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|  | <p>प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, मुन्द्रा</p> <p>OFFICE OF THE PRINCIPAL COMMISSIONER,</p> <p>CUSTOM HOUSE, MUNDRA</p> <p>Port User Building (PUB), Mundra (Gujarat – 370421)</p> <p>ई-मेल/ E-Mail: group5-mundra@gov.in</p> |
| A फा. सं./ FILE NO. | CUS/APR/INV/519/2025-Gr 5-6 |
| B मूल आदेश सं. ORDER-IN-ORIGINAL NO. | MCH/ADC/ZDC/228/2025-26 |
| C द्वारा पारित किया गया PASSED BY | Zala Dipakbhai ChimanBhai ADDITIONAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE, MUNDRA. |
| D आदेश की तिथि DATE OF ORDER | 02.09.2025 |
| E जारी करने की तिथि DATE OF ISSUE | 04-09-2025 |
| F कारण बताओ नोटिस सं. एवं तिथि SCN NUMBER & DATE | Importer requested for waiver of SCN & PH |
| G नोटिसी/पार्टी / आयातक NOTICEE/ PARTY/ IMPORTER | M/s ESS ESS Impex (IEC NPUPS0267H), G-44, Block G, KH No. 1/50, 2nd Floor, Shastripark Street No. 2, Delhi North, East Delhi- 110053 |
| H डिन सं. DIN NUMBER | 20250971MO000000D840 |

1. यह अपील आदेश संबन्धित को निःशुल्क प्रदान किया जाता है।

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

2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 129A(1) के अंतर्गत प्रपत्र सीए3-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 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

“सीमा शुल्क आयुक्त) अपील(, चौथी मंजिल, हुडको बिल्डिंग, ईश्वर भुवन रोड, नवरंगपुरा, अहमदाबाद 380009”

“The Commissioner of Customs (Appeals), Mundra, 4TH Floor, Hudco Building, Ishwar Bhuvan Road, Navrangpura, Ahmedabad-380009.”

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

Appeal shall be filed within three months from the date of communication of this order.

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

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

5. उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मदसं- 6 के तहत निर्धारित 0.50 पैसे की एक न्यायालय शुल्क स्टाम्प वहन करना चाहिए।

The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paise only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.

6. अपील ज्ञापन के साथ ड्यूटी/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।
Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.

7. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और सीमा शुल्क अधिनियम, 1962 के सभी मामलों में पालन किया जाना चाहिए।

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

8. 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 (Appeals) 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

A NCTC alert No. 2025-26/IMP/2576-dated 01.08.2025 was received to the effect of possibility of mis-declaration and concealment against the import consignment covered under Z Type B/E No. 3595530 dated 31.07.2025 filed at APSEZ (INAJM6). As per House Bill of lading No. 177GBLBLN5C392A dated 16.07.2025, Consignee is M/s ESS ESS Impex and notify party is M/s Fast Track CFS Pvt. Ltd. (SEZ INAJM6). Port of Loading is Ningbo, CHINA. Master Bill of Lading No. is MEDUJL823344 dated 22.07.2025.

2. M/s ESS ESS Impex (IEC NPUPS0267H), (hereinafter referred to as 'the importer' for the sake of brevity) having address at G-44, Block G, KH No. 1/50, 2nd Floor, Shastri Park Street No. 2, Delhi North, East Delhi- 110053, (Email id :- ESSESSIMPEX2022@GMAIL.COM) filed warehouse (Z Type) Bill of Entry No. 3595530 dated 31.07.2025 for import of various items under various CTH. The Country of origin of the goods is CHINA. The details of the B/E are as follows: -

Table-I

| B/E No. & date | Bill of Lading No. & Date Container No. | Declared Goods | Declared HS N Code | Declared Quantity | Declared Assessable Value (in USD) | Total Declared Assessable Value (in Rs.) | Total Declared Duty (in Rs.) |
|-----------------------------|--|-------------------------------------|--------------------|-------------------|------------------------------------|--|------------------------------|
| 3595530 dated 31.07.2025 | MDEUJL8 23344 dated 22.07.2025 TGBU9942196 | 1. Decorative Accessories | 95059090 | 1706 Kgs. | .64 USD/Kg s. | 94772 | 41662 |
| | | 2. Stationery Item (Pen cil, Pouch) | 63059000 | 30 Do zen | 1.85 USD/D ozen | 4817 | 1172 |
| | | 3. Stationery Item (Sharpener) | 82141010 | 500 D ozen | .25 USD/D ozen | 10850 | 3361 |
| | | 4. Microfiber Cleaning Towel | 63049260 | 208 D ozen | 3.38 USD/D ozen | 61024 | 10099 |
| | | 5. Car Mini Fan | 84145190 | 88 Do zen | .89 USD/D ozen | 6798 | 2989 |
| | | 6. Saw Chain | 84145190 | 22113 Kgs. | .60 USD/Kg s. | 1151645 | 319409 |
| | | 7. Ladies Bag | 42022290 | 47 Do zen | 1.69 USD/D ozen | 16895 | 2583 |
| | | 8. Floor Drain | 84819090 | 228 D ozen | 4.7 USD/D ozen | 93015 | 25798 |
| | | | | | | Rs. 14,29,816/- | Rs. 4,07,073/- |

3. On the basis of NCTC alert, goods covered under Z Type B/E No. 3595530 dated 31.07.2025 was put on hold for SIIB examination purpose. The examination of the goods was carried out at Fast track CFS Private Limited (SEZ Unit) on 04.08.2025 in the presence of Shri Narendrasinh G. Jadeja, importer's authorised representative and Shri Chirag Sudhakar More, Dy. Manager, Operation of M/s Fast Track CFS Pvt. Ltd. The seal placed on the

container was checked/verified and found intact and tally with the number mentioned in the Bill of lading.

4. Further, before beginning the examination, the weightment slip of the containers generated at CFS weighbridge are cross checked. The weight mentioned on the slip as well as Bill of Lading are as under:-

Table-II

| Sr. No. | Bill of Entry & Date | Container No. | B/L Weight (Kgs.) | CFS Weight (Kgs.) | Difference |
|---------|--------------------------|---------------|-------------------|-------------------|------------------|
| 1 | 3595530 dated 31.07.2025 | TGBU9942196 | 27237 | 28400 | 1163 Kgs. Excess |

5. Further, Gate of container was opened for the examination of the goods. Upon opening the gate, it was found that goods were packed in corrugated bags and PP bags. Thereafter, entire cargo was de-stuffed in the warehouse from the container for the examination with the help of labour. The Importer representative and CFS representative were asked to segregate the goods as per marking. After that, the goods were segregated as per marking with the help of labour. The details of goods found during examination are as under:-

Table-III

| Sr. No. | Goods Found During Examination | No. of CTN/Bag declared in B/E, and List | No. of CTN/Bags found during the examination | Quantity | |
|---------|---|--|--|--|--|
| | | | | Declared Qty. in invoice and PL (in Doz) | Quantity found during the examination (in Doz) |
| 1 | Decorative Accessories found as artificial Flower | 61 | 62 | 1726 Kgs. | 1890 Kgs. |
| 2 | Stationery Item (Pencil Pouch/Box) | 3 | 3 | 360 Pcs. | 354 Pcs. |
| 3 | Stationery Item (Sharpener) | 12 | 12 | 6000 Pcs. | 4080 Pcs |
| 4 | Microfiber Cleaning Towel | 25 | 25 | 2496 Pcs. | 2500 Pcs |
| 5 | Car Mini Fan | 6 | 5 | 1052 Pcs | 492 Pcs. |
| 6 | Saw Chain | 865 | 480 | 22487 Kgs. | 12000 Pcs. |

| | | | | | |
|----|---------------------|--------------|-----------|----------|-------------|
| | | | | | /11419 Kgs. |
| 7 | Fabric (undeclared) | | | | |
| 7a | Marking A | | 285 Rolls | | 7305 Kgs. |
| 7b | Marking B | | 69 Rolls | | 850 Kgs. |
| 7c | Marking C | | 31 Rolls | | 1923 Kgs. |
| 8 | Ladies Bag | 7 | 564 Pcs | 840 Pcs | 840 Pcs |
| 9 | Floor Drain | 110 | 2736 Pcs | 1900 Pcs | 1900 Pcs |
| | | 1089 Package | | | |

6. During Examination, in place of decorative accessories mentioned at Sr. No. 01, artificial flower was found. Further, Total 10078 Kgs. (03 type of undeclared/ mis-declared fabric) was found which were subsequently segregated and marked as A, B and C for testing purpose. Further, quantity of item mentioned at Sr. No. 1,4 and 8 were found in excess of declared quantity and item mentioned at Sr. No. 2, 3, 5, 6 and 9 were found short from declared quantity.

7. Further, during examination, 03 type of fabric was found undeclared. However, the actual nature, description, and composition of the goods i.e. fabrics cannot be ascertained visually. Therefore, to accurately determine the relevant characteristics, in respect of goods mentioned above, randomly, 03 representative sample (in triplicate) were drawn and same were forwarded to CRCL, Kandla for testing purpose vide Test Memo No. 142 to 144 both dated 05.08.2025. The CRCL test reports in respect of Test Memo No. 142 to 144 were received on 12.08.2025 and 19.08.2025. The gist of test report is as under: -

Table-E

| Test Memo No. | Test Report |
|--------------------|---|
| 142 (Marking A) | The sample as received is in the form of a cut piece of dyed (Greyish coloured) knitted fabric having coating on one side (with no selvedge) & raised fibers on other side. The base knitted fabric and raised fibers is composed of polyester filament yarn and coating is composed of compounded polymer based on polyurethane. GSM is 540.16. Polyester is 64.7% and balance is polymeric material. The presence of azo dye could not be ascertained as it is a coated fabric. |
| 143 (Marking B) | The sample as received is in the form of a cut piece of white knitted fabric having grey coloured coating on one side (with no selvedge) & raised fibers on other side. The base knitted fabric and raised fibers is composed of polyester filament yarn and coating is composed of compounded polymer based on polyurethane. GSM is 424.48. Polyester is 45.04% and balance is polymeric material. The presence of azo dye could not be ascertained as it is a coated fabric. |

| | |
|-----------------------|--|
| 144 (Marking C) | The sample as received is in the form of a cut piece of dyed (Greyish coloured) knitted fabric (without selvedge) having lamination on one side and raised fiber on other side. The base knitted fabric is composed of polyester filament yarn and raised fiber is made of polyester, lamination is composed of polymer based on polyurethane (PU) and inorganic additives. GSM is 541.04. Polyester is 64.52% and balance is polymeric material and adhesive. |
|-----------------------|--|

8. The aforementioned test reports were subsequently conveyed to the importer by this office on 26.08.2025 on their email id essessimpex2022@gmail.com for perusal and acceptance purpose.

9. Further, to accurately determine the tax liability, both declared and mis declared items must be classified under the appropriate Customs Tariff Heading (CTH). All Goods were found to be rightly classifiable under declared CTH except item no. 1 & 4. Further, fabric was also found undeclared. The same needs to be classified under appropriate CTH.

9.1 Since, Goods found as Fabric Marking A, B and C were found undeclared in B/E No. 3595530 dated 31.07.2025, As per test report issued against Test Memo No. 142 and 143, The base knitted fabric and raised fibers is composed of polyester filament yarn and coating is composed of compounded polymer based on polyurethane. Further, in case of Test Memo No. 144, The base knitted fabric is composed of polyester filament yarn and raised fiber is made of polyester, lamination is composed of polymer based on polyurethane (PU) and inorganic additives. Since, in all 03 test report, fabric is coated/laminated with polyurethane, as far as the entries at heading level are concerned, heading 5903 covers Textile Fabric impregnated, coated, covered or laminated with plastics, other than those of heading 59.02 which reads as under:-

5903 Textile Fabric impregnated, coated, covered or laminated with plastics, other than those of heading 59.02

590310 - With Polyvinyl chloride:

59031010 --- Imitation leather fabrics of
Cotton 59031090 --- Other

590320 - With Polyurethane:

59032010 --- Imitation leather fabrics, of
cotton 59032090 --- Other

590390 - Other:

59039010 --- Of Cotton

59039020 --- Polyethylene laminated jute
fabrics 59039090 --- Other.

Since Polyurethane is a type of plastics. Hence, it, prima facie, appears to classifiable under 59032090 as there is 2nd single dash (-) level entry for fabric coated/laminated with polyurethane wherein applicable rate of duties is @ 36.640% (20% BCD + 2% SWS + 12% IGST).

Further, CBIC vide notification No. 14/2022-Customs (ADD) dated 20.05.2022 imposed anti-dumping duty at the rate of 0.46 USD/Metre in case goods have been imported from CHINA and producer is other than M/s Anhui Anli Material Technology Co., Ltd.. Since, in this case, supplier is other than M/s Ahnui Anli. Hence, ADD @ .46 USD/Metre is applicable.

9.2 Further, Goods i.e. Microfiber cleaning towel were classified under CTH 63049260, however, prima facie, the same appears to classifiable under CTH 6307 which reads as under:-

6307 Other made up articles, including dress patterns
 630710 - Floor cloths, dish cloths, dusters
 and similar cleaning cloths:
 63071010 --- Of cotton
 63071020 --- Of man-made
 fibers
 63071030 --- Of cotton, Handloom
 63071090 --- Other

Since, on examination, goods were found as cleaning towel, which prima facie, merit classifiable under 63071090 wherein applicable rate of duties is @ 16.550% (10% BCD+ 1% SWS + 5% IGST).

9.3 Further, goods found as artificial flower were declared as declared item and same were classified under CTH 95059090, however, prima facie, the same appears to be classifiable under 6702 which reads as under:-

6702 Artificial flowers, foliage and fruit and parts thereof; articles made of artificial flowers, foliage or fruits
 670210 - Of Plastics :
 67021010 --- Decorative
 Plants 67021090 ---
 Other

Since, on examination, goods were found as artificial flower made of plastic, which prima facie, merit classifiable under 67021010 wherein applicable rate of duties is @ 43.960% (20% BCD+ 2% SWS + 18% IGST).

10. Since, During Examination, goods were found mis declared in terms of description, CTH and quantity etc. and undeclared goods were also found during examination, hence, the value declared by the importer in the Bill of Entry No. and invoices did not appear to be the true transaction value as importer has not declared complete goods imported vide B/E No. 3595530 dated 31.07.2025, hence, value declared by importer does not appear to be true transaction value under the provisions of Section 14 of the Customs Act, 1962 read with the provisions of the Customs Valuation (determination of Value of Imported Goods) Rules, 2007 and thus the same appear liable to be rejected in terms of Rule 12 of CVR, 2007. The value is required to be re-determined by sequentially proceeding in terms of Rules 4 to 9 of CVR, 2007. The relevant Rules of CVR, 2007 are reproduced hereunder: -

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

Since, the value of goods declared by the importer in the Bill of Entry did not appear to be the true transaction value under the provisions of Section 14 of the Customs Act, 1962 read with the rule 3 of the Customs Valuation (determination of Value of Imported Goods) Rules, 2007 and thus the same appear liable to be rejected in terms of Rule 12 of CVR, 2007. The value is required to be re-determined by sequentially proceeding in terms of Rules 4 to 9 of CVR, 2007. The relevant Rules of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 are reproduced here under:-

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

Rule 3. Determination of the method of valuation:

- (1) Subject to rule 12, the value of imported goods shall be the transaction value adjusted in accordance with provisions of rule 10;
- (2) Value of imported goods under sub-rule (1) shall be accepted: Provided that -

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

(i) are imposed or required by law or by the public authorities in India; or
(ii) limit the geographical area in which the goods may be resold; or (iii) do not substantially affect the value of the goods;

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

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

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

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

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

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

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

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

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

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

Rule 4. Transaction value of identical goods:

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

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

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

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

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

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

Rule 5. Transaction value of similar goods:

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

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

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

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

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

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

Rule 7. Deductive value:

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

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

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

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

(2) If neither the imported goods nor identical nor similar imported goods are sold at or about the same time of importation of the goods being valued, the value of imported goods shall, subject otherwise to the provisions of sub-rule (1), be based on the unit price at which the imported goods or identical or similar imported goods are sold in India, at the earliest date after importation but before the expiry of ninety days after such importation.

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

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

Rule 8. Computed value:

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

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

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

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

Rule 9. Residual method:

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

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

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

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

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

(iii) the price of the goods on the domestic market of the country of exportation;

(iv) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of rule 8;

(v) (vi) (vii)

the price of the goods for the export to a country other than India; minimum customs values; or arbitrary or fictitious values.

Rule 10. Cost and services:

(1) In determining the transaction value, there shall be added to the price actually paid or payable for the imported goods, -

(a) the following to the extent they are incurred by the buyer but are not included in the price actually paid or payable for the imported goods, namely:-

(i) commissions and brokerage, except buying commissions;

(ii) the cost of containers which are treated as being one for customs purposes with the goods in question;

(iii) the cost of packing whether for labour or materials;

(b) The value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of imported goods, to the extent that such value has not been included in the price actually paid or payable, namely:-

(i) materials, components, parts and similar items incorporated in the imported goods;

(ii) tools, dies, moulds and similar items used in the production of the Imported goods; (iii) materials consumed in the production of the imported goods;

(iv) engineering, development, art work, design work, and plans and sketches undertaken elsewhere than in India and necessary for the production of the imported goods;

(c) royalties and licence fees related to the imported goods that the buyer is required to pay, directly or indirectly, as a condition of the sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable;

(d) The value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues, directly or indirectly, to the seller;

(e) all other payments actually made or to be made as a condition of sale of the imported goods, by the buyer to the seller, or by the buyer to a third party to satisfy an obligation of the seller to the extent that such payments are not included in the price actually paid or payable.

Explanation.- Where the royalty, licence fee or any other payment for a process, whether patented or otherwise, is includible referred to in clauses (c) and (e), such charges shall be added to the price actually paid or payable for the imported goods, notwithstanding the fact that such goods may be subjected to the said process after importation of such goods.

(2) For the purposes of sub-section (1) of section 14 of the Customs Act, 1962 (52 of 1962) and these rules, the value of the imported goods shall be the value of such goods, for delivery at the time and place of importation and shall include -

- (a) the cost of transport of the imported goods to the place of importation;
- (b) loading, unloading and handling charges associated with the delivery of the imported goods at the place of importation; and
- (c) the cost of insurance: Provided that -

- (i) where the cost of transport referred to in clause (a) is not ascertainable, such cost shall be twenty per cent of the free on board value of the goods;

- (ii) the charges referred to in clause (b) shall be one per cent of the free on board value of the goods plus the cost of transport referred to in clause (a) plus the cost of insurance referred to in clause (c);

- (iii) where the cost referred to in clause (c) is not ascertainable, such cost shall be 1.125% of free on board value of the goods;

Provided further that in the case of goods imported by air, where the cost referred to in clause (a) is ascertainable, such cost shall not exceed twenty per cent of free on board value of the goods:

Provided also that where the free on board value of the goods is not ascertainable, the costs referred to in clause (a) shall be twenty per cent of the free on board value of the goods plus cost of insurance for clause (i) above and the cost referred to in clause (c) shall be 1.125% of the free on board value of the goods plus cost of transport for clause (iii).

Provided also that in case of goods imported by sea stuffed in a container for clearance at an Inland Container Depot or Container Freight Station, the cost of freight incurred in the movement of container from the port of entry to the Inland Container Depot or Container Freight Station shall not be included in the cost of transport referred to in clause (a).

Explanation.-The cost of transport of the imported goods referred to in clause(a) includes the ship demurrage charges on chartered vessels, lighterage or barge charges.

(3) Additions to the price actually paid or payable shall be made under this rule on the basis of objective and quantifiable data.

(4) No addition shall be made to the price actually paid or payable in determining the value of the imported goods except as provided for in this rule.

Rule 11. Declaration by the importer:

(1) The importer or his agent shall furnish -

- (a) a declaration disclosing full and accurate details relating to the value of imported goods; and

- (b) any other statement, information or document including an invoice of the manufacturer or producer of the imported goods where the goods are imported from or through a person other than the manufacturer or producer, as considered necessary by the proper officer for determination of the value of imported goods under these rules.

(2) Nothing contained in these rules shall be construed as restricting or

calling into question the right of the proper officer of customs to satisfy himself as to the truth or accuracy of any statement, information, document or declaration presented for valuation purposes.

(3) The provisions of the Customs Act, 1962 (52 of 1962) relating to confiscation, penalty and prosecution shall apply to cases where wrong declaration, information, statement or documents are furnished under these rules.

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

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

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

(f) the fraudulent or manipulated documents.

12. As mentioned above, the declared assessable value of the goods Rs.14,29,816/- of Bill of Entry No. 3595530 dated 31.07.2025 cannot be considered as assessable value of the goods and hence the same is liable to be rejected under Rule 12 of Customs Valuation Rules 2007 as goods were found concealed during examination. In absence of credible data of import of similar/identical goods due to quality, quantity of goods and other constraints, the value of these goods cannot be determined in terms of Rule 4,5,6,7,8 of Customs Valuation Rules 2007. Hence the value is to be determined in terms of Rule 9 of said rules.

13. Therefore, opinion of the empanelled Chartered Engineer was sought for determination of the value of the imported goods. The Chartered Engineer vide his Report No. AYK:VAL:02619:2025 dated 28.08.2025 has suggested the value of the imported goods as Rs. 41,83,462/- instead of declared assessable value of Rs. 14,29,816/- as detailed below:-

Table-IV

(Exchange Rate: - 1 USD = Rs.

86.8)

| Sr. No. | Declared Goods | Quantity Found During examination | Per Unit Suggestive Average CIF value by C.E. - in USD (Approx.) | Total Suggestive Average CIF Value by C.E.- in USD (Approx.) | Total Suggestive Average CIF Value by C.E. in Rs. |
|----------------|---|--|---|---|--|
| 1 | Decorative Accessories found as artificial Flower | 1890 Kgs. | 0.83USD/Kgs. | 1568.7 | 136163 |
| 2 | Stationery Item (Pencil Pouch/Box) | 354 Pcs./83.5 Kgs. | 10.20 USD/Kgs. | 851.7 | 73928 |
| 3 | Stationery Item (Sharpener) | 4080 Pcs/131.92 Kgs. | 10.05 USD/Kgs. | 1325.796 | 115097 |
| 4 | Microfiber Cleaning Towel | 2500 Pcs/439.7 Kgs. | 24.98 USD/Kgs. | 10983.710 | 953386 |
| 5 | Car Mini Fan | 492 Pcs./55 Kgs. | 1.16 USD/Kgs. | 63.8 | 5538 |
| 6 | Saw Chain | 12000 Pcs. /11419 Kgs. | 0.86 USD/Kgs. | 9867.872 | 856531 |
| 7 | Fabric (undeclared) | 10078 Kgs. | | | |

| | | | | | |
|-------|-----------------------------------|---------------------------|-------------------|-----------|-------------|
| 7A | Marking A (Width 1.4 Metre) | 7305 Kgs. | 1 USD/Kgs. | 7305 | 634074 |
| 7B | Marking B (Width 1.4 Metre) | 850 Kgs. | 1 USD/Kgs. | 850 | 73780 |
| 7C | Marking C | 1923 Kgs. | 0.85 USD/Kgs. | 1634.55 | 141879 |
| 8 | Ladies Bag | 840 Pcs./180 Kgs. | 2.20 USD/Piece | 1848 | 160407 |
| 9 | Floor Drain | 1900 Pcs./1398 Kgs. | 8.304 USD/Kgs. | 11608.990 | 1007661 |
| Total | | | | 47908.118 | 41,58,425/- |

14. In case of fabric, GSM has been given in test report and weight was ascertained at the time of examination. Accordingly, Square Metre has been derived from GSM and Weight. Further, CE in his report mentioned width of fabric. Based on width and Square Metre, length has been derived for fabric having marking A and B for Anti-dumping duty calculation purpose. Total weight of Marking A fabric found during examination is 7305 Kgs and GSM as test report is 540.16. Hence, total Square metre is 13524. Further, as per CE report, width is 1.4 Metre. Hence, Total length of Marking A fabric is 9660 Metre. Total weight of Marking B fabric is 850 Kgs. and GSM as per test report is 424.48. Hence, total Square metre is 2002. Further, as per CE report, width is 1.4 Metre. Hence, total length of Marking B fabric is 1430 Metre. Total weight of Marking C fabric found during examination is 1923 Kgs. and GSM is 541.04. Hence, Total square meter is 3554.

15. In view of above investigation and CE Report, the total duty leviable on goods imported vide B/E No. 3595530 dated 31.07.2025 has been re calculated which is as under:-

Table-V

| S r. N o. . | Declared Goods | Total Suggestive Average CIF Value by C.E. in Rs. | B C D R a t e | BC D Du t y | S W S | ADD @ 0.46US D/Metr e | IG S T R a t e | IGST DUT Y | Tot al D uty |
|-------------------------|---|--|---------------------------------|-------------------------|-------------|--------------------------------|----------------------------------|------------------|--------------------|
| 1 | Decorative Accessories found as artificial Flower | 136163 | 20 | 27233 | 2723 | | 18 | 29901 | 59857 |
| 2 | Stationery Item (Pencil Pouch/Box) | 73928 | 10 | 7393 | 739 | | 5 | 4103 | 12235 |
| 3 | Stationery Item (Sharpener) | 115097 | 10 | 1150 | 1151 | | 18 | 22993 | 35652 |

| | | | | | | | | |
|----|---------------------------------------|---------|-----|--------|-------|--------|-----------|-------------|
| | | | 8 | | | | | |
| 4 | Microfiber Cleaning Towel | 953386 | 109 | 95339 | 9534 | 5 | 52913 | 157785 |
| 5 | Car Mini Fan | 5538 | 20 | 1108 | 111 | 18 | 1216 | 2434 |
| 6 | Saw Chain | 856531 | 750 | 64240 | 6424 | 18 | 166895 | 237559 |
| 7 | Fabric (undeclared) | | 15 | | | 18 | | 0 |
| 8 | Marking A (13524 Sqm/9660 Length) | 634074 | 20 | 126815 | 12681 | 385704 | 12139113 | 664314 |
| 9 | Marking B (2002 Sq m and 1430 Length) | 73780 | 20 | 14756 | 1476 | 57177 | 1217662.6 | 91071 |
| 10 | Marking C (3554 Sq m) | 141879 | 20 | 28376 | 2838 | | 123848 | 35061 |
| 11 | Ladies Bag | 160407 | 15 | 24061 | 2406 | | 1833637 | 60105 |
| 12 | Floor Drain | 1007661 | 75 | 75575 | 7557 | | 1817053 | 100185 |
| | Total | 4158425 | | 476401 | 47640 | | 489335 | 14,56,258/- |

16. Further, statement of Shri Jadeja Narendrasinh Gamubha, authorised representative of M/s Ess Ess Impex was recorded on 26.08.2025 wherein he interalia stated that:-

- They came to know about import of undeclared fabric during the examination proceedings only. The importer has informed that they had placed the order for import of declared cargo only however, due to supplier mistake, wrong cargo along with declared cargo loaded in container. As per supplier, at the time of loading of goods from their warehouse, labour loaded wrong. The error was completely unintentional and occurred while dispatching the cargo for stuffing.
- Importer is a law abiding citizen. As this has happened due to supplier mistake, however, Importer is ready to clear the cargo after paying all applicable duties.
- Supplier suggested that artificial flowers are being declared as decorative item. Accordingly, supplier generated invoice. Based on invoice, they filed B/E.
- Importer regularly visit to CHINA. Importer placed order in CHINA only after seeing goods.
- They do not want any show cause notice or personal hearing in this matter and further requested to decide the case on merit basis.

17. In view of above investigation conducted so far, it was found that fabric was found undeclared at the time of examination and upon testing, 8155 Kgs. fabric was found to be Polyurethane Coated Fabric and 1923 Kgs. Fabric was found to be Polyurethane laminated fabric. Further, in place of decorative items, artificial flower was found. Further, as pre valuation report dated submitted by empaneled CE, goods were found grossly undervalued.

17.1. In view of above, prima facie, it appears that Importer M/s ESS ESS Impex has resorted to gross misdeclaration in terms of description, quantity, CTH and valuation etc. to clear goods covered under B/E No. 3595530 dated 31.07.2025 in order to evade custom duties causing loss to exchequer. Further, Importer has not declared the PU coated fabric in order to evade higher duty and anti-dumping duty imposed vide Sr. No. 2 of notification No. 14/2022 dated 20.05.2022. Hence, these acts of omission and commission on the part of importer has made the goods imported vide B/E No. 3595530 dated 31.07.2025 having re-determined value of Rs. 41,58,425/- (Rs. Forty-One Lacs Fifty-Eight Thousand Four Hundred Twenty-Five) liable for confiscation under Section 111 (f), (l) and (m) of the Custom Act, 1962. Further, it appears that due to above said act of omission and commission on the part of importer, importer has rendered themselves liable for penal action under Section 112 (a) (ii) of the Customs Act, 1962. Furthermore, it appears that by mis declaring the classification, value and weight of the goods under import, the importer has also short-declared the duty amounting to Rs. 10,49,185/- (Rs. Ten Lacs Forty-Nine Thousand One Hundred Eighty-Five).

17.2. Further, in terms of Section 46 (4) of the Customs Act, 1962, the importers are required to make a declaration as to the truth of the contents of the Bill of Entry submitted for assessment of Customs duty. In the present case, it appears that the importer had knowingly involved themselves in the suppression of the material facts and also indulged in mis-statement of facts. The importer by their acts of omission and commission renders imported goods liable for confiscation under Section 111(f), (l) and 111(m) of the Customs Act, 1962. The said acts of omission and commission on the part of the M/s ESS ESS Impex have rendered themselves liable for penalty under the provisions of Section 114AA of the Customs Act, 1962.

18. 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:-*

| <i>The Customs Act, 1962</i> | |
|-------------------------------------|----------------------------|
| 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 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 11A: "illegal import" means the import of any goods in contravention of the provisions of this Act or any other law for the time being in force.

Section 46. Entry of goods on importation:

.....

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

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

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

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

--

(f) any dutiable or prohibited goods required to be mentioned under the regulations in an [arrival manifest or import manifest] or import report which are not so mentioned. any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

- l. *any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;*
- m. *any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section*

(1) of section 54;

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

Any person,-

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

(b),

shall be liable,-

.....

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:

114AA. [Penalty for use of false and incorrect material:-

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

19. Outcome of the investigation:-

19.1 Based on NCTC alert No. 2025-26/IMP/2576-dated 01.08.2025, goods covered under 01 Z Type B/E No. 3595530 dated 31.07.2025 filed at APSEZ (INAJM6) were put on hold for SIIB examination purpose. On examination, along with declared goods, fabric were found undeclared. Further, goods were found mis declared in terms of description, quantity, valuation and classification. Further, upon testing, 02 type of fabric i.e. Polyurethane coated fabric and Polyurethane laminated fabric were found. CBIC vide notification No. 14/2022-Customs (ADD) dated 20.05.2022 imposed anti- dumping duty at the rate of 0.46 USD/Metre for import of Polyurethane coated fabric. In view of above, goods became liable for confiscation under section 111 (f), (l) and (m) of the Customs Act, 1962. Further, CE vide report No. AYK: VAL:02619:2025 dated 28.08.2025 redetermined CIF value of imported goods. Further, during statement of authorized representative of importer, importer's authorized representative in his statement submitted that they are ready to pay applicable duty along with antidumping duty. Further, importer agreed to pay applicable fine and penalty.

19.2 Further, importer vide letter dated 29.08.2025 submitted that they do not want any Show Cause Notice or Personal Hearing in this matter and further requested to decide case on merit basis and agree to pay applicable fine, penalty and duty.

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

- i. The declared description of item no. 01 i.e. decorative accessories of the

goods imported vide impugned B/E No. 3595530 dated 31.07.2025 is liable to be rejected and required to be re-determined as Artificial Flower.

- ii. The declared CTH 95059090 of item no. 01 is liable to be rejected and required to be re-determined as 67021010 as discussed in paras supra.
- iii. The declared CTH 63049260 of Microfiber cleaning towel is liable to be rejected and required to be re-determined as 63071090 as discussed in paras supra.
- iv. Undeclared cargo i.e. 8155 Kgs. fabric found to be Polyurethane Coated Fabric is liable to be classifiable under CTH 59032090. Further, ADD vide Notification No. 14/2022-Customs (ADD) dated 20.05.2022 is applicable and 1923 Kgs. Fabric was found to be Polyurethane laminated fabric is also liable to be classifiable under CTH 59032090.
- v. The declared assessable value of the goods i.e. Rs. 14,29,816 /- is liable to be rejected and the same is liable to be re-determined to Rs. 41,58,425/- (Rs. Forty-One Lacs Twenty-Nine Thousand Eight Hundred Sixteen).
- vi. The Bill of Entry no. 3595530 dated 31.07.2025 is liable to be re-assessed accordingly under Section 17(4) of the Customs Act, 1962.
- vii. The goods imported vide impugned Bill of Entry no. 3595530 dated 31.07.2025 by way of mis declaration and mis classification are liable for confiscation under Section 111(f), (l) and (m) of the Customs Act, 1962.
- viii. The importer M/s Ess Ess Impex (IEC No. NPUPS0267H) is liable for Penalty under Section 112(a)(ii) and 114AA of the Customs Act, 1962.

RECORD OF PERSONAL HEARING

21. As per para 20 of Investigation Report No. 92/2025-26 dated 01.09.2025 the importer M/s Ess Ess Impex (IEC No. NPUPS0267H) have requested for waiver of the Show Cause Notice and personal hearing in the matter, and also requested for necessary adjudication proceeding/action may be initiated in respect of the said Bill of Entry as per the Customs Act, 1962.

DISCUSSION & FINDING

22. I have carefully gone through the case records and applicable provisions of Law. I find that the Importer has submitted that they do not want Show Cause Notice and Personal Hearing, thus, the condition of Principles of Natural Justice *under Section 122A of the Customs Act, 1962* has been complied with. Hence, I proceed to decide the case on the basis of facts and documentary evidences available on records.

23. The main issues before me are to decide whether-

- i. The declared description of item no. 01 i.e. decorative accessories of the goods imported vide impugned B/E No. 3595530 dated 31.07.2025 is liable to be rejected and required to be re-determined as Artificial Flower.
- ii. The declared CTH 95059090 of item no. 01 is liable to be rejected and required to be re-determined as 67021010 as discussed in paras supra.
- iii. The declared CTH 63049260 of Microfiber cleaning towel is liable to be rejected and required to be re-determined as 63071090 as discussed in paras supra.
- iv. Undeclared cargo i.e. 8155 Kgs. fabric found to be Polyurethane Coated

Fabric is liable to be classifiable under CTH 59032090. Further, ADD vide Notification No. 14/2022-Customs (ADD) dated 20.05.2022 is applicable and 1923 Kgs. Fabric was found to be Polyurethane laminated fabric is also liable to be classifiable under CTH 59032090.

- v. The declared assessable value of the goods i.e. Rs. 14,29,816 /- is liable to be rejected and the same is liable to be re-determined to Rs. 41,58,425/- (Rs. Forty-One Lacs Twenty-Nine Thousand Eight Hundred Sixteen).
- vi. The Bill of Entry no. 3595530 dated 31.07.2025 is liable to be re-assessed accordingly under Section 17(4) of the Customs Act, 1962.
- vii. The goods imported vide impugned Bill of Entry no. 3595530 dated 31.07.2025 by way of mis declaration and mis classification are liable for confiscation under Section 111(f), (l) and (m) of the Customs Act, 1962.
- viii. The importer M/s Ess Ess Impex (IEC No. NPUPS0267H) is liable for Penalty under Section 112(a)(ii) and 114AA of the Customs Act, 1962.

23.1. I find that M/s ESS ESS Impex (IEC NPUPS0267H), having address at G-44, Block G, KH No. 1/50, 2nd Floor, Shastripark Street No. 2, Delhi North, East Delhi- 110053, (Email id :- ESSESSIMPEX2022@GMAIL.COM) has filed warehouse (Z Type) Bill of Entry No. 3595530 dated 31.07.2025 for import of various items under various CTH. The Country of origin of the goods is CHINA. The declared value of the goods is Rs. 14,29,816/- and declared duty of Rs. 4,07,073/-.

23.2. I find that On the basis of NCTC alert, goods covered under Z Type B/E No. 3595530 dated 31.07.2025 was put on hold for SIIB examination purpose. The examination of the goods was carried out at Fast track CFS Private Limited (SEZ Unit) on 04.08.2025 in the presence of Shri Narendrasinh G. Jadeja, importer's authorised representative and Shri Chirag Sudhakar More, Dy. Manager, Operation of M/s Fast Track CFS Pvt. Ltd. The seal placed on the container was checked/verified and found intact and tally with the number mentioned in the Bill of lading. Further, before beginning the examination, the weightment slip of the containers generated at CFS weighbridge are cross checked. The weight mentioned on the slip as well as Bill of Lading are as under:-

Table-II

| Sr. No. | Bill of Entry & Date | Container No. | B/L Weight (Kgs.) | CFS Weight (Kgs.) | Difference |
|---------|--------------------------|---------------|-------------------|-------------------|------------------|
| 1 | 3595530 dated 31.07.2025 | TGBU9942196 | 27237 | 28400 | 1163 Kgs. Excess |

23.3. I find that During Examination, in place of the item decorative accessories mentioned at Sr. No. 01, the goods artificial flower was found. Further, Total 10078 Kgs. Fabric (03 type of undeclared/ mis-declared fabric) was also found which were subsequently segregated and marked as A, B and C for testing purpose. Further, quantity of item mentioned at Sr. No. 1,4 and 8 were found in excess of declared quantity and item mentioned at Sr. No. 2, 3, 5, 6 and 9 were found short from declared quantity.

23.4. I find that during examination, 03 type of fabric was found undeclared. However, the actual nature, description, and composition of the

goods i.e. fabrics cannot be ascertained visually. Therefore, to accurately determine the relevant characteristics, in respect of goods mentioned above, randomly, 03 representative sample (in triplicate) were drawn and same were forwarded to CRCL, Kandla for testing purpose vide Test Memo No. 142 to 144 both dated 05.08.2025. The CRCL test reports in respect of Test Memo No. 142 to 144 were received on 12.08.2025 and 19.08.2025. The gist of test report is as under: -

Table-E

| Test Memo No. | Test Report |
|--------------------|---|
| 142 (Marking A) | The sample as received is in the form of a cut piece of dyed (Greyish coloured) knitted fabric having coating on one side (with no selvedge) & raised fibers on other side. The base knitted fabric and raised fibers is composed of polyester filament yarn and coating is composed of compounded polymer based on polyurethane. GSM is 540.16. Polyester is 64.7% and balance is polymeric material. The presence of azo dye could not be ascertained as it is a coated fabric. |
| 143 (Marking B) | The sample as received is in the form of a cut piece of white knitted fabric having grey coloured coating on one side (with no selvedge) & raised fibers on other side. The base knitted fabric and raised fibers is composed of polyester filament yarn and coating is composed of compounded polymer based on polyurethane. GSM is 424.48. Polyester is 45.04% and balance is polymeric material. The presence of azo dye could not be ascertained as it is a coated fabric. |
| 144 (Marking C) | The sample as received is in the form of a cut piece of dyed (Greyish coloured) knitted fabric (without selvedge) having lamination on one side and raised fiber on other side. The base knitted fabric is composed of polyester filament yarn and raised fiber is made of polyester, lamination is composed of polymer based on polyurethane (PU) and inorganic additives. GSM is 541.04. Polyester is 64.52% and balance is polymeric material and adhesive. |

23.5. I find that Goods found as Fabric Marking A, B and C were found undeclared in B/E No. 3595530 dated 31.07.2025, As per test report issued against Test Memo No. 142 and 143, The base knitted fabric and raised fibers is composed of polyester filament yarn and coating is composed of compounded polymer based on polyurethane. Further, in case of Test Memo No. 144, The base knitted fabric is composed of polyester filament yarn and raised fiber is made of polyester, lamination is composed of polymer based on polyurethane (PU) and inorganic additives. Since, in all 03 test report, fabric is coated/laminated with polyurethane, as far as the entries at heading level are concerned, heading 5903 covers Textile Fabric impregnated, coated, covered or laminated with plastics, other than those of heading 59.02 which reads as under:-

5903 Textile Fabric impregnated, coated, covered or laminated with plastics, other than those of heading 59.02

590310 - With Polyvinyl chloride:
 59031010 --- Imitation leather fabrics of
 Cotton 59031090 --- Other

590320 - With Polyurethane:
 59032010 --- Imitation leather fabrics, of
 cotton 59032090 --- Other

590390 - Other:

59039010 --- Of Cotton

59039020 --- Polyethylene laminated jute
 fabrics 59039090 --- Other.

Since Polyurethane is a type of plastics. Hence, it is classifiable under 59032090 as there is 2nd single dash (-) level entry for fabric coated/laminated with polyurethane wherein applicable rate of duties is @ 36.640% (20% BCD + 2% SWS + 12% IGST).

Further, CBIC vide notification No. 14/2022-Customs (ADD) dated 20.05.2022 imposed anti-dumping duty at the rate of 0.46 USD/Metre in case goods have been imported from CHINA and producer is other than M/s Anhui Anli Material Technology Co., Ltd.. Since, in this case, supplier is other than M/s Ahnui Anli. Hence, ADD @ .46 USD/Metre is applicable.

23.5.2. Further, Goods i.e. Microfiber cleaning towel were classified under CTH 63049260, however, prima facie, the same is classifiable under CTH 6307 which reads as under:-

6307 Other made up articles, including dress patterns
 630710 - Floor cloths, dish cloths, dusters and
 similar cleaning cloths:

63071010 --- Of cotton
 63071020--- Of man-made fibers
 63071030 --- Of cotton, Handloom
 63071090 --- Other

Since, on examination, goods were found as cleaning towel, which prima facie, merit classifiable under 63071090 wherein applicable rate of duties is @ 16.550% (10% BCD+ 1% SWS + 5% IGST).

23.5.3. Further, goods found as artificial flower were declared as declared item and same were classified under CTH 95059090, however, prima facie, the same is classifiable under 6702 which read as under:-

6702 Artificial flowers, foliage and fruit and parts thereof; articles made of artificial flowers, foliage or fruits

670210 - Of Plastics :

67021010 --- Decorative
 Plants 67021090 ---
 Other

Since, on examination, goods were found as artificial flower made of plastic, which prima facie, merit classifiable under 67021010 wherein applicable rate of duties is @ 43.960% (20% BCD+ 2% SWS + 18% IGST).

23.6. I find that During the course of Examination, goods were found mis declared in terms of description, CTH and quantity etc. and undeclared goods were also found, hence, the value declared by the importer in the Bill of Entry No. and invoices did not appear to be the true transaction value as importer has not declared complete goods imported vide B/E No. 3595530 dated 31.07.2025. hence, value declared by importer does not appear to be true

transaction value under the provisions of Section 14 of the Customs Act, 1962 read with the provisions of the Customs Valuation (determination of Value of Imported Goods) Rules, 2007 and thus the same appear liable to be rejected in terms of Rule 12 of CVR, 2007. The value is required to be re-determined by sequentially proceeding in terms of Rules 4 to 9 of CVR, 2007. The relevant Rules of CVR, 2007 are reproduced hereunder: -

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

Since, the value of goods declared by the importer in the Bill of Entry did not appear to be the true transaction value under the provisions of Section 14 of the Customs Act, 1962 read with the rule 3 of the Customs Valuation (determination of Value of Imported Goods) Rules, 2007 and thus the same appear liable to be rejected in terms of Rule 12 of CVR, 2007. The value is required to be re-determined by sequentially proceeding in terms of Rules 4 to 9 of CVR, 2007. The relevant Rules of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 are reproduced here under: -

23.7. I find that the declared assessable value of the goods Rs.14,29,816/- of Bill of Entry No. 3595530 dated 31.07.2025 cannot be considered as assessable value of the goods and hence the same is liable to be rejected under Rule 12 of Customs Valuation Rules 2007 as goods were found concealed during examination. In absence of credible data of import of similar/identical goods due to quality, quantity of goods and other constraints, the value of these goods cannot be determined in terms of Rule 4,5,6,7,8 of Customs Valuation Rules 2007. Hence the value is to be determined in terms of Rule 9 of said rules. Therefore, opinion of the empaneled Chartered Engineer was sought for determination of the value of the imported goods. The Chartered Engineer vide his Report No. AYK:VAL:02619:2025 dated 28.08.2025 has suggested the value of the imported goods as Rs. 41,83,462/- instead of declared assessable value of Rs. 14,29,816/- as detailed below:-

Table-IV

(Exchange Rate: - 1 USD = Rs.

86.8)

| Sr. No. | Declared Goods | Quantity Found During examination | Per Unit Suggestive Average CIF value by C.E. - in USD (Approx.) | Total Suggestive Average CIF Value by C.E.- in USD (Approx.) | Total Suggestive Average CIF Value by C.E. in Rs. |
|----------------|---|--|---|---|--|
| 1 | Decorative Accessories found as artificial Flower | 1890 Kgs. | 0.83USD/Kgs. | 1568.7 | 136163 |
| 2 | Stationery Item (Pencil Pouch/Box) | 354 Pcs./83.5 Kgs. | 10.20 USD/Kgs. | 851.7 | 73928 |
| 3 | Stationery Item (Sharpener) | 4080 Pcs/131.92 Kgs. | 10.05 USD/Kgs. | 1325.796 | 115097 |

| | | | | | |
|-------|-----------------------------|------------------------|----------------|-----------|-------------|
| 4 | Microfiber Cleaning Towel | 2500 Pcs/439.7 Kgs. | 24.98 USD/Kgs. | 10983.710 | 953386 |
| 5 | Car Mini Fan | 492 Pcs./55 Kgs. | 1.16 USD/Kgs. | 63.8 | 5538 |
| 6 | Saw Chain | 12000 Pcs. /11419 Kgs. | 0.86 USD/Kgs. | 9867.872 | 856531 |
| 7 | Fabric (undeclared) | 10078 Kgs. | | | |
| 7A | Marking A (Width 1.4 Metre) | 7305 Kgs. | 1 USD/Kgs. | 7305 | 634074 |
| 7B | Marking B (Width 1.4 Metre) | 850 Kgs. | 1 USD/Kgs. | 850 | 73780 |
| 7C | Marking C | 1923 Kgs. | 0.85 USD/Kgs. | 1634.55 | 141879 |
| 8 | Ladies Bag | 840 Pcs./180 Kgs. | 2.20 USD/Piece | 1848 | 160407 |
| 9 | Floor Drain | 1900 Pcs./1398 Kgs. | 8.304 USD/Kgs. | 11608.990 | 1007661 |
| Total | | | | 47908.118 | 41,58,425/- |

23.8. I find that the assessable value of the goods re-determined to rs. 41,58,425/- instead of declared value of Rs. 14,29,816/-. Accordingly, the total duty leviable on goods imported vide B/E No. 3595530 dated 31.07.2025 has been re-calculated which is as under: -

Table-V

| S r. No. | Declared Goods | Total Suggestive Average CIF Value by C.E. in Rs. | B C D R at e | B C D Du ty | S W S | ADD @ 0.46USD/Metr e | IG S T R at e | IGST DUT Y | Tot al D uty |
|----------|---|---|--------------|-------------|-------|----------------------|---------------|------------|--------------|
| 1 | Decorative Accessories found as artificial Flower | 136163 | 20 | 27233 | 2723 | | 18 | 29901 | 59857 |
| 2 | Stationery Item (Pencil Pouch/Box) | 73928 | 10 | 7393 | 739 | | 5 | 4103 | 12235 |
| | Stationery Item | 115097 | 1 | 11 | 11 | | 18 | 22993 | 35652 |

| | | | | | | | | | |
|----|---------------------------------------|---------|---|----|----|--------|----|-------|-------------|
| 3 | (Sharpener) | | 0 | 50 | 51 | | | | |
| | | | 8 | | | | | | |
| 4 | Microfiber Cleaning Towel | 953386 | 1 | 95 | 95 | | 5 | 52913 | 157785 |
| | | | 0 | 33 | 34 | | | | |
| | | | | 9 | | | | | |
| 5 | Car Mini Fan | 5538 | 2 | 11 | 11 | | 18 | 1216 | 2434 |
| | | | 0 | 08 | 1 | | | | |
| 6 | Saw Chain | 856531 | 7 | 64 | 64 | | 18 | 16689 | 237559 |
| | | | 5 | 24 | 24 | | | 5 | |
| | | | | 0 | | | | | |
| 7 | Fabric (undeclared) | | 1 | | | | 18 | | 0 |
| | | | 5 | | | | | | |
| 8 | Marking A (13524 Sqm/9660 Length) | 634074 | 2 | 12 | 12 | 385704 | 12 | 13911 | 664314 |
| | | | 0 | 68 | 68 | | | 3 | |
| | | | | 15 | 1 | | | | |
| 9 | Marking B (2002 Sq m and 1430 Length) | 73780 | 2 | 14 | 14 | 57177 | 12 | 17662 | 91071 |
| | | | 0 | 75 | 76 | | | .6 | |
| | | | | 6 | | | | | |
| 10 | Marking C (3554 Sq m) | 141879 | 2 | 28 | 28 | | 12 | 3848 | 35061 |
| | | | 0 | 37 | 38 | | | | |
| | | | | 6 | | | | | |
| 11 | Ladies Bag | 160407 | 1 | 24 | 24 | | 18 | 33637 | 60105 |
| | | | 5 | 06 | 06 | | | | |
| | | | | 1 | | | | | |
| 12 | Floor Drain | 1007661 | 7 | 75 | 75 | | 18 | 17053 | 100185 |
| | | | 5 | 57 | 57 | | | | |
| | | | | 5 | | | | | |
| | Total | 4158425 | | 47 | 47 | 47640 | | 48933 | 14,56,258/- |
| | | | | 64 | 64 | | | 5 | |
| | | | | 01 | 0 | | | | |

The re-calculated duty comes to Rs. 14,56,258/- instead of declared duty Rs. 4,07,073/-. The differential Duty comes to Rs. 10,49,185/-.

23.9. I find that with the introduction of self-assessment under Section 17(1) of the Customs Act, 1962, the responsibility lies squarely on the importer to accurately self-assess the Bill of Entry and declare the correct amount of leviable duty. By failing to declare dutiable goods correctly in the Bill of Entry, the importer's actions indicate an intent to evade payment of the correct duties on the imported goods. This deliberate omission raises reasonable grounds to believe that the importer willfully and intentionally concealed dutiable goods, thereby causing a loss to government revenue.

24. In view of above, I find that the Importer M/s ESS Impex has resorted to gross mis-declaration in terms of description, quantity, CTH and valuation etc. to clear goods covered under B/E No. 3595530 dated 31.07.2025 in order to evade custom duties causing loss to exchequer. Further, Importer has not declared the PU coated fabric in order to evade higher duty and anti-dumping duty imposed vide Sr. No. 2 of notification No.

14/2022 dated 20.05.2022. Hence, these acts of omission and commission on the part of importer has made the goods imported vide B/E No. 3595530 dated 31.07.2025 having re-determined value of Rs. 41,58,425/- (Rs. Forty-One Lacs Fifty-Eight Thousand Four Hundred Twenty-Five) liable for confiscation under Section 111 (f), (l) and (m) of the Custom Act, 1962. Furthermore, it is evident that by mis declaring the classification, value and weight of the goods under import, the importer has also short-declared the duty amounting to Rs. 10,49,185/- (Rs. Ten Lacs Forty-Nine Thousand One Hundred Eighty-Five). Hence, it is evident that due to above said act of omission and commission on the part of importer, importer has rendered themselves liable for penal action under Section 112 (a) (ii) of the Customs Act, 1962. I find that, in terms of Section 46 (4) of the Customs Act, 1962, the importers are required to make a declaration as to the truth of the contents of the Bill of Entry submitted for assessment of Customs duty. In the present case, it is evident that the importer had knowingly involved themselves in the suppression of the material facts and also indulged in mis-statement of facts. The said acts of omission and commission on the part of the M/s ESS Impex have rendered themselves liable for penalty under the provisions of Section 114AA of the Customs Act, 1962.

25. In view of the foregoing discussion and findings, I pass the following order:

ORDER

- i. I order to reject the declared description of item No. 1 of Bill of Entry No. 3595530 dated 31.07.2025 and order to re-described as Artificial flower.
- ii. I order to reject the declared CTH 95059090 of item No. 1 of Bill of Entry No. 3595530 dated 31.07.2025 and order to re-determine the same as 67021010 as discussed in paras above.
- iii. I order to reject the declared CTH 63049260 of Microfiber cleaning Towel covered under BE No. 3595530 dated 31.07.2025 and order to re-determine the same as 63071090 as discussed in paras above.
- iv. I order to classify the undeclared goods i.e. 8155 kgs of fabric found to be Polyurethane Coated Fabric under CTH 59032090. I also order to impose the ADD on the said goods as per Notification No. 14/2022-customs (ADD) dated 20.05.2022.
- v. I order to reject the declared value of the goods i.e. **Rs. 14,29,816/- (Rupees Fourteen Lakh Twenty-Nine Thousand Eight Hundred Sixteen only)** covered under BE No. 3595530 dated 31.07.2025 and order to re-determine **as Rs. 41,58,425/- (Rupees Forty-One Lakh Fifty-Eight Thousand Four Hundred Twenty-Five only)** under Rule 9 of CVR Rules, 2007.
- vi. I order to reject the self-assessment of Bill of Entry No. 3595530 dated 31.07.2025 and order for re-assessment under Section 17(4) of the Customs Act, 1962.
- vii. I order for confiscation of the goods covered under Bill of Entry No. 3595530 dated 31.07.2025 having re-determined value of **Rs. 41,58,425/- (Rupees Forty-One Lakh Fifty-Eight Thousand Four Hundred Twenty-Five only)** under Section 111(f), 111(l) and 111(m) of the Customs Act, 1962. However, I gave option to the importer to redeem the said goods for Home Consumption under provisions of Section 125 of Customs Act, 1962 on payment of Redemption Fine of **Rs. 4,00,000/- (Rs. Four Lakh Only)**.
- viii. I order to impose penalty of **Rs. 1,00,000/- (Rs. One Lakh Only)** on the

importer M/s Ess Ess Impex (IEC No. NPUPS0267H) for BE No. 3595530 dated 31.07.2025 having Differential duty payable is **Rs. 10,49,185/-** under Section 112(a)(ii) of Customs Act, 1962.

- ix. I order to impose penalty of **Rs. 2,00,000/- (Rs. Two Lakh Only)** on the importer M/s Ess Ess Impex (IEC No. NPUPS0267H) under Section 114AA of Customs Act, 1962.

26. 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.

Additional Commissioner
Import Section
Custom House, Mundra

F. No. CUS/APR/INV/519/2025-Group 5-6

04-09-2025

To,
M/s ESS ESS Impex (IEC NPUPS0267H),
G-44, Block G, KH No. 1/50, 2nd Floor,
Shastripark Street No. 2, Delhi North,
East Delhi- 110053.

Copy to:

1. The Dy. Commissioner of Customs, Review Section, CH, Mundra
2. The Dy. Commissioner of Customs, TRC Section, CH, Mundra
3. The Dy. Commissioner of Customs, EDI Section, CH, Mundra
4. Guard file