

 <p>कार्यालय: प्रधानआयुक्तसीमाशुल्क, मुन्द्रा, सीमाशुल्कभवन, मुन्द्राबंदरगाह, कच्छ, गुजरात- 370421 OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS: CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT- 370421. PHONE: 02838-271426/271163 FAX :02838-271425 E-mail id- group4-mundra@gov.in</p>		
<b>A</b>	फा. सं. <b>FILE NO.</b>	CUS/APR/BE/1968/2025-Gr 4
<b>B</b>	मूल आदेश सं. <b>ORDER-IN-ORIGINAL NO.</b>	MCH/ADC/ZDC/353/2025-26
<b>C</b>	द्वारा पारित किया गया <b>PASSED BY</b>	Dipak Zala Additional Commissioner of Customs Custom House, Mundra.
<b>D</b>	आदेश की तिथि <b>DATE OF ORDER</b>	01-11-2025
<b>E</b>	जारी करने की तिथि <b>DATE OF ISSUE</b>	01-11-2025
<b>F</b>	कारण बताओ नोटिस सं. एवं तिथि <b>Number &amp; DATE OF SCN</b>	Importer has sought waiver from SCN and PH
<b>G</b>	नोटिसी/पार्टी/आयातक <b>NOTICEE/ PARTY/ IMPORTER</b>	M/s D Bhatia and Company (IEC AIWPB3721D)
<b>H</b>	डिन सं./DIN NUMBER	<b>20251171MO000777F26</b>

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”
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 be

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**

On scrutiny of EDI data, it was observed that Importer M/s D Bhatia and Company (IEC AIWPB3721D) having address at A-42, Group Wazirpur Industrial Area, Delhi-110052 (hereinafter referred to as 'importer 'for the sake of brevity) has filed 02 Bills of Entry No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 for import of goods declared as Decorative and Designer Display Sheet at Mundra Port through their Custom Broker M/s Ashapura Logistics Solution under HSN code 73269099 instead of 7219/7220. Since, CTH 7326 is not covered under Steel Quality Control Order, hence, importer neither uploaded copy of BIS certificate nor NOC from Ministry of Steel.

2. The country of origin is CHINA. Supplier in case of above mentioned Bills of Entries is M/s Kirin Metal Limited, Hongkong. Total Declared Assessable value of the goods is 1,27,65,361/- (Rs. One Crore Twenty-Seven Lacs Sixty-Five Thousand Three Hundred Sixty-One Rupees) and total duty payable is Rs. 39,54,710/- (Rupees Thirty-Nine Lacs Fifty-Four Thousand Seven Hundred Ten). The details of B/E are as under: -

#### **Table-I**

(Exchange Rate :- 1 USD=Rs. 87.80)

Sr. No.	B/E No. & Date	House/Master BL No. & date	Container No.	Total Gross Weight (In Kgs.)	Declared Unit Price (In USD/Kgs.)	Declared Assessable Value (In Rs.)	Declared Duty
1	8850323 dt. 12.03.2025	SZXCB25012435 dt. 26.02.2025	CAIU3576753	82630	1.115	80,57,902/-	24,96,338/-
			CAIU3579650				
			CAIU3747007				
2	8862898 dt. 13.03.2025	025F549418 dt. 26.02.2025	WHSU0238952	55350	1.115	53,82,862/-	16,67,611/-
			WHSU2575588				

<b>Total</b>	<b>137710</b>	<b>1,34,40,764/-</b>	<b>41,63,949/-</b>
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3. Ministry of Steel issued circular dated 20.10.2023 vide which it was informed that Ministry of Steel has notified Steel and Steel Products (Quality Control) order under the BIS Act, 2016. Periodically, the Ministry issues such QCO orders to cover more grade of steel and related products. The Quality Control Order mandates that all the steel products imported into the country must be having BIS license/ certification and accompanied with Mill Test Certificate and be Marked with ISI and BIS license number.

3.1 For smooth implementation of Quality Control Order, the Ministry of Steel has constituted a Technical Committee (w.e.f. October 2018) for examination and analysis of the application(s) received for issuance of clarification, whether the product(s) which are being imported without BIS certification are covered under Steel QCO or not.

3.2 Further, Ministry of Steel made mandatory for all the steel importers to apply and seek clarification on the TCQCO Portal for each and every steel consignment which is imported in the country without BIS license/certification. It is clarified that the Ministry of Steel issues clarification for each single import consignment. In this regard, it is further clarified for each and every consignment, the importer need submit fresh application through TCQCO portal, unless stated otherwise in the clarification issued.

4. Accordingly, in absence of any BIS certificate or NOC from Ministry of steel, goods covered under 02 B/E No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 were put on hold by this office to rule out any possibility of misdeclaration or mis classification in order to bypass restriction of mandatory NOC/ BIS certificate imposed by Ministry of Steel vide circular dated 20.10.2023.

5. The examination of the goods covered under B/E No. 8850323 dated 12.03.2025 were carried out at Saurashtra Freight Pvt. Ltd. CFS on 19.03.2025 in the presence of Shri Muddu Sandip, Assistant Manager, Operation in Saurashtra CFS and Shri Nilesh Bhanushali, Authorised representative of importer M/s D Bhatia & Company. Further, examination of goods covered under B/E No. 8862898 dated 13.03.2025 were carried out at Ashutosh Container Services Pvt. Ltd. CFS on 20.03.2025 in the presence of Sh. Jayendu N Bhatt, Manager, Operations in Ashutosh CFS and Shri Nilesh Bhanushali, Authorised representative of importer M/s D Bhatia & Company. Before beginning the examination, the weightment slip of the containers generated at CFS weighbridge are cross checked. The weight mentioned on the slips as well as invoice, packing list and Bill of Lading are as under :-

**Table-II**

Sr. No.	B/E No. and Date	Container No.	B/L Weight (in Kgs.)	CFS Weight (in Kgs.)	Difference (in Kgs.)
1	8850323 dated 12.03.2025	CAIU3576753	27072	27045	-27
		CAIU3579650	28010	28025	15
		CAIU3747007	27548	27370	-178
2	8862898 dated 13.03.2025	WHSU0238952	27344	27380	36
		WHSU2575588	28006	28110	104
Total=			137980	137930	50

6. Further, as per examination reports dated 19.03.2025 and 20.03.2025, goods

were found stuffed in the form of cylindrical shaped rolls of coils. There were 05 Coils stuffed in container No. CAIU3576753, 06 coils in container No. CAIU3579650, 05 Coils in Container No. CAIU3747007, 05 coils in container No. WHSU0238952 and 06 coils in container No. WHSU2575588. These cylindrical shaped rolls of coils were wrapped in green coloured PP Packaging. On cutting these PP Packaging, it was found that Coils were having dull shine on its surface. No discrepancy in respect of size i.e. width and thickness etc. has been noticed against as per declaration in invoice No. KRDB25011-A dated 20.02.2025 and KRDB25011-B dated 24.02.2025 issued against B/E No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 respectively.

7. Further, in order to ascertain chemical composition of impugned goods, Positive Metal Identification (PMI) test was conducted with the help of PMI gun. During the PMI test proceeding, the test results were taken and the same is reproduced below container wise in tabular form: -

**Table- III**  
**Container No. CAIU3576753**

Coil No.	Fe	Cr	Mn	Ni	Si	Cu	V	S/Zn	Co	P
C-1	75.01	13.66	8.61	1.31	0.55	0.56	0.12	0.05	0.05	0.05
C-2	74.55	13.83	8.81	1.19	0.70	0.59	0.15	0.04	0.08	0.06
C-3	74.35	13.80	9.04	1.30	0.61	0.56	0.11	0.04	0.13	0.05
C-4	74.52	13.71	8.68	1.22	0.89	0.55	0.14	0.06	0.10	0.06
C-5	74.88	13.60	8.75	1.14	0.70	0.58	0.12	---	0.10	0.05

**Table- IV**  
**Container No. CAIU3579650**

Coil No.	Fe	Cr	Mn	Ni	Si	Cu	V	S/Zn	Co	P
C-1	75.31	13.14	9.02	1.04	0.84	0.42	0.11	0.04	--	0.04
C-2	75.13	13.51	8.47	1.28	0.59	0.55	0.10	--	0.12	0.06
C-3	74.70	13.42	8.81	1.15	0.92	0.63	0.12	0.07	0.06	---
C-4	75.06	13.55	8.67	1.29	0.62	0.55	0.12	--	0.07	0.06
C-5	74.78	13.81	8.86	1.20	0.58	0.56	0.11	0.04	--	0.04
C-6	74.79	13.64	9.15	1.05	0.61	0.52	0.12	--	0.07	0.04

**Table- V**  
**Container No. CAIU3747007**

Coil No.	Fe	Cr	Mn	Ni	Si	Cu	V	S/Zn	Co	P
C-1	75.53	12.94	8.89	1.05	0.93	0.37	0.10	0.03	0.08	0.05
C-2	75.00	13.23	8.68	1.41	0.86	0.52	0.12	0.03	0.09	0.04
C-3	75.04	13.25	8.63	1.36	0.74	0.64	0.12	0.08	0.04	0.05

C-4	74.19	13.72	9.52	1.10	0.73	0.52	0.13	0.03	--	0.05
C-5	75.07	13.43	8.51	1.29	0.90	0.49	0.08	--	0.05	0.05

**Table- VI**  
**Container No. WHSU0238952**

Coil No.	Fe	Cr	Mn	Ni	Si	Cu	V	Zn	Co	P
C-1	75.39	13.12	8.30	1.31	1.06	0.47	0.10	0.04	0.15	0.05
C-2	75.05	13.26	8.59	1.29	0.96	0.51	0.14	0.04	0.06	0.06
C-3	74.73	13.81	8.93	1.17	0.63	0.46	0.12	--	0.09	0.05
C-4	75.52	13.09	8.80	0.99	0.90	0.46	0.09	0.05	0.02	0.05
C-5	75.22	13.22	8.96	0.93	0.97	0.35	0.12	--	0.06	0.04

**Table- VII**  
**Container No. WHSU2575588**

Coil No.	Fe	Cr	Mn	Ni	Si	Cu	V	Zn	Co	P
C-1	74.7	13.2	8.9	1.3	1	0.7	0.1	0.1	0.1	0
C-2	74.9	13.6	9.1	1.1	0.6	0.4	0.1	--	0.1	0
C-3	75	13.3	8.8	1.2	0.9	0.6	0.1	0.1	0.1	0
C-4	75.1	13.1	8.6	1.2	0.9	0.5	0.1	--	0.1	0.1
C-5	75.8	12.9	9	1.1	0.6	0.5	0.1	0	0.1	---
C-6	75.6	13.1	8.7	1	0.9	0.4	0.1	0	0.1	0

8. As per examination report, goods prima facie appears to flat rolled product of Stainless Steel in the form of Coil instead of declared description i.e. Decorative and Designer display sheet. Further, as PMI test conducted above, it is seen that in all coils stuffed in 05 containers, Nickel content is found in the range of .8-1.5%, chromium content is found in the range of 13-15% and Manganese is found in the range of 7.5-13%.

9. Further, from the open source available on internet, the Stainless Steel Coil/sheet grade J3 should contain following chemical composition: -

**Table-VIII**

Grade	C	Mn	P	Cr	Ni	S	Si
J3	$\leq 0.15$	7.5-13	$\leq 0.045$	13.0-15.0	0.8-1.5	$\leq 0.03$	$\leq 1.0$

10. In view of above, prima facie, it appears that all major component i.e. Nickel, Chromium, Manganese etc. of goods imported vide Bill of Entry No. B/E No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 is in line of chemical composition of

Stainless Steel Coil/sheet J3 Grade.

11. Further, as per General Explanatory Note to Chapter 72 Part (IV)(B), Cold-worked products can be distinguished from hot-rolled or hot-drawn products by the following criteria :-

- the surface of cold-worked products has a better appearance than that of products obtained by a hot process and never has a layer of scale;
- the dimensional tolerances are smaller for cold-worked products;
- thin-flat products (thin "wide coil", sheets, plates and strip) are usually produced by cold-reduction;
- microscopic examination of cold-worked products reveals a marked deformation of the grains and grain orientation parallel to the direction of working. By contrast, products obtained by hot processes show almost regular grains owing to recrystallization;

In this case, during examination, goods have been found with thickness only 0.26 mm which is very thin and having shiny surface without any irregularity on surface. Further, as per SIMS registration No. MOSSIMS250225045022 dated 25.02.2025 and MOSSIMS270225046391 dated 27.02.2025 issued against B/E No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 respectively, importer has declared sub category as Flat Products-CR Coil of 200 series grade. Further, importer during his statement dated 28.04.2025 interalia stated that these coils are cold rolled. Hence, *prima facie*, it appears that goods are flat rolled product of Cold Rolled Stainless Steel having Grade J3.

12. Further, flat rolled products have been defined under Chapter Notes of 72 Chapter wherein at para 1(k), definition of flat rolled products has been mentioned which is as under :-

**Flat Rolled Products :-**

*Rolled products of solid rectangular (other than square) cross-section, which do not conform to the definition at (ij) above in the form of:*

- *Coil of successively superimposed layer, or*
- *Straight lengths, which if of a thickness less than 4.75 mm are of a width measuring at least ten times the thickness or if of a thickness of 4.75 mm or more of a width which exceeds 150 mm and measures at least twice than thickness.*

*Flat Rolled Products include those with patterns in relief derived directly from rolling (for example, grooves, ribs, chequers, tears, buttons, lozenges) and those which have been perforated, corrugated or polished, provided that they do not thereby assume the character of articles or products of other headings.*

*Flat rolled products of a shape other than rectangular or square, of any size, are to be classified as products of a width of 600 mm or more, provided that they do not assume the character of articles or products of other heading.*

As per examination reports and photos attached during examination vide 02 examination reports dated 19 & 20 March 2025, it is clear that goods are having rectangular (other than square) cross section as length and width of coil is different and further, goods are in the form of rolls of cylindrical shaped coils. As per photos attached, goods are in the form of coils having one layer superimposed upon another layer. Hence, *prima facie*, it appears that goods are well covered in definition of flat rolled products and hence, rightly classifiable under chapter 72. Hence, *prima facie*, it appears that goods are flat rolled product of Cold Rolled Stainless Steel in coil form having Grade J3.

13. The Harmonized Commodity Description and Coding System Explanatory Notes (EN's) constitute the official interpretation of the Harmonized System. As per General notes of Explanatory notes of Chapter 72, Chapter 72 and 73 covers following items: -

*This Chapter covers the ferrous metals, i.e., pig iron, spiegeleisen, ferro-alloys and other primary materials (sub-Chapter I), as well as certain products of the iron and steel industry (ingots and other primary forms, semi-finished products and the principal products derived directly therefrom) of iron or non-alloy steel (sub-Chapter II), of stainless steel (sub-Chapter III) and of other alloy steel (sub-Chapter IV).*

*Further worked articles, such as castings, forgings, etc., and sheet piling, welded angles, shapes and sections, railway or tramway track construction material and tubes are classified in Chapter 73 or, in certain cases, in other Chapters.*

From the above, it is clear that product of stainless steel as defined in sub chapter III are covered under chapter 72. However, further worked articles, such as castings, forgings, etc., and sheet piling, welded angles, shapes and sections, railway or tramway track construction material and tubes are classified in Chapter 73 or, in certain cases, in other Chapters. From the plain reading of above, it appears that impugned goods are flat rolled products of stainless steel not the further worked article i.e. casting, forgings etc., hence, the same, *prima facie*, appears to be rightly classifiable under chapter 72 instead of 73.

14. Further, as per Explanatory notes of Chapter 72 wherein at subpara (2) of para (IV) (c), it has been mentioned that Surface treatments or other operations, including cladding, to improve the properties or appearance of the metal, protect it against rusting and corrosion, etc. Except as otherwise provided in the text of certain headings, such treatments do not affect the heading in which the goods are classified. The same is reproduced as under :-

**(IV) Production of finished products**

*Semi-finished products and, in certain cases, ingots are subsequently converted into finished products.*

*These are generally subdivided into flat products ("wide flats", including universal plates", "wide coil", sheets plates and strip) and long products (bars and rods, hot-rolled, irregularly wound coils, other bars and rods, angles, shapes, sections and wire).*

*These products are obtained by plastic deformation, either hot, directly from ingots or semi-finished products (by hot-rolling, forging or hot-drawing) or cold, indirectly from hot finished products (by cold-rolling, extrusion, wire-drawing, bright-drawing), followed in some cases by finishing operations (e.g., cold-finished bars obtained by centre-less grinding or by precision turning).*

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**(C) Subsequent manufacturer and finishing :-**

*The finished products may be subjected to further finishing treatments or converted into other articles by a series of operations such as:*

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*( 2 ) Surface treatments or other operations, including cladding, to improve the properties or appearance of the metal, protect it against rusting and corrosion, etc. except as otherwise provided in the text of certain headings, such treatments do not affect the heading in which the goods are classified. They include:*

(a) Annealing, hardening, tempering, case-hardening, nitriding and similar heat treatments to improve the properties of the metal.

(b) Descaling, pickling, scraping and other processes to remove the oxide scale and crust formed during the heating of the metal.

(c) Rough coating intended solely to protect products from rust or other oxidation, to prevent slipping during transport and to facilitate handling e.g., paints containing an active anti-rust pigment (red lead, zinc powder, zinc oxide, zinc chromate, iron oxide, iron minium, jewellers' rouge), and non-pigmented coatings with a basis of oil, grease, wax, paraffin wax, graphite, tar or bitumen.

(d) Surface finishing treatment, including;

(i) polishing and burnishing or similar treatment;

(ii) artificial oxidation (by various chemical processes, such as immersion in an oxidising solution), patina finishing, blueing (blue annealing) browning or bronzing (by various techniques), which also form a film of oxide on the surface of the product, to improve its appearance. The operations increase resistance to rusting;

(iii) chemical surface treatments, such as:

- phosphatising, which consists of immersing the product in a solution of metallic acid phosphates, particularly those of manganese, iron and zinc; this process is known as parkerising or bonderising, depending on the period of the operation and the temperature of the bath;
  - oxalating, borating, etc., using methods similar to those for phosphatising, with the appropriate salts or acids;
  - chromating, which consists of immersing the product in a solution whose main contents are chronic acid or chromates; this process is for the surface treatment of e.g., steel plate plated or coated with zinc.

These chemical surface treatments have the advantage of protecting the surface of metal, facilitating any later cold deformation of the products treated and the application of paints or other non-metallic protective coatings.

(iv) coating with metal (metallisation) the main processes being:

- immersion in a bath of molten metal or metal alloy e.g., hot-dip galvanising, tinning, hot-coating with lead, and aluminium coating;
- electroplating (cathodic deposition of a coating metal on the product to be coated, by electrolysis of a suitable solution of metallic salts), e.g. With zinc, cadmium, tin, lead, chromium, chromium/chromate, copper, nickel, gold or silver;
- impregnation or diffusion (by heating the product to be coated with the required coating metal in powder form e.g., sherardizing (cementation with zinc) and calorising (cementation with aluminium) and chromising (with diffusion of chromium);
- spraying (atomising the molten coating metal and directing the spray on to the product to be coated), e.g., the Scoop process and the gas pistol, arc, plasma and electrostatic spray processes;
- metallisation by evaporating the coating metal in a vacuum. etc.; metallisation by bombarding the coating metal with ions in a glow discharge (ion plating);
- coating by cathode vaporisation (sputtering).

(v) *coating with non-metallic substances, e.g., enamelling, varnishing, lacquering, painting, surface printing, coating with ceramics or plastics, including special processes such as glow discharge, electrophoresis, electrostatic projection and immersion in an electrostatic fluidised bath followed by radiation firing, etc.*

(e) *Cladding, i.e., the association of layers of metals of different colours or natures by molecular interpenetration of the surfaces in contact. This limited diffusion is characteristic of clad products and differentiates them from products metallised in the manner specified in the preceding paragraphs (e.g. by normal electroplating).*

*The various cladding processes include pouring molten cladding metal on to the basic metal, followed by rolling; simple hot-rolling of the cladding metal to ensure efficient welding to the basic metal; any other method of deposition or superimposing of the cladding metal followed by any mechanical or thermal process to ensure welding (e.g., electro-cladding), in which the cladding metal (nickel, chromium, etc.) is applied to the basic metal by electroplating, molecular interpenetration of the surfaces in contact then being obtained by heat treatment at the appropriate temperature with subsequent cold-rolling.*

*Ferrous products clad with non-ferrous metals remain in their respective headings in Chapter 72 **provided** that iron or steel is the predominating metal by weight (see Note 7 to Section XV). Iron or steel products, clad with another ferrous metal, which, according to the composition of the original products, or of the cladding metal, could be classified in two sub-Chapters (II, III or IV) have similarly to be classified according to the metal predominating by weight (see Note 2 to this Chapter); e.g., a bar of non-alloy ordinary steel clad with stainless steel is therefore classified in sub-Chapter II if the former metal predominates by weight, or in sub-Chapter III if not.*

(f) *Removal of small portions of the metal for testing purposes.*

(g) *Lamination, for example, the superimposing of metal layers over an intermediate layer of viscoelastic material, the latter layer serving as a sound, etc., insulator.*

From the above, it is clear that semi-finished products are converted into finished product and these finished products are further subdivided into 02 categories i.e. flat products ("wide flats", including universal plates", "wide coil", sheets plates and strip) and long products (bars and rods, hot-rolled, irregularly wound coils, other bars and rods, angles, shapes, sections and wire) and all these products are well covered under chapter 72. Since, in this case, goods were found in the form of flat products i.e. Stainless Steel Coil, hence, goods *prima facie* appears to be rightly classifiable under CTH 72.

Further, vide subpara (2) of para (IV) (C), it has been clearly mentioned that **Surface treatments** or other operations, including cladding, to improve the properties or appearance of the metal, protect it against rusting and corrosion, etc. except as otherwise provided in the text of certain headings, such treatments do not affect the heading in which the goods are classified.

15. Further, flat rolled products of Stainless Steel are classifiable under 7219 and 7220. The same reads as under: -

**7219 Flat-rolled products of stainless steel, of a width of 600 mm or more**

**- Not Further worked than hot rolled, in coils:**

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**- Not further worked than cold rolled (Cold Reduced)**

721935 -- Of a thickness of less than 0.5 mm  
 72193510 --- Chromium Type  
 72193520 --- Nickel Chromium austenitic type  
 72193590 --- Other  
 721990 - Other:  
 72199090 --- Other

From the plain reading of CTH 7219 and 7220, it appears that flat rolled product of stainless steel having width of 600 mm or more than 600 mm are classifiable under 7219 and flat rolled product of stainless steel having width less than 600 mm are rightly classifiable under 7220. In case of B/E No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025, as per invoice and packing list, all 27 coils stuffed in 05 containers, having total Net weight 137440 Kgs. and Gross Weight 137930 Kgs., are having width more than 600 mm. Hence, prima facie, appears to rightly classifiable under CTH 72193590. Duty leviable under CTH 72193590 is @ 27.735 % (BCD @ 7.5% + SWS @ .75% + IGST @ 18%) while duty leviable under CTH 73269099 is @ 30.980 % (BCD @ 10% + SWS@1% + IGST @18%).

**16.** From the above, prima facie, it appears that importer M/s D Bhatia & Company (IEC: - AIWPB3721D) have tried to clear Cold Rolled Stainless Steel coil of J3 grade classifiable under CTH 7219 and 7220 by mis declaring them as “Decorative and Designer Display Sheets” classifying them under CTH 73269099 in order to bypass condition of seeking NOC from Ministry of Steel as mandated vide Ministry of Steel Circular dated 20.10.2023. Thus, the goods are found to be without valid NOC issued from Ministry of Steel and hence, found to be imported in violation of Circular dated 20.10.2023 which makes the goods restricted/prohibited for import of goods.

**17.** Further, the value declared by the importer in the corresponding Bill of Entry and invoices did not appear to be the true transaction value as importer has mis declared goods in terms of description, classification and weight, 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.

**18. Rejection of transaction value of the imported goods and determination of the value of the import goods: -**

Since during examination, goods imported vide B/E No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 were found mis declared in terms of description, classification and weight, therefore, 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: -

**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*

*i. 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.

Further, as per Rule 6 of the CVR, 2007, if the value cannot be determined under Rule 3, 4 & 5, then the value shall be determined under Rule 7 of CVR, 2007.

**Rule 7 of the CVR, 2007, stipulates that: -**

(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 of the CVR, 2007, stipulates that: -**

*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 of the CVR, 2007, stipulates that: -**

*(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) the price of the goods for the export to a country other than India;*
- (vi) minimum customs values; or*
- (vii) arbitrary or fictitious values.*

**19.** Since, data of data of import of identical goods i.e. brand name, supplier name etc. is not available, hence, value of the goods cannot be determined using Rule 4. Subsequently Rule 5 of Customs Valuation Rules 2007 is to be applied to arrive at the correct value of the subject consignment.

**19.1** As per Rule 5 of Customs Valuation Rules, 2007, 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. In this case, the subject import consignments have been imported from China by M/s D Bhatia & Company in the month of March 2025. As per contemporary data available for period of January-March 2025 for item declared as Cold Rolled Stainless Steel Coil Grade J3, it is noticed that some importers have imported similar type of goods having similar thickness,

description, nature etc. vide various Bills of Entry filed at Mundra Port. Accordingly, randomly 03 B/E having lowest price has been taken for reference as detailed below: -

**Table-IX**

Sr. No.	B/E No.	Date	Name of Importer	Port of Import	Declared Description	Declared Quantity (In Kgs.)	Assessed Price (in US Dollar)	Unit
1	8121766	31.01.2025	M/s Two Brothers Holding Limited	INMUN1	Cold Rolled Stainless Steel Coils Grade J3	25198 Kgs.	1.295	
2	8310271	12.02.2025	M/s M R Steel	INMUN1	Cold Rolled Stainless Steel Coils Grade J3	54050 Kgs.	1.295	
3	8617289	28.02.2025	M/s AVS Steels	INMUN1	Cold Rolled Stainless Steel Coils Grade J3	261058 Kgs.	1.295	
<b>Average Unit Price =</b>								1.295 USD/Kgs.

19.2 From the above, it appears that average unit price for import of Cold Rolled Stainless Steel Coil Grade J3 is of 1.295 USD/Kgs. In light of average unit price of 1.295 USD/Kgs found above, assessable value of goods imported vide B/E No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 has been redetermined which is as under :-

**Table-X**

(Exchange Rate: - 1 USD = 87.8 Rs.)								
BE No. & Date	Goods Description found	Weight Found (In Kgs.)	Declared CTH	Redetermined CTH	Re determined Unit Price (In Kgs.)	Declared Assessable Value (in Rs.)	Redetermined Assessable Value	
8850323 dt. 12.03.2025	Cold Rolled Stainless Steel Coil Grade J3	82440	73269099	72193590,	1.295	80,57,902/-	93,73,510 /-	
8862898 dt. 13.03.2025	Cold Rolled Stainless Steel Coil Grade J3	55490	73269099	72193590	1.295	53,82,262/-	63,09,269/-	
<b>Total</b>		137930				1,34,40,164/-	1,56,82,779/-	

19.3 As mentioned above, the transaction value of Rs. 1,34,40,164/- declared by the importer while filing Bill of Entry No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 is liable to be rejected under Rule 12 of Customs Valuation Rules 2007 as there has been significant mis-declaration in respect of description, classification and quantity thereof. Since the declared value of the subject goods is liable to be rejected under Rule 12 of the Customs Valuation (Determination of value of imported goods) Rules, 2007, therefore the same is required to be re-determined under Section 14 of the Customs Act, 1962 under Rule 5 of Customs Valuation (Determination of value of imported goods) Rules, 2007 as Rs. 1,56,82,779/- (Rupees One Crore Fifty-Six Lacs Eighty-Two Thousand Seven Hundred Seventy-Nine).

19.4 On the basis of re determined value in above table, duty leviable on goods imported vide B/E No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 has been re calculated which is as under: -

**Table-XI**

BE No./ Date	Redetermined Assessable Value (In Rs.)	BCD @ 7.5% (In Rs.)	SWS @ .75% (In Rs.)	IGST @ 18% (In Rs.)	Total leviable duty @ 27.735% (In Rs.)	Duty paid @ 30.980% (In Rs.)	Differential Duty (In Rs.)
8850323 dt. 12.03.2025	93,73,510/-	7,03,013/-	70,301/-	18,26,428/-	25,99,743/-	24,96,338/-	1,03,405/-
8862898 dt. 13.03.2025	63,09,269/-	4,73,195/-	47,320/-	12,29,361/-	17,49,876/-	16,67,611/-	82,265/-
<b>Total=</b>	<b>1,56,82,779/-</b>	<b>11,76,208/-</b>	<b>1,17,621/-</b>	<b>30,55,789/-</b>	<b>43,49,619/-</b>	<b>41,63,949/-</b>	<b>1,85,670/-</b>

19.5 In view of above, prime facie, it appears that importer M/s. D. Bhatia & Company was well aware that for import of goods i.e. Cold Rolled Stainless Steel Coil Grade J3 which are classifiable under 7219, seeking NOC from Ministry of Steel is mandatory. Hence, importer adopted a modus operandi to clear goods by mis-declaring them as Decorative and Designer Display Sheet instead of actual description i.e. Cold Rolled Stainless Steel Coil Grade J3 and mis classified the CTH i.e. 7326909 instead of correct CTH 72193590 in order to bypass restriction imposed by Ministry of Steel for seeking NOC for each and every consignment covered under Quality Control Order as CTH 7326 is not covered under Quality control order. Further, Basic custom duty leviable under 7326 is on higher side @ 2.5%, hence, in order to balance out duty payment on higher side, importer has mis declared assessable value on lower side i.e. Rs. 1,34,40,164/- (Rupees One Crore Thirty-Four Lacs Forty Thousand One Hundred Sixty-Four) instead of redetermined value Rs. 1,56,82,779/- (Rupees One Crore Fifty-Six Lacs Eighty-Two Thousand Seven Hundred Seventy-Nine) so that importer paid the duty on lower side in comparison to duty payment calculated in Table - VI under CTH 72193590.

18. Further, a statement of Shri Hardik Bhatia, authorised representative of M/s D. Bhatia & Company has been recorded on 28.04.2025 wherein he interalia stated that

- His name is Hardik Bhatia and his father Shri Vivek Bhatia is proprietor of M/s D. Bhatia & Company. He has been authorized by his father to tender statement on behalf of him. The company was established in 2017.
- They are manufacturer importer and trader of steel products i.e. Stainless steel coil, sheet, panel, strip, utensils etc.
- They don't have a copy of purchase order as they ordered for goods over phone and later on, supplier forwarded a copy of Proforma invoice No. KRDB25011 dated 09.01.2025. he hereby submitting a copy of the same.
- He has seen the examination reports both dated 19.03.2025 and in token of having seen the same, he has put his dated signature on this. He agreed that goods have been found mis declared i.e. Coil instead of Sheet. As mentioned above, they ordered for sheet and importer also issued Proforma invoice for decorative sheet. However, importer sent material of SS Coil.
- These are Cold Rolled Coils.
- These coils will be used in making strips, circles etc.
- They have sent the payment to supplier as and when goods reached Mundra Port.
- Sir, Lenient view shall be taken in this case as due to shipper mistake, this has happened. They ordered for decorative sheet. However, importer sent them Cold Rolled Stainless Steel Coil. They were also not aware about it. As soon as, they got to know about it, they applied of advance license. The same has been issued to them. The Advance authorization No. is 0511032157 dated 25.04.2025. It is requested to

clear the goods under advance license. They are not involved in this. Kindly consider the same.

**19.** From the above, *prima facie*, it appears that importer M/s D. Bhatia & Company vide 02 B/E No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 has tried to clear the Cold Rolled Stainless Steel Coil grade J3 goods classifiable under 72193590 as mentioned above by mis declaring them as Decorative and Designer Display Sheet and classifying them under CTH 73269099 in order to bypass NOC from Ministry of Steel as mandated vide circular dated 20.10.2023. Hence, in absence of NOC from Ministry of Steel mandated vide circular dated 20.10.2023, goods imported vide impugned B/E No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 became restricted/prohibited in nature and hence, due to above mentioned mis declaration of item description, qty., mis classification and in absence of NOC from Ministry of Steel as mandated vide circular dated 20.10.2023, impugned goods imported vide B/E No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 appears to be liable for confiscation under section 111(d) and (m) of the Customs Act, 1962, hence, impugned goods imported vide 02 Bills of Entry mentioned above were Seized vide Seizure Memo dated 08.04.2025 under section 110(1) of the Customs Act, 1962, and goods has been handed over to the custodian i.e. M/s Dockport Warehousing Zone, Mundra vide Supurtanama dated 08.04.2025 and in compliance of Board Instruction No. 02/2024- Customs dated 15.02.2024, Incident report no. 04/2025-26 dated 09.04.2025 was issued accordingly.

**20. LEGAL PROVISIONAS:**

**20.1** **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;

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

**20.3** **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;

**20.4** **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;

**20.5** **Section 2(33) of the Customs Act, 1962** '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.

**20.6** **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.*

**20.7 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 transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54.*

**20.8 SECTION 112** Penalty for improper importation of goods, etc.—

*Any person, -*

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

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

*shall be liable, -*

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

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

23. After introduction of self-assessment vide Finance Act, 2011, the onus lies on the importer for making true and correct declaration in all aspects in the Bills of Entry and to pay the correct amount of Duty. In terms of Section 17 & 46 (4) of the Customs Act, 1962, the importers are required to make a declaration as to the truth of the contents of the Bills of Entry submitted for assessment of Customs duty. The relevant portion of the said provisions are as under: -

***Section 17. Assessment of duty. –***

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

..

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

**Section 46. Entry of goods on importation. –**

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

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 Bills of Entry submitted for assessment of Customs duty. In the present case, it appears that importer has tried to clear goods i.e. Cold Rolled Stainless Steel Coil Grade J3 by way of mis declaring them as "Decorative and Designer Display sheets" in order to bypass mandatory restriction of NOC imposed by Ministry of Steel vide circular dated 20.10.2023. The importer by their acts of omission and commission renders imported goods liable for confiscation under Section 111(d) and 111(m) of the Customs Act, 1962. The said acts of omission and commission on the part of the M/s D. Bhatia & Company have rendered themselves liable for penalty under the provisions of Section 112(a)(i) of the Customs Act, 1962.

24. In view of above, it appears that: -

- i. The declared description i.e. Decorative and Designer Display sheet of goods imported vide impugned Bill of Entry no. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 shall be rejected and same to be re determined as Cold Rolled Stainless Steel Coil/sheet grade J3.
- ii. The declared CTH i.e. 73269099 shall be rejected and same to be redetermined as 72193590 as discussed above in para 15.
- iii. In case of B/E No. 8850323 dated 12.03.2025, declared Gross weight i.e. 82630 Kgs. shall be rejected and same to be redetermined as 82440 Kgs. and in case of B/E No. 8862898 dated 13.03.2025, declared net weight i.e. 55350 Kgs. shall be rejected and same to be redetermined as 55490 Kgs.
- iv. In case of B/E No. 8850323 dated 12.03.2025, declared assessable value of Rs. 80,57,902 is liable to be rejected and same is to be re determined as Rs. 93,73,510/- and in case of B/E No. 8862898 dated 13.03.2025, declared assessable value of Rs. 53,82,862/- is liable to be rejected and same is to be redetermined as Rs. 63,09,269/- under rule 5 of the CVR, 2007.
- v. The goods imported vide BE No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 shall be considered as prohibited in as much as these goods have been attempted to import without valid mandatory NOC from Ministry of Steel as mandated vide circular dated 20.10.2023.
- vi. The goods imported vide BE No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 shall be held liable for confiscation under Section 111 (d) & (m) of the Customs Act, 1962.
- vii. Penalty under Section 112 (a) of the Customs Act, 1962 should not be imposed upon M/s D. Bhatia & Company (IEC- AIWPB3721D) for the reasons discussed in para

supra.

## **25. Personal hearing and submission.**

**25.1** With reference to above mentioned subject, we would like to inform you that containers of both Bill of Entries i.e. 8850323 dt.12.03.2025 &8862898 dt. 13.03.2025 were held by SIIB department for examination purpose and had done examination accordingly. Now after completion of examination both our files in under appraising section for waiting for granting the permission for Re-Exporting the goods. So, we would like to request you to non-avail personal hearing and show cause notice against mentioned BOE and grant permission for Re-Export.

## **26. Discussion and Findings**

**26.1** I have carefully gone through the case records and applicable provisions of Law. I find that the Importer vide their letter dated 11.07.2025 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.

**26.2** With respect to case in hand, the following issues arise for determination in this adjudication:

- i. Whether the declared description i.e. Decorative and Designer Display sheet of goods imported vide impugned Bill of Entry no. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 shall be rejected and same to be re determined as Cold Rolled Stainless Steel Coil/sheet grade J3.
- ii. Whether the declared CTH i.e. 73269099 shall be rejected and same to be redetermined as 72193590 as discussed above in para 15.
- iii. Whether in case of B/E No. 8850323 dated 12.03.2025, declared Gross weight i.e. 82630 Kgs. shall be rejected and same to be redetermined as 82440 Kgs. and in case of B/E No. 8862898 dated 13.03.2025, declared net weight i.e. 55350 Kgs. shall be rejected and same to be redetermined as 55490 Kgs.
- iv. Whether in case of B/E No. 8850323 dated 12.03.2025, declared assessable value of Rs. 80,57,902 is liable to be rejected and same is to be re determined as Rs. 93,73,510/- and in case of B/E No. 8862898 dated 13.03.2025, declared assessable value of Rs. 53,82,862/- is liable to rejected and same is to be redetermined as Rs. 63,09,269/- under rule 5 of the CVR, 2007.
- v. Whether the goods imported vide BE No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 shall be considered as prohibited in as much as these goods have been attempted to import without valid mandatory NOC from Ministry of Steel as mandated vide circular dated 20.10.2023.
- vi. Whether the goods imported vide BE No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 shall be held liable for confiscation under Section 111 (d) & (m) of the Customs Act, 1962.
- vii. Whether penalty under Section 112 (a) of the Customs Act, 1962 should be imposed upon M/s D. Bhatia & Company (IEC- AIWPB3721D) for the reasons discussed in para supra.

## **27. Determination of the grade of the imported goods.**

**27.1** I find that on scrutiny of EDI data, it was observed that Importer M/s D Bhatia and Company (IEC AIWPB3721D has filed 02 Bills of Entry No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 having declared value & duty of Rs. 80,57,902/- & 24,96,338/- and 53,82,862/- & 16,67,611/-respectively for import of goods declared as Decorative and Designer Display Sheet at Mundra Port through their Custom Broker M/s Ashapura Logistics Solution under HSN code 73269099 instead of 7219/7220. Since, CTH 7326 is not covered under Steel Quality Control Order, hence, importer neither uploaded copy of BIS certificate nor NOC from Ministry of Steel.

**27.2** I find that ministry of Steel made mandatory for all the steel importers to apply and seek clarification on the TCQCO Portal for each and every steel consignment which is imported in the country without BIS license/certification. It is clarified that the Ministry of Steel issues clarification for each single import consignment. In this regard, it is further clarified for each and every consignment, the importer need submit fresh application through TCQCO portal, unless stated otherwise in the clarification issued. Accordingly, in absence of any BIS certificate or NOC from Ministry of steel, goods covered under 02 B/E No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 were put on hold by the SIIB, CH Mundra to rule out any possibility of misdeclaration or mis classification in order to bypass restriction of mandatory NOC/ BIS certificate imposed by Ministry of Steel vide circular dated 20.10.2023.

**27.3** Further, I find that the examination report mandates that all major component i.e. Nickel, Chromium, Manganese etc. of goods imported vide Bill of Entry No. B/E No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 is in line of chemical composition of Stainless-Steel Coil/sheet J3 Grade.

## **28. Classification of the goods.**

**28.1** I find that the importer has imported the goods by declaring the same as Decorative and Designer Display Sheet under HSN code 73269099. However, during the examination the results of the PMI tests as mentioned in the Table III-Table VII above evidently reflect the chemical composition of steel coil J3 grade as mentioned at the table VIII above.

**28.2** I find that as per Chapter 72 Explanatory Notes, cold-worked products have better surface finish, tighter tolerances, and show grain deformation under microscopic examination. Thin flat products are usually cold-reduced. The examined goods are 0.26 mm thick, shiny, and free from surface irregularities. Thus, the goods clearly turn out to be Cold Rolled Stainless Steel, Grade J3.

**28.3** I find that the flat rolled products are defined under Chapter 72, para 1(k) as rolled products with solid rectangular (not square) cross-sections. They include coils of successively superimposed layers or straight lengths meeting specific thickness-to-width ratios. Products with patterns like grooves or perforations remain flat rolled unless reclassified. Non-rectangular shapes wider than 600 mm also qualify unless classified otherwise. Examination reports dated 19.03.2025 & 20.03.2025 confirm the goods that goods are having rectangular (other than square) cross section as length and width of coil is different and further, goods are in the form of rolls of cylindrical shaped coils. As per photos attached, goods are in the form of coils having one layer superimposed upon another layer. Hence, *prima facie*, it appears that goods are well covered in definition of flat rolled products and hence, rightly classifiable under chapter 72. Hence, *prima facie*, it appears that goods are flat rolled product of Cold Rolled Stainless Steel in coil form having Grade J3.

**28.4** I observe that the Explanatory Notes to Chapter 72, provides that the semi-finished products are converted into finished products through hot or cold working, and are categorized as flat products (e.g., wide coil, sheets, plates, strips) or long products (e.g., bars, rods, angles, wire). These finished products fall under Chapter 72. In the present case, the goods are in the form of Stainless-Steel Coil, which qualifies as a flat product. Additionally, subpara (2) of para (IV)(C) states that surface treatments—such as cladding,

coating, polishing, galvanizing, and other operations to enhance appearance, protect against rust or corrosion, or facilitate further processing—do not change the classification of the goods under Chapter 72, unless otherwise specified in the text of certain headings. In view of the above, I find the imported goods i.e. Stainless-Steel Coil are rightly classifiable under Customs Tariff Heading (CTH) 72.

**28.5** Further, I find that Shri Hardik Bhatia, authorised representative of M/s D. Bhatia & Company during his statement recorded on 28.04.2025 has accepted that the goods are Cold Rolled Coils.

**28.6** I find that the importer has classified the imported goods under CTH 73269099. Further, I find that from the plain reading of CTH 7219 and 7220, it is apparent that flat rolled product of stainless-steel having width of 600 mm or more than 600 mm are classifiable under 7219 and flat rolled product of stainless-steel having width less than 600 mm are rightly classifiable under 7220. Reliance is placed on Rule 1 and Rule 3(a) of General Interpretation Rule, which is reproduced below.

*GIR Rule 1 which reads as:*

*'Classification shall be determined according to the terms of the heading and any relative Section or chapter notes and provided such headings or notes do not otherwise require according to the following provisions.'*

GIR Rule 3(a) reads as.

*the heading which provides the most specific description shall be preferred to heading providing a more general description.*

In terms of GIR 1 and 3(a) it is obvious that when more specific/ appropriate heading of 'flat rolled products of stainless-steel' is available in HS Nomenclature under CTH 7219 and 7220 for 'flat rolled products of stainless-steel', it would not be classified under residual heading of 73269099. Thus, the Importer's claim that the goods are covered under CTH 73269099 and not under CTH 7219/7220 is not tenable. Hence, I find that the Importer has misclassified the goods in order to bypass condition of seeking NOC from Ministry of Steel as mandated vide Ministry of Steel Circular dated 20.10.2023. In the view of the above, I find that in case of B/E No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025, as per invoice and packing list, all 27 coils stuffed in 05 containers, having total Net weight 137440 Kgs. and Gross Weight 137930 Kgs., are having width more than 600 mm rightly classifiable under CTH 72193590.

**28.7** I find it appropriate to mention here that that the importer vide letter dated 07.10.2025 has requested for provisional release of the goods in the light of the order of the High court of Delhi at New Delhi in the matter of W.P.(C) 11150/2025 & cm APPEL 45784/2025 and W.P.(C) 13522/2025 & cm APPEL 55474/2025 filed by M/s Pradeep Industries and M/s Swastik Overseas & ORS. respectively.

In this regard, I observe that the above orders of the Hon'ble High Court were issued in specific cases where the investigation was still in progress. However, in the present case, the investigation has already been completed by the **SIIB, Custom House, Mundra**, and the findings have clearly established that the importer had imported **Stainless Steel Coils of grade J3**, classifiable under **CTH 7219/7220**, without a valid **BIS certificate**, in the guise of **decorative and designer display sheet** classifiable under **Chapter 7308**. The PMI test conducted during investigation also revealed that the metal chemistry of the imported goods matches that of SS coil grade J3 rather than Decorative and Designer Display Sheet as declared by the importer. Further, I also find that Shri Hardik Bhatia, authorised representative of M/s D. Bhatia & Company during his statement

recorded on 28.04.2025 has accepted that the goods are Cold Rolled Coils and as per the definition 2(k) of chapter note 72, it appears that goods are flat rolled products classifiable under CTH 7219/7220 and agreed make efforts to procure NOC from Ministry of Steel. Additionally, the importer vide his letter dt. 11.07.2025 in the light of the IR issued vide by the SIIB, CH, Mundra has requested for re-export of the goods and waived his right for any SCN or PH in the matter. I also find it pertinent to mention that while deciding the W.A. No. 377 of 2016 in the case of Malabar Diamond Gallery Pvt. Ltd. v. Additional Director General, DRI, the Madras High Court, W.A. No. 377 of 2016 held that

*"the adjudicating authority has **discretion** under Section 110A and that provisional release **may be refused** when the import is in violation of statutory conditions or the goods are effectively treated as smuggled / prohibited under the circumstances. In short: provisional release is **not** an automatic entitlement where the facts show serious violations".*

In view of the above it is evident that the importer was aware about the mis-declaration and misclassification of the imported goods to evade the mandatory condition of BIS certificate. Therefore, I find that the importer's request for provisional release of the imported goods is nothing but an afterthought and the same is liable to be rejected.

At this juncture, I believe that issuance of a final order permitting re-export of the impugned goods with imposing appropriate redemption fine and penalty, would be proper and in consonance with the objectives of the Customs Act, 1962. The adjudicatory framework under the Act aims not only at enforcing statutory compliance but also at balancing trade facilitation with regulatory control. I noticed the importer has accepted that the goods were wrongly classified and imported without valid BIS certificate, and has therefore requested re-export of the impugned goods. Permitting such re-export would ensure that non-BIS compliant stainless steel products do not enter the domestic market and would align with the consistent view that re-export, in lieu of confiscation, may be permitted in cases where the goods are not fit for home consumption due to violation of import policy. Issuing such an order, in my opinion, will ensure that justice is served on both sides.

## 29. Determination of the correct quantity

**29.1** I find that the examination report has found the variation in the weight as against the same declared in the BE the same is as follows:

**Table-XII**

Sr. No.	B/E No. and Date	Container No.	B/L Weight (in Kgs.)	CFS Weight (in Kgs.)	Difference (in Kgs.)
1	8850323 dt. 12.03.2025	CAIU3576753	27072	27045	-27
		CAIU3579650	28010	28025	15
		CAIU3747007	27548	27370	-178
2	8862898 dt.13.03.2025	WHSU0238952	27344	27380	36
		WHSU2575588	28006	28110	104
Total			137980	137930	50

**29.2** In view of the result of the examination report I find that in the B/E No. 8850323 dated 12.03.2025 & 8862898 dated 13.03.2025 the declared net weight i.e. 137980 Kgs. is

liable to be rejected and same be redetermined as 137930 Kgs.

**30.** I find that as per the discussion above, it is evident that the importer has tried to clear Cold Rolled Stainless Steel coil of J3 classifiable under CTH 7219 by mis declaring them as "Decorative and Designer Display Sheet" classifying them under CTH 73269099 in order to bypass condition of seeking NOC from Ministry of Steel as mandated vide Ministry of Steel Circular dated 20.10.2023. Thus, the goods imported in 05 containers vide Bills of entry no. 8850323 dated 12.03.2025 & 8862898 dated 13.03.2025 are found to be without valid NOC issued from Ministry of Steel and hence, found to be imported in violation of Circular dated 20.10.2023 which makes the goods restricted/prohibited for import of goods.

### **31. Determination of the value of the imported goods**

**31.1** I find that the value declared by the importer in the corresponding 02 Bills of Entry and invoices did not appear to be the true transaction value as importer has mis declared goods in terms of description, classification and weight, 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.

**31.2** Since, data of import of identical goods i.e. brand name, supplier name etc. is not available, hence, value of the goods cannot be determined using Rule 4. Subsequently Rule 5 of Customs Valuation Rules 2007 is to be applied to arrive at the correct value of the subject consignment. As per Rule 5 of Customs Valuation Rules, 2007, 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. In this case, the subject import consignments have been imported from China by M/s D Bhatia & Company in the month of March 2025. As per contemporary data available for period of January-March 2025 for item declared as Cold Rolled Stainless Steel Coil Grade J3, it is noticed that some importers have imported similar type of goods having similar thickness, description, nature etc. vide various Bills of Entry filed at Mundra Port at the rate of 1.295 USD/Kgs. Therefore, I find that the unit price for import of Cold Rolled Stainless Steel Coil Grade J3 is of 1.295 USD/Kgs. In light of average unit price of 1.295 USD/Kgs found from the contemporary import data, assessable value of goods imported vide Bills of entry no. 8850323 dated 12.03.2025 & 8862898 dated 13.03.2025 has been redetermined as under: -

**Table-XIII**

**(Exchange Rate: - 1 USD = 87.8 Rs.)**

BE No. & Date	Goods Description found	Weight Found	Declared CTH	Redetermined CTH	Re-determined Unit Price USD/Kg	Declared Assessable Value (in Rs.)	Redetermined Assessable Value
8850323 dt.12.03.2025	Cold Rolled Stainless Steel Coil Grade J3	82440 Kgs.	73269099	72193590	1.295	80,57,902/-	93,73,510/-
8862898 dt.13.03.2025	Cold Rolled Stainless Steel Coil Grade J3	55490 Kgs.	73269099	72193590	1.295	53,82,262/-	63,09,269/-
Total		137930 Kgs.				1,34,40,164/-	1,56,82,779/-

**32. Confiscation of the goods under section 111(d) and 111(m) of the Customs Act, 1962.**

**32.1** The section 111(d) and 111(m) of the Customs Act, 1962 provide for the following:

**111(a).....**

.....

**111(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;

.....

**111(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 transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54.

**32.2.** I find that as per discussion above the importer has tried to clear Cold Rolled Stainless Steel coil of J3 grade classifiable under CTH 7219 and 7220 by mis declaring them as Stainless-Steel Panelling Rolls and classifying them under CTH 73269099 in order to bypass condition of seeking NOC from Ministry of Steel as mandated vide circular dated 20.10.2023. Since, the goods are found to be without valid NOC issued from Ministry of Steel and hence, found to be imported in violation of Circular dated 20.10.2023 which makes the goods restricted/prohibited for import of goods. Further, the imported goods have also been found mis declared in terms of quantity & value. Therefore, I find that the goods are liable for confiscation under section 111(d) & 111(m) of the Customs Act, 1962.

**32.3.** I find that as the goods have been held liable for confiscation under section 111(d) & 111(m) of the Customs Act, 1962 for being found misdeclared in terms of classification, description, quantity, value and are prohibited for want of a NOC from Ministry of steel thus cannot be allowed for clearance for home consumption. Further, I find that importer vide his letter dt. 11.07.2025 requested for permission to re-export the goods. Therefore, I find that the imported goods are eligible for clearance under section 125 of the Customs Act, 1962 for re-export purpose only.

**33. Imposition of penalty under section 112(a) of the Customs Act, 1962.**

**33.1** The section 112(a)(i) of the Customs Act, 1962 provides for the following:

- 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).....

(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) .....

**33.2** As per the discussions above, the imported goods have been found liable for

confiscation under section 111(d) & section 111(m) of the Customs Act, 1962 for being found misdeclared in terms of Classification, description, quantity, value and prohibited for want of NOC from Ministry of Steel. Therefore, I find that the importer for this omission and commission has held himself liable for a penalty under section 112(a)(i) of the Customs Act, 1962.

**34.** In view of the above discussion and findings I pass following order:

**Order**

- i. I reject the declared description i.e. Decorative and Designer Display sheet of goods imported vide impugned Bill of Entry no. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 and order the same to be re determined as Cold Rolled Stainless Steel Coil/sheet grade J3.
- ii. I reject the declared CTH i.e. 73269099 and order the same to be re determined as 72193590 as discussed above .
- iii. I reject the declared Gross weight i.e. 82630 Kgs. and order the same to be redetermined as 82440 Kgs. in case of B/E No. 8850323 dated 12.03.2025, and I also reject the declared net weight i.e. 55350 Kgs. and order the same to be redetermined as 55490 Kgs in case of B/E No. 8862898 dated 13.03.2025.
- iv. I reject the declared assessable value of Rs. 80,57,902 and order the same is to be re determined as Rs. 93,73,510/- in case of B/E No. 8850323 dated 12.03.2025 under rule 5 of the CVR, 2007 and I also reject the declared assessable value of Rs. 53,82,862/- and order the same is to be redetermined as Rs. 63,09,269/- in case of B/E No. 8862898 dated 13.03.2025, under rule 5 supra. of the CVR, 2007.
- v. I order for the goods imported vide BE No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 to be considered as prohibited in as much as these goods have been attempted to import without valid mandatory NOC from Ministry of Steel as mandated vide circular dated 20.10.2023.
- vi. I order to confiscate the goods imported vide BE No. 8850323 dated 12.03.2025 and 8862898 dated 13.03.2025 having combined redetermined value of Rs. 1,56,82,779/- under Section 111 (d) & 111(m) of the Customs Act, 1962. However, I give the importer an option under provision of Section 125(1) of the Customs Act, 1962, to redeem the said goods for re-export purpose only on payment of redemption fine of **Rs.15,50,000 /- (Rupees Fifteen Lakh Fifty Thousand Only)**.
- vii. I impose penalty of **Rs.7,50,000 (Rs. Seven Lakh Fifty Thousand only)** upon M/s D. Bhatia & Company (IEC- AIWPB3721D) under Section 112 (a)(i) of the Customs Act, 1962.

**35.** This order is issued without prejudice to any other action that may be taken against the noticee or persons or imported goods under the provisions of the Customs Act, 1962 or any other law for the time being in force in India.

Additional Commissioner of Customs,  
Import Assessment,  
Customs House, Mundra.

To,  
M/s D Bhatia and Company (IEC AIWPB3721D),  
A-42, Group Wazirpur Industrial Area, Delhi-110052

Copy to:

1. The Asst./Dy. Commissioner of Customs (SIIB), CH, Mundra
2. The Asst./Dy. Commissioner of Customs (Review Cell), CH, Mundra.
2. The Asst./Dy. Commissioner of Customs (EDI), CH, Mundra.
3. The Asst./Dy. Commissioner of Customs (TRC), CH, Mundra.
4. Office Copy.

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