
	OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS CUSTOMS HOUSE, MP & SEZ MUNDRA, KUTCH-GUJARAT -370421 PHONE : 02838-271426/271428 FAX :02838-271425	 सत्यमेव जयते
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A File No.	CUS/APR/ASS/1259/2025-Gr 5-6-O/o Pr Commr-Cus-Mundra
B OIO No.	MCH/ADC/ZDC/417/2025-26
C Passed by	Dipak Zala Additional Commissioner of Customs, Import Assessment Group, Customs House, AP & SEZ, Mundra
D Date of order	05.12.2025
E Date of Issue	05.12.2025
F SCN F. No. & Date	44(L)/2025-26/ADC/ZDC/GR-6/MCH dated 19.07.2025.
G Noticee / Party/Importer	M/s. DNR Healthcare Pvt Ltd. (IEC: AAGCD8223K) (Importer) M/s. Space Freight Logistics (Customs Broker)
H DIN	20251271MO0000666456

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

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

2. यदि कोई व्यक्ति इस 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-380 009

THE COMMISSIONER OF CUSTOMS (APPEALS),

4th Floor, HUDCO Building, Ishwar Bhuvan Road,

Navrangpura, Ahmedabad-380 009

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 paisa 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

M/s. DNR Healthcare Pvt Ltd. (IEC: AAGCD8223K) having address at Plot No 151, Industrial Area, Phase-2, Panchkula, HARYANA- 134109 (hereinafter referred to as “the said importer”) has filed Bill of Entry No. 8703003 dated 05.03.2025 through their Customs Broker M/s. Space Freight Logistics for the clearance of goods having description as “Sanitary Napkin in Bulk Packing”. Details of the shipment are as per below table:

Table-‘A’

Sr. No.	BE No.	BE date	Description of goods	Ass. Value	Gross Weight	Container No.
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					(Kg.)	
1	8703003	05.03.2025	Sanitary Napkin in Bulk Packing	2777551	20730	MSDU6411312 MSDU7164120

2. Whereas, the bill of entry has been facilitated by Risk Management System (RMS) under no assessment and examination order. At time of Out of Charge, the OOC officer raised a query to the Importer to submit BIS Certificate. Being not satisfied with query reply and non-submission of BIS Certificate by the Importer, the subject Bill of Entry has been pushed to Assessment Group for further action.

3. Whereas, it has been observed that the goods having description “Sanitary Napkins” covered under the scope of regulated products as per the Medical Textiles (Quality Control) Order, 2023, issued by the Ministry of Textiles, Government of India, as amended from time to time. As per S.O. 4247(E) dated 27.09.2023, the import of sanitary napkins is mandatorily subject to BIS Certification (IS 5405:2019). The said order has been amended vide S.O. 4634(E) dated 23.10.2024 vide which requirement for BIS Certificate has been effected from 01.01.2025 for imports.

3.1 Accordingly, a 2nd query was raised on 31.03.2025 to submit BIS Certificate and also giving option to avail the facility of warehousing of goods under Section 49 of the Customs Act, 1962 to avoid detention/demurrage charges. Importer after a lapse of almost 03 months, replied to the said query on 30.06.2025. Text of the query reply reproduced below:

“Respected Sir Please refer to the above mentioned subject wherein the importer M/s DNR Health Care (P) Ltd. Plot No. 151, Industrial Area Phase 2 Panchkula had filed Bill of Entry No. 8703003 dated 05.03.2025 at the port of SEZ Mundra, Mundra Gujrat for clearance of goods comprising of “Sanitary Napkins” in Bulk for clearance of the goods. That despite the fact that the goods imported were subject to assessment by the Faceless Unit, the goods have not been permitted to be cleared by the Officers of Customs. Further the imported goods having been imported by our Unit which falls under Small & Micro Enterprises. as per the Registration Certificate issued -by Ministry of Micro Small & Medium Enterprise dated 17.10.2020. Further the imported goods are not subject to compulsory compliance in terms of Medical Textile (Quality Control) Amendment Order 2025. It is pertinent to mention that in terms of advisory issued by the Under Secretary, Government of India Ministry of Commerce and Industry and Internal Trade dated 19.03.2025 it has been categorically advised that implementation of QCO is not applicable to Micro and small enterprises. Further the Importer who is a small and micro enterprise any

such restrictions which are imposable in terms of Quality Control Order shall be made applicable only after 01.04.2025. That since the imported goods have been imported on 05.03.2025 the condition for mandatory applicability of Quality Control Order shall not be applicable to the shipments in question which is lying uncleared at the port of Mundra. It is therefore most respectfully requested that the goods imported vide Bill of Entry No. 8703003 Dated 05.03.2025 may be permitted to cleared as the said goods are incurring heavy demurrage and detention charges.”

3 . 2 After analysing query reply dated 30.06.2025, it is observed that the importer, M/s DNR HealthCare has misinterpreted the applicability of the Medical Textiles (Quality Control) Order (QCO) and the clarification issued by DPIIT. The importer claims of exemption from QCO compliance is based on their status as a Micro and Small Enterprise (MSE) and refers to the DPIIT communication dated 19.03.2025 in support of this claim. However, this claim is factually incorrect and not supported by the contents of the said clarification. The DPIIT clarification, vide F. No. P-29014/33/2025-LEI dated 19.03.2025, clearly states that the exemptions of six months and three months granted to Micro and Small Enterprises (MSEs), respectively, under the QCO are strictly for the purpose of enabling them to obtain BIS certification under the Conformity Assessment Rules, and do not extend to import consignments. Thus, it appears that the relaxation does not apply on imports. Therefore, the QCO remains fully applicable to imported goods, irrespective of the importer's MSE status. Hence, it appears that the importer's request for clearance of the goods without compliance to the QCO does not hold merits.

In view of the above, a further query was raised to the Importer on 04.07.2025, informing them that their earlier reply was not satisfactory. Department also once again advised the Importer to avail the facility of warehousing of goods under Section 49 of the Customs Act, 1962. It has been observed during the course of assessment that, despite the lapse of nearly 04 months, the importer has neither submitted a satisfactory reply or relevant documents nor made any request for personal hearing in the matter. The importer has also failed to provide any justification or supporting evidence to substantiate the clearance of the goods without BIS certification.

3.3 Considering the above, an opportunity for personal hearing has been granted on 14.07.2025 (DIN: 20250771MO0000018435) to the Importer for the purpose to present the facts of the case before initiating any proceedings under the provisions of the Customs Act, 1962. However, no representative appeared for the personal hearing on the scheduled date and time. Instead, the importer submitted an authorisation letter dated 13.07.2025 via email, authorising Advocate Shri Saurabh Kapoor to represent them. Shri Saurabh Kapoor

(Advocate) submitted a letter dated 13.07.2025 on behalf of the Importer M/s. DNR Healthcare and requested for provisional release of the goods or permit de-stuffing under Section 49 of the Customs Act, 1962 or issuance of detention memo or grant opportunity of personal hearing through virtual mode or pass any other order in the interest of justice.

3.4 Whereas, it has been observed that no request for re-export of the goods has been made by the importer. Accordingly, the request for provisional release of the goods holds no merit, as the goods remain non-compliant with the applicable Quality Control Order in the absence of a valid BIS certificate.

4. Relevant Provisions of the law in so far as they apply to this case are as below: The relevant legal provisions, in so far as they relate to the facts and circumstances of the subject imports, are as under: -

4.1 As per Section 2 of the Customs Act, 1962, certain relevant terms are defined as reproduced herebelow:

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

(24) "**arrival manifest or import manifest**" or "import report" means the manifest or report required to be delivered under section 30;

(26) "**importer**", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes 22 [any owner, beneficial owner] or any person holding himself out to be the importer;

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

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

4.2 **Section 46** of the Act, prescribes that:

"(1) The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting 1 [electronically] 2 [on the customs automated system] to the proper officer a bill of entry for home consumption or warehousing 3 [in such form and manner as may be prescribed] :

(4) The importer while presenting a bill of entry shall 12 [* *] 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, 13 [and such other documents relating to the imported goods as may be prescribed].*

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

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

4.3 Further, **Section 111** of the Act, prescribes the Confiscation of improperly imported goods, etc. as under:

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

*(d) 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;;***

(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

4.4 **Further, Section 112** of the Act provides the penal provisions for improper importation of goods, etc. which read as under:

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 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.

4.5 SECTION 117. Penalties for contravention, etc., not expressly mentioned:-

Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding ¹[four lakh rupees].

4.6 SECTION 124 prescribes the mandatory issuance of show cause notice before confiscation of goods, which read as under:

No order confiscating any goods or imposing any penalty on any person shall be

made under this Chapter unless the owner of the goods or such person –

- a. *is given a notice in writing with the prior approval of the officer of Customs not below the rank of an Assistant Commissioner of Customs, informing him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;*
- b. *is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and*

(c) is given a reasonable opportunity of being heard in the matter:

Provided *that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person concerned be oral.*

Provided *further that notwithstanding issue of notice under this section, the proper officer may issue a supplementary notice under such circumstances and in such manner as may be prescribed.*

5. Whereas, it has been observed that the goods “Sanitary Napkins” covered under the scope of regulated products as per the Medical Textiles (Quality Control) Order, 2023, issued by the Ministry of Textiles, Government of India, as amended from time to time. as per S.O. 4247(E) dated 27.09.2023, the import of sanitary napkins is mandatorily subject to BIS Certification under IS 5405:2019. The said order has been amended vide S.O. 4634(E) dated 23.10.2024 vide which the requirement of BIS Certificate has been effected from 01.01.2025. Thus, it is evident that import of Sanitary Napkins is regulated and requires compliance with applicable Bureau of Indian Standards (BIS) certification. As per Schedule-A of Para 4 of S.O. 4634(E) dated 23.10.2024, sanitary napkins are explicitly listed as a product that must conform to Indian Standard IS:5405:2019. Thus, any import of such goods into India without a BIS license and standard mark constitutes a contravention of the mandatory quality and safety standards notified by the Government of India under the BIS Act and the Quality Control Order.

6. As per Section 15 of the BIS Act, 2016, import, sale or distribution of goods without a standard mark and without conformance to specified standard is prohibited. Section 15 of BIS Act, 2016 is reproduced below:

"15. Prohibition to import, sell, exhibit, etc.

(1) No person shall import, distribute, sell, store or exhibit for sale, any goods or article under sub-section (1) of section 14, except under

certification from the Bureau."

In light of the above, any importer bringing sanitary napkins into India without a valid BIS certification is in clear violation of the BIS Act, 2016.

7. Para 2.03(a) of the Foreign Trade Policy 2015-20 stipulates that all domestic laws, technical regulations, environmental standards, safety, and health norms that are applicable to domestically manufactured goods shall also apply, *mutatis mutandis*, to imported goods. Therefore, any quality or compliance requirement that applies to Indian manufacturers is equally applicable to importers. In this case, since sanitary napkins are required to be BIS-certified for domestic sale, the same requirement applies to imported sanitary napkins as well.

8. The imported goods, i.e., Sanitary Napkins, are classifiable under Customs Tariff Heading (CTH) 9619, which covers "Sanitary towels (pads) and tampons, napkins and napkin liners for babies and similar articles." It has been found that M/s DNR Healthcare failed to produce a valid BIS Certification for the Sanitary Napkin at the time of import clearance. This non-compliance indicates that the goods were imported in violation of mandatory regulatory requirements, rendering them restricted and unauthorized under Indian law.

9. In view of the contravention of above provisions, the goods viz. "SANITARY NAPKINS" imported vide Bill of Entry No. 8703003 dated 05.03.2025 appears to be construed as 'smuggling' within the meaning of Section 2 (39) of the Act and the said goods also appears to be termed as 'prohibited' within the meaning of Section 2(33) of the Customs Act, 1962. It is evident that the importer attempted to clear goods that are restricted for import unless they comply with the provisions of the BIS Act, 2016, and the Medical Textiles Quality Control Order. In the absence of BIS Certification, the act of the importer to import the subject goods appears to be an intentional violation of import regulations. In view of the said contravention, the subject goods appear to be liable for confiscation under section 111(d) and 111(m) of the Customs Act, 1962. By this act of omission and commission, the importer has rendered himself liable for penal action under Section 112(a) of the Customs Act, 1962.

10. Whereas, it appears that the Customs Broker, M/s. Space Freight Logistics, failed to exercise due diligence and did not disclose material facts to the Customs authorities at the time of filing the Bill of Entry on behalf of the importer. The import documents clearly mentioned the goods as "Sanitary Napkins," which fall under the scope of the Medical Textiles (Quality Control) Order and, therefore, mandatorily require BIS certification for importation. Despite being aware of this fact, the Customs Broker proceeded to file the Bill of Entry and attempted to facilitate the clearance of the goods without ensuring

compliance thereof. Such acts and omissions indicate lack of due diligence and failure to comply with the obligations laid down under Regulation 10 of the Customs Brokers Licensing Regulations, 2018 which obligate a Customs Broker to advise clients appropriately, ensure compliance with the Customs Act and allied laws, and exercise due care in the discharge of their duties. The Customs Broker facilitated attempted clearance of restricted goods which require BIS Certificate for import, thereby rendering the subject goods liable for confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962. Accordingly, M/s. Space Freight Logistics appears to be liable for penal action under Section 117 of the Customs Act, 1962.

11.1 Accordingly, M/s. DNR Healthcare Pvt Ltd. (IEC: AAGCD8223K) having address at Plot No 151, Industrial Area, Phase-2, Panchkula, HARYANA-134109, was called upon to show cause to the Additional Commissioner of Customs (Import), Assessment Group-6 Customs House, Mundra having his office situated at 1st Floor, Custom House, Port User Building, Mundra, within thirty days from the receipt of this notice as to why:

- i. the declared goods “Sanitary Napkin in Bulk Packing” having assessable value of Rs. 27,77,551/- (Rupees Twenty Seven Lakhs Seventy Seven Thousand Five Hundred and Fifty One only) imported under Bill of Entry No. 8703003 dated 05.03.2025 by the Importer should not be confiscated under Section 111 (d) and 111 (m) of the Customs Act, 1962;
- ii. Penalty should not be imposed upon the Importer under Section 112(a) of the Customs Act, 1962;

11.2 Accordingly, M/s. Space Freight Logistics (Customs Broker) was also called upon to show cause to the Additional Commissioner of Customs (Import), Assessment Group-6 Customs House, Mundra having his office situated at 1st Floor, Custom House, Port User Building, Mundra, within thirty days from the receipt of this notice as to why:

- i. Penalty should not be imposed upon them under Section 117 of the Customs Act, 1962;

12. DEFENCE REPLY & WRITTEN SUBMISSION:-

12.1 On the behalf of the Importer/Noticee M/s. DNR Health Care, Shri

Saurabh Kapoor, Advocate, being an Authorised representative, has submitted their written submission/defense reply via email dated 01.09.2025 enclosing letter dated 15.08.2025 and also requested to grant hearing through virtual mode. In their written submission, they interalia stated that:-

12.1.1 The Show Cause Notice is based on a misinterpretation of the provisions of the Medical Textiles (Quality Control) Order, 2023, issued by Ministry of Textiles, Government of India, as recorded in para 5 & 6 of the said Show Cause Notice.

12.1.2 The Noticee has been importing the said material without any objection from the Customs Department from last many years. Never in the past, there was any objection from the Customs Department either in respect of quality, quantity, description, specification and value of the imported material or the quantity, quality, description, specification and value of the import consignments. The Noticee has also been accorded status of Small and Micro Enterprise.

12.1.3 The Noticee stated that after placing the order with the foreign supplier and receiving all the required commercial documents, they filed Bill of Entry No. 8703003 dated 05.03.2025 at Mundra Port. The Bill of Entry was initially assessed through the Risk Management System (RMS), but at the stage of Out-of-Charge, the Customs system raised a query asking for submission of the BIS certificate. Subsequently, when the Bill of Entry was shifted from RMS to normal assessment, another query was issued on 31.03.2025. According to the Noticee, this query was communicated to them by their Customs Broker only in June 2025 because the CHA was handling the EDI portal. Once the Noticee became aware of it, they engaged an Advocate to prepare the reply, which was then submitted on the EDI system on 30.06.2025. Thereafter, on 04.07.2025, the Department issued another query stating that the earlier reply was unsatisfactory but at the same time offered the option of de-stuffing the cargo under Section 49 of the Customs Act. The Noticee claims that this de-stuffing option was offered at a very late stage and that the Department further failed to issue detention certificates, which were necessary to obtain waiver of demurrage charges and proceed with de-stuffing. The Noticee also placed reliance on the judgment of the Hon'ble Punjab & Haryana High Court in Bajrangbali Trading Co. vs Union of India (2012).

12.1.4 That the Noticee vide letter dated 13.07.2025 requested the Customs Department for provisional release of goods u/s 110 A of the Customs Act, 1962, further the personal hearing was granted to the Noticee on 13.07.2025 itself through virtual mode. However the Counsel for the Noticee having joined

the Virtual Meeting none appeared on behalf of the Department.

12.1.5 That the Show Cause Notice proposes to order for confiscation of goods u/s 111 of the Customs Act, 1962 by making applicable the provisions of Medical Textile (Quality Control) Order 2023 issued by Ministry of Textile, Government of India, which prescribes for mandatory requirement of BIS Certificate.

12.1.6 That the Government of India issued Medical Textile (Quality Control) Second Amendment Order 2025 vide which Para 2 of the said Order was amended, the relevant amendment reads as under:-

“Provided that where any manufacturer certified by the Bureau, or any manufacturer who has applied to the Bureau for certification in respect of the goods or articles specified in column (2) of Schedule A to the principal Order, declares prior to the date specified in column (5) of the said Schedule that their old stock, manufactured or imported prior to such date, does not bear the Standard Mark, such manufacturer or importer shall be permitted to sell, display, or offer to sell the declared stock up to 31st December 2025.”

12.1.7 That the Bureau vide its earlier amendment made vide Notification dated 01.01.2025 had extended the time for implementation of the Medical Textiles (Quality Control) Order 2024 wherein the time line for implementation of the said Order for Large and Medium Enterprises from 01.01.2025 and for Small and Micro Enterprises from 01.04.2025.

12.1.8 That from the perusal of the Amendment Order dated 01.01.2025 the time line for implementation of the Medical Textile (Quality Control) Order 2024 was extended from 01.04.2025. The Noticee which is a Small and Micro Enterprise having made application before the Bureau of Indian Standards and accorded a status of Small and Micro Enterprise, the restriction for mandatory applicability of Medical (Quality Control) Order 2024 shall accrue from 01.04.2025. Further in terms of 2nd Amendment Order dated 30.07.2025 the imports having been effected prior to the date of implementation i.e. 01.04.2025 the Noticee has not violated any condition of the Original Import Order and the goods imported are “Freely Importable”.

12.1.9 That the Department in its Para 7 of the Show Cause Notice has relied upon Para 2.03 (a) of the Foreign Trade Policy 2015-2020 stipulating that the domestic laws as applicable to the domestically manufactured goods shall be applicable to the imported goods as well. Thus once the extension has for implementation of the Medical Control Order has been deferred to Small and Micro Enterprises, which in the present case is the Noticee the said deferment

is equally applicable to the Imports made by the Noticee.

12.1.10 That since the Time line for mandatory implementation of the provisions of BIS Act read with the Medical Control Order 2024 having been extended uptill 01.04.2025 and the imports made by the Noticee was well before the cut off date the provisions as applicable to the domestically situated manufactures shall mutas-mutandis applicable to importers as in the case of present Noticee. Thus the Noticee has not violated any of the provisions of the Medical Control Order 2024.

13. RECORDS OF PERSONAL HEARING:

13.1 The importer was granted personal hearing and the same was attended by Shri Saurabh Kapoor, Advocate, Authorized representative of importer M/s. DNR Healthcare Pvt. Ltd. on 14.10.2025 at 05:00 PM.

13.1.1 During the hearing, Shri Saurabh Kapoor re-iterated and reaffirmed the comprehensive averments, contentions, and prayers encapsulated in the earlier written reply tendered vide letter dated 15.08.2025, submitted in response to the Show Cause Notice. He further submitted that since the Noticee is a "Small and Micro Enterprise" is not amenable to compulsory Registration under the "BIS Act" read with Notification dated 23.10.2024. Further the Exemption from compulsory registration having been accorded by Government the Noticee is entitled for unconditional release along with Detention Waiver Certificates as per HCCR 2009 read with SCMTR 2018.

13.2 Further, M/s. Space Freight Logistics (Customs Broker) vide their letter dated 24.11.2025 and email dated 02.12.2025, submitted that they don't want Personal hearing in the subject matter. F They also submitted that they filed the subject BE 8703003 dated 05.03.2025 and further the consignee did not provide the required documents to them for further processing of the shipment and they have given NOC and handed over all relevant documents to the consignee i.e. M/s. DNR Healthcare Pvt. Ltd. on 02.04.2025.

In view of the above, they submitted that they have fulfilled all procedural requirements from their end and they shall not be responsible for any liabilities arising in connection with this shipment.

14. DISCUSSION AND FINDINGS:

After having carefully gone through the Show Cause Notice, relied upon documents, written submissions made by the Noticee's and the records available before me, I now proceed to decide the case. The main issues involved in the case which are required to be decided in the present

adjudication are as under: -

- i. Whether the declared goods “Sanitary Napkin in Bulk Packing” having assessable value of Rs. 27,77,551/- (Rupees Twenty Seven Lakhs Seventy Seven Thousand Five Hundred and Fifty One only) imported under Bill of Entry No. 8703003 dated 05.03.2025 by the Importer are liable for confiscation under Section 111 (d) and 111 (m) of the Customs Act, 1962;
- ii. Whether, the Noticee (Importer/Customs Broker) are liable for penalty or otherwise.

15. I find that the importer M/s. DNR Healthcare Pvt Ltd. (IEC: AAGCD8223K) having address at Plot No 151, Industrial Area, Phase-2, Panchkula, HARYANA- 134109, has filed Bill of Entry No. 8703003 dated 05.03.2025 through their Customs Broker M/s. Space Freight Logistics for the clearance of goods having description as “Sanitary Napkin in Bulk Packing”. Details of the shipment are given in Table-‘A’ above.

16. I find that the bill of entry has been facilitated by Risk Management System (RMS) under no assessment and examination order. At time of Out of Charge, the OOC officer raised a query to the Importer to submit BIS Certificate. Being not satisfied with query reply and non-submission of BIS Certificate by the Importer, the subject Bill of Entry has been pushed to Assessment Group for further action.

17. I find that it has been observed that the goods having description “*Sanitary Napkins*” covered under the scope of regulated products as per the Medical Textiles (Quality Control) Order, 2023, issued by the Ministry of Textiles, Government of India, as amended from time to time. As per S.O. 4247(E) dated 27.09.2023, the import of sanitary napkins is mandatorily subject to BIS Certification (IS 5405:2019). The said order has been amended vide S.O. 4634(E) dated 23.10.2024 vide which requirement for BIS Certificate has been effected from 01.01.2025 for imports.

17.1 I find that a 2nd query was raised on 31.03.2025 to submit BIS Certificate and also giving option to avail the facility of warehousing of goods under Section 49 of the Customs Act, 1962 to avoid detention/demurrage charges. Importer after a lapse of almost 03 months, replied to the said query on 30.06.2025. Text of the query reply reproduced below:

“Respected Sir Please refer to the above mentioned subject wherein the importer M/s DNR Health Care (P) Ltd. Plot No. 151, Industrial Area Phase 2 Panchkula had filed Bill of Entry No. 8703003 dated 05.03.2025 at the port of SEZ Mundra, Mundra Gujrat for clearance of goods comprising of “Sanitary

Napkins” in Bulk for clearance of the goods. That despite the fact that the goods imported were subject to assessment by the Faceless Unit, the goods have not been permitted to be cleared by the Officers of Customs. Further the imported goods having been imported by our Unit which falls under Small & Micro Enterprises. as per the Registration Certificate issued -by Ministry of Micro Small & Medium Enterprise dated 17.10.2020. Further the imported goods are not subject to compulsory compliance in terms of Medical Textile (Quality Control) Amendment Order 2025. It is pertinent to mention that in terms of advisory issued by the Under Secretary, Government of India Ministry of Commerce and Industry and Internal Trade dated 19.03.2025 it has been categorically advised that implementation of QCO is not applicable to Micro and small enterprises. Further the Importer who is a small and micro enterprise any such restrictions which are imposable in terms of Quality Control Order shall be made applicable only after 01.04.2025. That since the imported goods have been imported on 05.03.2025 the condition for mandatory applicability of Quality Control Order shall not be applicable to the shipments in question which is lying uncleared at the port of Mundra. It is therefore most respectfully requested that the goods imported vide Bill of Entry No. 8703003 Dated 05.03.2025 may be permitted to cleared as the said goods are incurring heavy demurrage and detention charges.”

17.3 I find that after analysing query reply dated 30.06.2025, it was observed that the importer, M/s DNR HealthCare has misinterpreted the applicability of the Medical Textiles (Quality Control) Order (QCO) and the clarification issued by DPIIT. The importer claims of exemption from QCO compliance is based on their status as a Micro and Small Enterprise (MSE) and refers to the DPIIT communication dated 19.03.2025 in support of this claim. However, this claim is factually incorrect and not supported by the contents of the said clarification. The DPIIT clarification, vide F. No. P-29014/33/2025-LEI dated 19.03.2025, clearly states that the exemptions of six months and three months granted to Micro and Small Enterprises (MSEs), respectively, under the QCO are strictly for the purpose of enabling them to obtain BIS certification under the Conformity Assessment Rules, and do not extend to import consignments. Thus, it appears that the relaxation does not apply on imports. Therefore, the QCO remains fully applicable to imported goods, irrespective of the importer's MSE status. Hence, it appears that the importer's request for clearance of the goods without compliance to the QCO does not hold merits.

17.4 I find that in view of the above, a further query was raised to the Importer on 04.07.2025, informing them that their earlier reply was not satisfactory. Department also once again advised the Importer to avail the facility of warehousing of goods under Section 49 of the Customs Act, 1962. It has been observed during the course of assessment that, despite the lapse of nearly 04

months, the importer has neither submitted a satisfactory reply or relevant documents nor made any request for personal hearing in the matter. The importer has also failed to provide any justification or supporting evidence to substantiate the clearance of the goods without BIS certification.

17.5 I find that considering the above, an opportunity for personal hearing has been granted on 14.07.2025 (DIN: 20250771MO0000018435) to the Importer for the purpose to present the facts of the case before initiating any proceedings under the provisions of the Customs Act, 1962. However, no representative appeared for the personal hearing on the scheduled date and time. Instead, the importer submitted an authorisation letter dated 13.07.2025 via email, authorising Advocate Shri Saurabh Kapoor to represent them. Shri Saurabh Kapoor (Advocate) submitted a letter dated 13.07.2025 on behalf of the Importer M/s. DNR Healthcare and requested for provisional release of the goods or permit de-stuffing under Section 49 of the Customs Act, 1962 or issuance of detention memo or grant opportunity of personal hearing through virtual mode or pass any other order in the interest of justice.

17.6 I find that it has been observed that no request for re-export of the goods has been made by the importer. Accordingly, the request for provisional release of the goods holds no merit, as the goods remain non-compliant with the applicable Quality Control Order in the absence of a valid BIS certificate.

18. I find that the goods "*Sanitary Napkins*" covered under the scope of regulated products as per the Medical Textiles (Quality Control) Order, 2023, issued by the Ministry of Textiles, Government of India, as amended from time to time. as per S.O. 4247(E) dated 27.09.2023, the import of sanitary napkins is mandatorily subject to BIS Certification under IS 5405:2019. Further, as per Medical Textiles (Quality Control) order 2024 issued vide S.O. 4634(E) dated 23.10.2024, the requirement of BIS Certificate has been effected from 01.01.2025. Further, the said order was amended vide SO 04(E) dated 01.01.2025 called as Medical Textiles (Quality Control) Amendment Order, 2025. Thus, it is evident that import of Sanitary Napkins is regulated and requires compliance with applicable Bureau of Indian Standards (BIS) certification. As per Schedule-A of Para 4 of S.O. 4634(E) dated 23.10.2024, sanitary napkins are explicitly listed as a product that must conform to Indian Standard IS:5405:2019. Thus, any import of such goods into India without a BIS license and standard mark constitutes a contravention of the mandatory quality and safety standards notified by the Government of India under the BIS Act and the Quality Control Order.

19. I find that as per Section 15 of the BIS Act, 2016, import, sale or

distribution of goods without a standard mark and without conformance to specified standard is prohibited. Section 15 of BIS Act, 2016 is reproduced below:

"15. Prohibition to import, sell, exhibit, etc.

(1) No person shall import, distribute, sell, store or exhibit for sale, any goods or article under sub-section (1) of section 14, except under certification from the Bureau."

In light of the above, any importer bringing sanitary napkins into India without a valid BIS certification is in clear violation of the BIS Act, 2016.

20. I find that Para 2.03(a) of the Foreign Trade Policy 2015-20 stipulates that all domestic laws, technical regulations, environmental standards, safety, and health norms that are applicable to domestically manufactured goods shall also apply, *mutatis mutandis*, to imported goods. Therefore, any quality or compliance requirement that applies to Indian manufacturers is equally applicable to importers. In this case, since sanitary napkins are required to be BIS-certified for domestic sale, the same requirement applies to imported sanitary napkins as well.

21. I find that the submissions made by the importer in para 12 of the defence reply, regarding the applicability of extended timelines under the Medical Textiles (Quality Control) Order, 2023 (as amended vide Notification dated 01.01.2025 and Second Amendment Order dated 30.07.2025) to Micro and Small Enterprises (MSEs) for imports, are misconceived and not sustainable. In this regard, I further rely on Alert Notice No. 02/2025 date 27.02.2025 issued by the Additional Commissioner of Customs, Mundra (File No. GEN/SHED/OBJ/2/2025-Docks Examn-O/o Pr Commr-Cus-Mundra), which incorporates the clarification obtained from the Department for Promotion of Industry and Internal Trade (DPIIT) in respect of Quality Control Orders (QCOs) issued by it. The said clarification explicitly states that the relaxations and extended timelines provided in such QCOs to MSEs are strictly for the purpose of enabling them to obtain BIS certification under the Conformity Assessment Rules of the Bureau of Indian Standards (BIS), and do not extend to import consignments. It is further clarified that the restrictions on imports under the QCOs are applicable to all enterprises, including Micro and Small Enterprises, from the date of implementation of the QCO, without any exemption or deferment for imports based on MSE status. The principle enunciated in the aforesaid clarification applies *mutatis mutandis* to the Medical Textiles (Quality Control) Order, 2024 issued by the Ministry of Textiles,

as the underlying policy intent regarding import restrictions and BIS compliance remains consistent across such notified QCOs. In the present case, the implementation date for mandatory BIS certification (IS 5405:2019) for import of sanitary napkins was 01.01.2025 as per S.O. 4634(E) dated 23.10.2024, and the subject goods were imported on 05.03.2025, well after this date, rendering them liable for compliance irrespective of the importer's MSE status. Consequently, the goods imported without valid BIS certification contravene the QCO, BIS Act, 2016, and relevant provisions of the Customs Act, 1962, as detailed elsewhere in this order.

22. I find that the imported goods, i.e., Sanitary Napkins, are classifiable under Customs Tariff Heading (CTH) 9619, which covers "Sanitary towels (pads) and tampons, napkins and napkin liners for babies and similar articles." It has been found that M/s DNR Healthcare failed to produce a valid BIS Certification for the Sanitary Napkin at the time of import clearance. This non-compliance indicates that the goods were imported in violation of mandatory regulatory requirements, rendering them restricted and unauthorized under Indian law.

23. In view of the foregoing paras, I find that the goods viz. "Sanitary Napkins in Bulk Packing" (assessable value Rs. 27,77,551/-) imported vide Bill of Entry No. 8703003 dated 05.03.2025 constitute a clear contravention of the mandatory BIS certification requirements under the Medical Textiles (Quality Control) Order, 2024 (vide S.O. 4634(E) dated 23.10.2024 and amended vide S.O. 04(E) dated 01.01.2025), Section 15 of the BIS Act, 2016, Para 2.03(a) of the Foreign Trade Policy, 2015-20, and the importer's obligations under Sections 46(4A) of the Customs Act, 1962. The subject import, effected after the notified implementation date of 01.01.2025 without valid BIS certification (IS 5405:2019), renders the goods 'prohibited' within the meaning of Section 2(33) of the Customs Act, 1962, as the conditions for permissible importation have not been complied with. Further, the importer's act of omission in failing to furnish the requisite BIS certificate, coupled with the unsubstantiated claims of exemption as a Micro and Small Enterprise (MSE) – which, as clarified in para 21 above, do not extend to imports – amounts to 'smuggling' within the ambit of Section 2(39) of the Customs Act, 1962. It is evident that the importer knowingly or with reason to believe attempted to clear restricted goods in violation of the aforementioned regulatory framework, thereby attracting liability for confiscation of the goods under Sections 111(d) and 111(m) of the Customs Act, 1962. The importer's reliance on the DPIIT advisory dated 19.03.2025¹³ and the aforementioned amendments is, therefore, factually incorrect and without merit, as these provisions do not confer any immunity from import restrictions. Consequently, the importer, M/s. DNR Healthcare Pvt. Ltd., has rendered itself liable for penal action under Section 112(a)(i) of the Customs Act, 1962

23.1. Further, I find that the Customs Broker, M/s. Space Freight Logistics, has failed to exercise due diligence in the filing and processing of Bill of Entry No. 8703003 dated 05.03.2025 on behalf of the importer, M/s. DNR Healthcare Pvt. Ltd. The import documents, including the Bill of Entry, explicitly described the goods as "Sanitary Napkin in Bulk Packing," which are squarely covered under the Medical Textiles (Quality Control) Order, 2024 (vide S.O. 4634(E) dated 23.10.2024 and amended vide S.O. 04(E) dated 01.01.2025) and mandatorily require BIS certification (IS 5405:2019) for importation, effective from 01.01.2025. Despite this clear regulatory requirement, the Customs Broker proceeded to file the Bill of Entry without verifying or ensuring the submission of the requisite BIS certificate, thereby omitting to disclose material facts to the proper officer under Section 46(4) and (4A) of the Customs Act, 1962. This act of omission, coupled with the facilitation of attempted clearance of non-compliant goods through the Risk Management System (RMS) without flagging the mandatory BIS compliance, constitutes a breach of the obligations prescribed under Regulation 10 of the Customs Brokers Licensing Regulations, 2018, which inter alia requires a Customs Broker to exercise due care, advise the client on applicable laws and regulations, ensure the accuracy and completeness of declarations, and prevent violations of the Customs Act, 1962 and allied statutes such as the BIS Act, 2016. The Customs Broker's lapses have directly contributed to the improper importation and the consequent liability of the subject goods for confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962. Accordingly, M/s. Space Freight Logistics is liable for penal action under Section 117 of the Customs Act, 1962

24. In view of above discussions and findings supra, I pass the following order.

ORDER

(i) I order for absolute confiscate of the goods viz. "Sanitary Napkins in Bulk Packing" (assessable value Rs. 27,77,551/- (Rupees Twenty Seven Lakhs Seventy Seven Thousand Five Hundred and Fifty One only)) imported vide Bill of Entry No. 8703003 dated 05.03.2025, under Sections 111(d) and 111(m) of the Customs Act, 1962.

(iii) I order to impose a penalty of Rs.4,00,00/- (Rupees Four Lakh only) is imposed on the importer, M/s. DNR Healthcare Pvt. Ltd., under Section 112(a)(i) of the Customs Act, 1962.

(iv) I order to impose a penalty of Rs. 1,00,000/- (Rupees One Lakh only) is imposed on the Customs Broker, M/s. Space Freight Logistics, under Section 117 of the Customs Act, 1962.

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

26. The Show Cause Notice No. 44(L)/2025-26/ADC/ZDC/GR-6/MCH dated 19.07.2025 is hereby disposed off in above terms.

Zala Dipakbhai Chimanbhai
Additional Commissioner of Customs,
Import Assessment Group
Custom House, Mundra

F. No: CUS/APR/ASS/1259/2025-Gr 5-6
DIN:20251271MO0000666456

To,

- (i) M/s. DNR Healthcare Pvt Ltd. (IEC: AAGCD8223K)
Plot No 151, Industrial Area, Phase-2,
Panchkula, HARYANA- 134109.
- (ii) M/s. Space Freight Logistics (Customs Broker),
Room No. 7/11, 1st Floor, Galaxy Residency,
Opp. Shubham Petrol Pump, Mundra-Kutch-370421,
Gujarat.

Copy to:

- 1. The Deputy/Assistant Commissioner (RRA/TRC/EDI), Custom House, Mundra.
- 2. Notice Board
- 3. Guard File