

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2.	Shipper/ Exporter	Guangzhou Light Industrial Products I and E Limited
3.	Consignee	VIJ Impex , BG1/37B Block 5G Shalimar Bagh, North West Delhi – 110088
4.	Notify Party	Rudraksh Terminal LLP, Block-B, Plot No. 01A, Sector 12 S, APSEZ Mundra – 370421
5.	No. of Cartons	1272 cartons
6.	Description of Goods	Party Item , HS Code- 950590000
7.	SEZ BE No.(In-Bond BE)	1003571 dated 21.02.2023

4. During the Examination, the following goods were found in the aforesaid containers:

Table- A for Container No. SEKU4119938 (BoE No. 1003745 dated 24.02.2023)

Sr. No.	Item Description	Numbers of Bags	Number of Pieces in Bags	Total Quantity
1	Small Party Ribbon Spray	200	144	28800
2	Small Party Snow Spray	1075	144	154800
Total		1275		183600

Table- B for Container No. IAAU1919476 (BoE No. 1003571 dated 21.02.2023)

Sr. No.	Item Description	Numbers of Bags	Number of Pieces in Bags	Total Quantity
1	Small Party Ribbon Spray	200	144	28800
2	Small Party Snow Spray	1072	144	154368
Total		1275		183168

5. Further, all above imported goods stuffed in the aforesaid containers were detained by the SIIB under panchnama dated 25.02.2023 under the provisions of the Customs Act, 1962 under reasonable belief that the goods imported were undervalued to evade the Customs Duty.

6. The empanelled Chartered Engineer vide his reports dated 15.03.2023 submitted the valuation report in respect of the goods inspected by him during the course of Panchanama dated 25.02.2023 as under:

SEZ Bill of Entry No.1003745 dated 24.02.2023 (SEKU4119938)

SR. NO.	DESCRIPTION	TOTAL CARTOONS	TOTAL QUANTITY	Per Dozen	Total C&F Invoice	Per Dozen	Total Average
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			(in DOZENS)	C&F Invoice Value of the goods in USD	Value of the goods in USD	Average C&F Value of the goods Assessed by CE in USD (Approx.)	C&F Value of the goods Assessed by CE in USD (Approx.)
1)	SMALL PARTY RIBBON SPRAY	200	2400	0.20	480.00	1.005	2,412
2)	SMALL PARTY SNOW SPRAY	1072	12864	0.20	2572.80	1.005	12,928.32
TOTAL:		1272 CARTOONS	15,264 DOZENS		3052.80 USD		15,340.32 USD
Total (INR)					INR 2,55,367/-		INR 12,83,218/-

SEZ Bill of Entry No.1003571 dated 21.02.2023 (IAAU1919476)

SR. NO.	DESCRIPTION	TOTAL CARTOONS	TOTAL QUANTITY (in DOZENS)	Per Dozen C&F Invoice Value of the goods in USD	Total C&F Invoice Value of the goods in USD	Per Dozen Average C&F Value of the goods Assessed by CE in USD (Approx.)	Total Average C&F Value of the goods Assessed by CE in USD (Approx.)
1)	SMALL PARTY RIBBON SPRAY	200	2400	0.20	480.00	1.005	2,412
2)	SMALL PARTY SNOW SPRAY	1075	12900	0.20	2580.00	1.005	12,964.50
TOTAL:		1275 CARTOONS	15,300 DOZENS		3060.00 USD		15,376.50 USD
Total (INR)					INR 2,55,969/-		INR 12,86,244/-

6.1 As per Reports submitted by the Chartered Engineer, the declared goods were found mis-declared in terms of valuation. Therefore, the aforesaid goods imported vide B/E Nos. 1003745 dated 24.02.2023 and 1003571 dated 21.02.2023 were put under seizure vide seizure Memo dated 18.04.2023 under Section 110 of the Customs Act, 1962 as the same is liable for confiscation under Section 111(m) of the Customs Act, 1962.

7. As the goods were found undervalued a letter dated 02.03.2023 was written to the Delhi Preventive to conduct a search at the premises of the importer to collect all the relevant evidences to establish that the importer was engaged in undervaluation of imported goods to evade customs duty.

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In response to the letter 02.03.2023 written to Delhi Preventive, the Additional Commissioner, Delhi Preventive forwarded copy of Panchnama dated 21.03.2023 drawn at the premises of M/s Vij Impex, New Delhi along with documents resumed during the course of Panchnama which were only Bills of Entry for previous imports, GST Returns, Bank Remittance etc.

8. In view of the above facts, the transaction value declared by the importer under Section 14 of the Customs Act, 1962 is liable to be rejected as per Rule 12 of the Customs Valuation (Determination of Value of Imported Goods), Rule, 2007. Further, the description of the goods is generic in nature so the valuation of the goods by resorting to Rule 4 of the Customs Valuation (Determination of value of Imported Goods) Rules 2007 cannot be done. The empanelled Chartered Engineer/Valuer has described the method employed by him to arrive at the suggested C&F Value. Therefore, on the basis of submission made by CE as mentioned in para 2.3 above, the valuation may be considered to be as per Rule 5 of the Customs Valuation (Determination of value of Imported Goods) Rules 2007.

9. A summons on dated 15.04.2023 was issued to the importer to record their statement and in response to the above summons, the importer vide their letter dated 18.04.2023 submitted that:

"The value declared in the above bills of entry is accurate value as per the same goods being cleared from different customs ports/icds. Copies of some of the bills of entry are enclosed herewith for you sir. However, we are agree with the valuation report submitted by the Chartered Engineer as we don't want any litigation in the case. We are ready to pay the duty on enhanced value as per CE report and along with applicable fine & penalty and request your good self to impose minimum penalty and fine on the above ground. We do not want any SCN and personal hearing in the case."

10. **Relevant Legal Provisions:**

The relevant provisions of law pertaining to import of goods in general, the policy & rules relating to imports, the liability of the goods to confiscation and the persons concerned to penalty for illegal importation under provisions of Customs Act, 1962 and the other laws for the time being in force are summarized as under:

10.1 **Section 2(25) defined the terms "Imported Goods":**

"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.

10.2 **SECTION 17: Assessment of duty —**

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(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. (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.

(2) The proper officer may verify the 2 [the entries made under section 46 or section 50 and the self-assessment of goods referred to in sub-section (1)] and for this purpose, examine or test any imported goods or export goods or such part thereof as may be necessary.

Provided that the selection of cases for verification shall primarily be on the basis of risk evaluation through appropriate selection criteria.

(3) For [the purposes of verification] under sub-section (2), the proper officer may require the importer, exporter or any other person to produce any document or information, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and thereupon, the importer, exporter or such other person shall produce such document or furnish such information.

(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.

(5) Where any re-assessment done under sub-section (4) is contrary to the self-assessment done by the importer or exporter and in cases other than those where the importer or exporter, as the case may be, confirms his acceptance of the said re-assessment in writing, the proper officer shall pass a speaking order on the re-assessment, within fifteen days from the date of re-assessment of the bill of entry or the shipping bill, as the case may be.

10.3 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.*

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10.4. Section 110 of the Customs Act, 1962, provides for 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:.

10.5 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 terms of valuation 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;

...

10.6 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;
- 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:

Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined;

- iii. in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 in

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either case hereafter in this section referred to as the declared value is higher than the value thereof, to a penalty not exceeding the difference between the declared value and the value thereof or five thousand rupees, whichever is the greater;

- iv. *in the case of goods falling both under clauses (i) and (iii), to a penalty not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees, whichever is the highest;*
- v. *in the case of goods falling both under clauses (ii) and (iii), to a penalty not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees, whichever is the highest.*

10.7 **SECTION 14. Valuation of goods. –**

(1) For the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, the value of the imported goods and export goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, or as the case may be, for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf :

Provided that such transaction value in the case of imported goods shall include, in addition to the price as aforesaid, any amount paid or payable for costs and services, including commissions and brokerage, engineering, design work, royalties and licence fees, costs of transportation to the place of importation, insurance, loading, unloading and handling charges to the extent and in the manner specified in the rules made in this behalf:

Provided further that the rules made in this behalf may provide for,-

- (i)*;
- (ii)*;
- (iii) the manner of acceptance or rejection of value declared by the importer or exporter, as the case may be, where the proper officer has reason to doubt the truth or accuracy of such value, and determination of value for the purposes of this section:*

Provided also that such price shall be calculated with reference to the rate of exchange as in force on the date on which a Bill of Entry is presented under section 46, or a shipping bill of export, as the case may be, is presented under section 50.

10.8 **Customs Valuation (Determination of Value of Imported Goods) Rules, 2007; Notification No.94/2007 - Customs (N.T.)**

The relevant rules are applicable in the case are as under:

Rule 5. Transaction value of similar goods . -

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(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.

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.

(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;

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- (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.*

11. In light of the above examination, investigations and submissions, the following has been proposed by the SIIB:

- i. The goods imported vide SEZ Bill of Entry No.1003571 dated 21.02.2023 (IAAU1919476) and SEZ Bill of Entry No.1003745 dated 24.02.2023 are liable for confiscation under Section 111(m) of the Customs Act, 1962.
- ii. The declared Assessable value in respect of goods imported vide SEZ Bill of Entry No.1003571 dated 21.02.2023 (IAAU1919476) and SEZ Bill of Entry No.1003745 dated 24.02.2023 is liable for rejection under Rule 12 of the Customs Valuation Rule 2007 and shall be re-determined as per Rule 5 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 on the basis of CE Report as per Para 6 above.
- iii. The importer is liable for penalty under Section 112 of the Customs Act, 1962.

RECORDS OF PERSONAL HEARING & WRITTEN SUBMISSION

12. The importer vide their letter dated 16.05.2023 submitted that “the value declared in the above bills of entry is accurate value as per the same goods being cleared from different customs ports/icds. However, we are agreeing with the valuation report submitted by the Chartered Engineer as we don’t want any litigation in the case. We are ready to pay the duty on enhanced value as per CE report and along with applicable fine & penalty and request your good self to impose minimum penalty and fine on the above ground. We do not want any SCN and personal hearing in the case.”

DISCUSSION AND FINDINGS

13. I have carefully gone through the Investigation Report as well as facts of the case available on records. The importer vide letter dated 16.05.2023 requested for waiver of Personal Hearing and Show Cause Notice. Thus, I find that principle of natural justice as provided in Section

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122A of the Customs Act, 1962 have been complied with and therefore, I proceed to decide the case on the basis of documentary evidences available on records. The following main issues are involved in Investigation Report, which are required to be decided:

- i. Whether the confiscation of the goods imported vide SEZ Bill of Entry No.1003571 dated 21.02.2023 and SEZ Bill of Entry No.1003745 dated 24.02.2023 under Section 111(m) of the Customs Act, 1962, is rightly proposed or otherwise. If yes, whether redemption fine is also imposable under Section 125 of the Customs Act, 1962 if goods are redeemed for clearance purpose.
- ii. Whether the imposition of penalty on Importer M/s. Vij Impex under Section 112(a) of the Customs Act, 1962 is legitimately proposed or otherwise.

13.1 I find that the importer M/s Vij Impex, BG-1/37B, Block-BG, Shalimar Bagh, North West Delhi-110088 (IEC No. ACBPV7551N) filed SEZ Bills of Entry No. 1003571 dated 21.02.2023 and 1003745 dated 24.02.2023 for import of Small Party Ribbon Spray (CTH-95059090) & Small Party Snow Spray (CTH-95059090) from China for warehousing the same in M/s Rudraksh Terminal LLP, SEZ Warehouse, Adani Port & Mundra SEZ, Mundra.

13.2 I find that, on the basis of the intelligence gathered by the SIIB either the declared goods in the aforesaid Bills of Entry are undervalued or mis-declared; both the containers were put on hold by the SIIB for details examination.

13.3 I find that during the examination the goods in respect of the description and quantity were found as declared in the aforesaid Bills of Entry. The details are as mentioned:

Table- A for Container No. SEKU4119938 (BoE No. 1003745 dated 24.02.2023)

Sr. No.	Item Description	Numbers of Bags	Number of Pieces in Bags	Total Quantity
1	Small Party Ribbon Spray	200	144	28800
2	Small Party Snow Spray	1075	144	154800
Total		1275		183600

Table- B for Container No. IAAU1919476 (BoE No. 1003571 dated 21.02.2023)

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Sr. No.	Item Description	Numbers of Bags	Number of Pieces in Bags	Total Quantity
1	Small Party Ribbon Spray	200	144	28800
2	Small Party Snow Spray	1072	144	154368
Total		1275		183168

13.4 I find that that the declared goods in the aforesaid Bills of Entry appears to be undervalued as per valuation report dated 15.03.2023 submitted by the empanelled Chartered Engineer. The details of the valuation of the goods are as mentioned below:

SEZ Bill of Entry No.1003745 dated 24.02.2023 (SEKU4119938)

SR. NO.	DESCRIPTION	TOTAL CARTOONS	TOTAL QUANTITY (in DOZENS)	Per Dozen C&F Invoice Value of the goods in USD	Total C&F Invoice Value of the goods in USD	Per Dozen Average C&F Value of the goods Assessed by CE in USD (Approx.)	Total Average C&F Value of the goods Assessed by CE in USD (Approx.)
1)	SMALL PARTY RIBBON SPRAY	200	2400	0.20	480.00	1.005	2,412
2)	SMALL PARTY SNOW SPRAY	1072	12864	0.20	2572.80	1.005	12,928.32
TOTAL:		1272 CARTOONS	15,264 DOZENS		3052.80 USD		15,340.32 USD
Total (INR)					INR 2,55,367/-		INR 12,83,218/-

SEZ Bill of Entry No.1003571 dated 21.02.2023 (IAAU1919476)

SR. NO.	DESCRIPTION	TOTAL CARTOONS	TOTAL QUANTITY (in DOZENS)	Per Dozen C&F Invoice Value of the goods in USD	Total C&F Invoice Value of the goods in USD	Per Dozen Average C&F Value of the goods Assessed by CE in USD (Approx.)	Total Average C&F Value of the goods Assessed by CE in USD (Approx.)
1)	SMALL PARTY RIBBON SPRAY	200	2400	0.20	480.00	1.005	2,412
2)	SMALL PARTY	1075	12900	0.20	2580.00	1.005	12,964.50

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SNOW SPRAY						
TOTAL:	1275 CARTOONS	15,300 DOZENS		3060.00 USD		15,376.50 USD
Total (INR)				INR 2,55,969/-		INR 12,86,244/-

In view of the above, I find that the declared assessable value in respect of goods imported vide SEZ Bills of Entry Nos. 1003571 dated 21.02.2023 and 1003745 dated 24.02.2023 is liable for rejection under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rule, 2007 and shall be re-determined as per Rule 5 of the Customs Valuation (Determination of Value of Imported Goods) Rule, 2007 on the basis of CE Report as mentioned above.

13.5 The details of the value of the goods and duty difference as per calculation sheet provided by the SIIB, are as below:

Sr. No.	BoE No./Date	Ass. Value (declared)	Ass. Value (As per Investigation Report)	Difference of Ass. Value	Duty (Declared)	Duty (as per Investigation Report)	Difference of Duty
1.	1003571/ 21.02.23	2,58,240/-	12,86,244/-	10,28,004/-	1,13,522/-	5,64,103/-	4,50,580/-
2.	1003745/ 24.02.23	2,58,849/-	12,83,218/-	10,24,369/-	1,13,790/-	5,65,433/-	4,51,643/-
	Total			20,52,373/-			9,02,223/-

13.6 I find that the importer has mis-declared the impugned goods imported vide SEZ Bills of Entry Nos. 1003571 dated 21.02.2023 and 1003745 dated 24.02.2023 in respect of the value. The Section 111(m) provides for confiscation of any goods which do not correspond in terms of valuation or in any other particular with the entry made under this Act. I therefore, hold that mis-declared goods in respect of the value, having re-determined value of Rs. 12,86,244/- against B/E No. 1003571 dated 21.02.2023 and Rs. 12,83,218/- against B/E No. 1003745 dated 24.02.2023 are liable for confiscation under Section 111(m), of Customs Act, 1962.

13.7 I find that the importer has agreed with the valuation report submitted by the Chartered Engineer and ready to pay the duty on enhanced value as per CE report and along with applicable fine & penalty and requested to impose minimum penalty and fine. They do not want any

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SCN and personal hearing in the case.

13.8 Section 125 of the Customs Act, 1962 provides that whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof 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 officers thinks fit. Considering these facts, I find it appropriate to grant an option to pay fine under Section 125 of the Customs Act, 1962 in lieu of confiscation of the goods for clearance purpose.

13.9 I find that the goods are mis-declared in respect of the value and liable for confiscation under section 111(m) of the Customs Act, 1962. In as much as penalty under Section 112(a)(ii) of Customs Act, 1962 is concerned as goods are found undervalued, I find that by the acts of omission and commission, the importer had rendered himself liable for penalty under Section 112(a)(ii) of the Customs Act, 1962.

Therefore, the proposition of penalty under Section 112(a) (ii) of Customs Act, 1962 on importer M/s Vij Impex, is legitimate and thus, the same is confirmed.

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

ORDER

- i. I order to reject the declared value of Rs. 2,58,240/- in the SEZ Bills of Entry Nos. 1003571 dated 21.02.2023 filed by the Importer M/s Vij Impex as per Rule 12 of the Customs Valuation Rule, 2007 and order to re-determine the value as per Rule 5 of Customs Valuations Rules, 2007 as discussed in para 13.4 above. The value of the goods found mis-declared in terms of valuation in the bill of entry no. 1003571 dated 21.02.2023 to be re-determined as **Rs. 12,86,244/-** (*Rupees Twelve Lakhs Eighty Six Thousands Two Hundred Forty Four only*).
- ii. I order to reject the declared value of Rs. 2,58,849/- in the SEZ Bills of Entry Nos. 1003745 dated 24.02.2023 filed by the Importer M/s Vij Impex as per Rule 12 of the Customs Valuation Rule, 2007 and order to re-determine the value as per Rule 5 of Customs Valuations

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Rules, 2007 as discussed in para 13.4 above. The value of the goods found mis-declared in terms of valuation in the bill of entry no. 1003745 dated 24.02.2023 to be re-determined as **Rs. 12,83,218/-** (*Rupees Twelve Lakhs Eighty Three Thousand Two Hundred Eighteen only*).

- iii. I order for confiscation of the goods found mis-declared in terms of valuation having re-determined value of Rs. 12,86,244/- for bill of entry no. 1003571 dated 21.02.2023 under Section 111(m) of the Customs Act, 1962. However, I give an option to the importer to redeem the goods on payment of redemption fine of Rs. 1,50,000/- (*Rupees One Lakh Fifty Thousand only*) under Section 125 of Customs Act, 1962 for clearance purpose.
- iv. I order for confiscation of the goods found mis-declared in terms of valuation having re-determined value of Rs. 12,83,218/- for the bill of entry no. 1003745 dated 24.02.2023 under Section 111(m) of the Customs Act, 1962. However, I give an option to the importer to redeem the goods on payment of redemption fine of Rs Rs. 1,50,000/- (*Rupees One Lakh Fifty Thousand only*) under Section 125 of Customs Act, 1962 for clearance purpose.
- v. I order to recover the differential duty of Rs. 4,50,580/- against Bill of Entry No. 1003571 dated 21.02.2023 filed by the importer M/s Vij Impex is SEZ.
- vi. I order to recover the differential duty of Rs. 4,51,643/- against Bill of Entry No. 1003745 dated 24.02.2023 filed by the importer M/s Vij Impex is SEZ.
- vii. I impose penalty of Rs. Rs 45,000/- (*Rupees Forty Five Thousand only*) under Section 112(a) (ii) of the Customs Act, 1962 on importer M/s Vij Impex as the importer has mis-declared the goods in terms of valuation in the Bill of Entry No. 1003571 dated 21.02.2023.
- viii. I impose penalty of Rs 45,000/- (*Rupees Forty Five Thousand only*) under Section 112(a) (ii) of the Customs Act, 1962 on importer M/s Vij Impex as the importer has mis-declared the goods in terms of valuation in the Bill of Entry No. 1003745 dated 24.02.2023.

15. This order is issued without prejudice to any other action that may be taken in respect of the goods in question and/or against the persons concerned or any other person, if found involved, under the provisions of the Customs Act, 1962, and/or any other law for the time being in force in

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the Republic of India.

16. The Investigation Report No. S/43-309/Vij Impex/SIIB-G/CHM/22-23 dated 24.04.2023 issued by Dy. Commissioner of Customs, SIIB, Customs House, Mundra, is hereby disposed of.

Signed by

Mukesh Kumari

Date: 22-06-2023 18:55:30

Additional Commissioner of Customs
Import Assessment, Group-VI,
Customs House, Mundra

By RPAD/ By Hand Delivery

To,

M/s Vij Impex, (IEC No. ACBPV7551N)
BG-1/37B, Block-BG, Shalimar Bagh,
North West Delhi-110088

Copy to:

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