



प्रधान आयुक्त का कार्यालय, सीमा शुल्क ,अहमदाबाद

“सीमाशुल्क भवन ,”पहली मंजिल ,पुराने हाईकोर्ट के सामने ,नवरंगपुरा ,अहमदाबाद - 380 009.

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DIN: 20260571MN00006606B9

PREAMBLE

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|------|--|---|--|
| A | फाइल संख्या/ File No. | : | GEN/ADJ/ADC/2144/2025-ADJN-O/o PR COMMR-CUS-AHMEDABAD |
| B | कारण बताओ नोटिस संख्या-तारीख / Show Cause Notice No. and Date | : | SCN F. No. VIII/10-84/ ICD-KHOD/O&A/2025- 26 Dated: 09.05.2019 |
| C | मूल आदेश संख्या/ Order-In-Original No. | : | OIO No. 14/ADC/SR/O&A/2026-27 |
| D | आदेश तिथि/ Date of Order-In-Original | : | 05.05.2026 |
| E | जारी करनेकी तारीख/ Date of Issue | : | 05.05.2026 |
| F | द्वारापारित/ Passed By | : | Shravan Ram, Additional Commissioner, Customs Ahmedabad. |
| G | आयातक का नाम औरपता / Name and Address of Importer / Passenger | : | M/s. J.J. Polyplast Private Ltd (now M/s AAA Corp Exim India Pvt. Ltd), C-206, 2nd Floor Ghatkopar Industrial Estate, LBS Marg, Ghatkopar West, Mumbai Maharashtra - 400086 |
| (1) | यह प्रति उन व्यक्तियों के उपयोग के लिए निःशुल्क प्रदान की जाती है जिन्हें यह जारी की गयी है। | | |
| (2) | कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्ति की तारीख के 60 दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क(अपील), चौथी मंजिल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है। | | |
| (3) | अपील के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए और इसके साथ होना चाहिए: | | |
| (i) | अपील की एक प्रति और; | | |
| (ii) | इस प्रति या इस आदेश की कोई प्रति के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए। | | |
| (4) | इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को 7.5 % (अधिकतम 10 करोड़) शुल्क अदा करना होगा जहां शुल्क या इयूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने में असफल रहने पर सीमा शुल्क अधिनियम, 1962 की धारा 129 के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा। | | |

BRIEF FACTS OF THE CASE

M/s J. J. Polyplast Private Limited, C/2, Gajarawala Flats Near Adani Gas Station, Paldi Cross Roads, Paldi, Ahmedabad- 380 007, having registered office at C-206, 2nd floor, Ghatkopar Industrial Estate, L.B.S. Marg, Ghatkopar (W), Mumbai-400 086 (hereinafter referred to as "the said importer") had imported 255 MT of "*Marlex High Density Polyethylene Resin HHM TR-144*" (hereinafter referred to as "the said goods") falling under CTH 39012000 as detailed in Annexure-A to the show cause notice under Bill of Entry No. 6747475 dtd.13.09.2014 through High-Seas sale from Aiswarya Plast Exports Pvt Ltd, Mumbai, at ICD, Khodiyar, Ahmedabad.

2. Whereas it appeared that the importer had availed the benefit of concessional rate of duty under (Free Trade Agreement) FTA Notification No.10/2008-Cus dated 15.01.2008, as amended. As per the documents viz. invoice, packing list and Country of Origin Certificate, the goods were exported by M/s. Chevron Phillips Singapore Chemicals (Private) Limited, 5 Temasek Boulevard #05-01 Suntec Tower Five, Singapore 038985, Raffles City P.O. Box 3058, Singapore-911 799 (hereinafter referred to as "the exporter").

3. Whereas it appeared that the importer had availed the benefit of concessional rate of duty under (Free Trade Agreement) FTA Notification No. 10/2008-Cus dated 15.01.2008 an amended by Notification No. 53/2015-Customs dated 23.11.2015. The Notification grants exemption to specified goods imported into India from the Republic of Singapore, provided the importer proves to the satisfaction of the Deputy Commissioner of Customs or the Assistant Commissioner of Customs that the goods in respect of which the benefit of this exemption is claimed are of the Origin of Republic of Singapore, in accordance with the provision of the Rules of Origin, published in the Notification No. 59/2005-Customs (N.T), dated the 20th July, 2005, issued by the Government of India, Ministry of Finance (Department of Revenue). As per the documents viz. invoice, packing list and Country of Origin Certificate, the goods were exported by M/s Chevron Phillips Singapore Chemicals (Private) Limited, 5 Temasek Boulevard #05-01 Suntec Tower Five, Singapore 038985, Raffles City, P.O. BOX 3058, Singapore-911 799 ("the exporter" for short) and the country of origin appeared to be Singapore.

4. Whereas, the said importer, while claiming the benefit of concessional rate of duty under Notification No.10/2008-Cus dated 15.01.2008 in respect of the bill of entry mentioned in Annexure-A to the show cause notice had produced country of origin certificate in 'Form-A1' which was issued by the exporter as manufacturer. Accepting the said Country of Origin Certificate, the Bill of entry filed by the importer was assessed to duty at the concessional rate.

5. The product under import was derived from Petroleum industry. HDPE and LDPE are produced in the following manner:

- a) Naphtha is derived from crude oil through its successive Refining /Cracking.
- b) The Naphtha is cracked to form Ethylene and
- c) Ethylene is further polymerised to produce HDPE/LLDPE

6. Since Singapore was not a producer of Crude oil, in view of the provisions of rule 5 of the Rules of Origin {for Preferential Tariff Concession} for considering products as originating in a particular country, the following inference can be drawn:

- i) The value of crude oil at a minimum would be attributable to non-originating goods;
- ii) and therefore, the value of impugned imported goods appears to have not met the value addition norms stipulated in the "Rules of Origin" conditions; and
- iii) as such, the exemption claimed under Comprehensive Economic Co-operation Agreement (CECA) by the importer appeared to be not acceptable and was to be denied.

7. Thus, owing to the apparent violation of the provisions of the said Rules by the exporter, i.e. the supplier of Marlex High Density Polyethylene Resin, the Indian Customs had initiated enquiry with the Singapore Government authorities as per the provisions of Para 16 of the Operational Certification Procedures for the said Rules to conduct a retroactive check on the true origin of the goods in question and also to share documents submitted by the exporter, while applying for the preferential status.

8. Whereas as per the Investigation Report issued by Directorate of Revenue Intelligence, Mumbai zonal Unit, Mumbai, as communicated vide letter F.No. DR1 /MZU/CI-13/MISC/2016 dated 06.04.2018 stated that during verification visit, M/s. Chevron Philips Singapore Chemicals (Private) Limited (CPSC) had categorically admitted that the submission made by them before the Singapore Customs, declaring a single country origin of 95% in the Certificate of origin was incorrect. They have also stated that the Singapore Customs has been informed of the same and the company shall abide by penal proceedings as may be adjudged by the Singapore Customs. It is a fact that CPSC utilizes Ethylene procured from Petrochemical Corporation of Singapore (private) Limited (PCS) for polymerization to produce polyethylene. PCS had informed

CPSC that the qualifying/regional value content, i.e. the local value added content (from Singapore) in the manufacture of ethylene has only 24% local value added content (the rest being foreign/non origin component), they have revised their manufacturing cost statement.

8.1. The local value added content as declared by CPSO in the COO Reference No. 20156017230 dated 04.03.2015 is 95% while the local value added content, as per cost statement produced during the verification visit is 45%. This statement is dated 28.02.2015 and prepared by one Jonathan Cheng, Accounting Manager. Surprisingly, the local value added content, as per the Cost statement produced to the Singapore Customs subsequent to verification visit undertaken by officers of the Indian Customs was 42.2%. This statement was also dated 28.02.2015 and the same was again prepared by the Accounting Manager, Jonathan Cheng. Further, it appears that the declaration made by CPSC is not correct and the percentage of local value added content has been subjected to variation from one document to another with apparent disregard to the sanctity of trust based on which the India-Singapore CECA has been entered to grant preferential rate of tariff. Admittedly, the said act of CPSC has rightly been a subject matter of penal proceedings by the Singapore Customs authorities.

8.2. From the above, it appears that CPSC has obtained the COOs fraudulently by submitting incorrect statements to the Issuing Authority. The Rules do not provide for revising the local value added content. Neither the Rules provide for issuance of COO afresh. It, therefore, appears appropriate to reject the COOs issued in respect of imports of HDPE/MLDPE/LLDPE from M/s. Chevron Phillips Singapore Chemicals (Private) Limited, Singapore and deny the benefit of preferential rate of tariff.

9. Whereas it appeared from the above discussion that to qualify for Singapore origin, for purposes of this Agreement, products shall be deemed originating and eligible for preferential treatment if they are consigned according to Rule 15 and conform to the origin requirement under any of the following conditions:

a. Products wholly produced or obtained in the territory of the exporting Party, in accordance with Rule 4; or

b. Products not wholly produced or obtained in the territory of the exporting Party, provided that the said products are eligible under Rule 5.

10. Whereas it also appeared from the above discussion and evidences that M/ s Chevron Phillips Singapore Chemicals (Private) Limited, Singapore, had categorically admitted that the submission made by them before Singapore

Customs, declaring a single country origin of 95% in the Country of Origin, was incorrect and that their qualifying/regional value content i.e. the local value added content (from Singapore) in the manufacture of ethylene by PCS was only 24%. Hence, there was no change in tariff classification at six-digit level at the time of exports of its subject goods to India. As both the criteria mentioned in Rule 5 referred to above, do not appear to have been met, it appears that the said importer has mis-led the department by wilfully producing incorrect certificate of the manufacturer regarding the country of origin and wilfully mis-stated the facts by suppressing the correct facts about country of Origin of the said imported goods in wrongly availing concessional rate of duty under the said notifications. The exporter of the goods does not appear to stand to gain anything by issuing an incorrect Origin Certificate. From the version of PCS, the manufacturer of ethylene, it appears the exporter was aware of the local content of ethylene used for manufacture of the imported goods. In spite of knowing the correct facts, the supplier had issued a wrong Country of Origin Certificate to enable the importer claim the concessional rate of duty.

Therefore, it appears the Certificate has been issued at the behest of the importer who stood to gain by paying a lower amount of Customs duty. Thus, the importer appears to have obtained an incorrect Origin Certificate and wilfully mis-declared incorrect Country of Origin in the import documents to evade paying proper amount of duty. Therefore, the differential duty as worked out in Annexure-A to this show cause notice is required to be demanded and recovered from them under Section 28(4) of the Customs Act, 1962, along with interest payable thereon from the date of assessment of bill of entry to the actual date of payment of differential duty in terms of Section 28AA *ibid*.

11. Whereas, it appeared that in view of the incorrect Certificate of Origin and the resultant wrong availing of concessional rate of duty, the goods imported totally valued Rs 2,75,79,494 /- as shown in Annexure-A to the show cause notice, are liable for confiscation under clause(m) and clause (o) of Section 111 of the Customs Act,1962. The said importer appeared to have also rendered themselves liable for penalty under Section 112(a) of the Customs Act, 1962.

12. The short levy or non-levy of Customs duty in this case, is by reason of wilful mis-statement and suppression of facts and therefore, the importer appears to be liable to pay a penalty under section 114A of the Customs Act, 1962.

13. It further appeared that the importer had knowingly or intentionally caused to be made and used a Country of Origin certificate which was false or incorrect in material particulars for import of the subject goods by claiming the

exemption / concessional rate of duty. Therefore, the importer appeared to be liable for penalty under Section 114AA of the Customs Act, 1962.

14. The differential duty of Rs. 21,01,109/- as detailed in Annexure-A to the notice is required to be demanded and recovered from the importer under Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA *ibid*.

15. In view of all the above Show Cause Notice F.No. **VIII/10-84/ ICD-KHOD/O&A/2025-26 Dated: 09.05.2019** was issued to M/s J. J. Polyplast Private Limited, C/2, Gajarawala Flats Near Adani Gas Station, Paldi Cross Roads, Paldi, Ahmedabad- 380 007, having registered office at C-206, 2nd floor, Ghatkopar Industrial Estate, L.B.S. Marg, Ghatkopar (W), Mumbai-400 086 and wherein they were called upon to show cause to the Additional Commissioner of Customs, 2nd Floor, Custom House, Navrangpura, Ahmedabad-380 009 as to why:-

(i) The concessional rate of duty under Noti. No. 10/2008-Cus dated 15.01.2008 should not be denied to them in respect of bills of entry shown in Annexure-A to the show cause notice;

(ii) The goods valued at **Rs. 2,75,79,494/- (Rupees Two Crores Seventy Five lakhs Seventy nine thousand four hundred and Ninety Four only)** imported under the bill of entry specified in Annexure-A to the show cause notice should not be confiscated in terms of provisions of Section 111(m) and Section 111(o) of the Customs Act, 1962.

(iii) The differential duty of **Rs.21,01,109/- (Rupees Twenty One lakhs One Thousand Ono hundred and nine Only)** leviable on the goods imported under the Bill of entry as shown in the Annexure-A to the show cause notice, should not be demanded and recovered from them under Section 28(4) of the Customs Act, 1962;

(iv) The interest in terms of Section 28AA of the Customs Act, 1962, should not be recovered from them on duty as demanded in (iii] above;

(v) Penalty under Section 112(a) of the Customs Act, 1962 should not be imposed on them;

(vi) Penalty under Section 114A of the Customs Act, 1962, should not Be imposed on them.

(vii) Penalty under Section 114AA of the Customs Act, 1962, should not be imposed on them.

16 .DETAILS OF PREVIOUS ORDER AND APPEALS OF THE CASE.

The aforementioned Show cause was adjudicated vide OIO No. 48/JC/SM/O & A / 2019-20 issued on 05-02-2022 and wherein the adjudicating authority Joint Commissioner Customs Ahmedabad passed the following order:

(i) The adjudicating authority denied the concessional rate of duty benefit under Notification No. 10/2008- Cus. Dated 15.01.2008 claimed for the Bill of Entry Nos. 6747475 dated 13.09.2014

(ii) The adjudicating authority held that the goods Valued at **Rs 2,75,79,494/-** (Rupees Two Crore Seventy-Five Lakh Seventy-Nine Thousand Four Hundred ninety-four only) (as per Annexure-A to the SCN) are liable for confiscation under Section 111(m) & 111(o) of the Customs Act, 1962. However, since goods were not available for confiscation, no Redemption Fine (RF) was determined / imposed in relation to such goods.

(iii) The adjudicating authority confirmed the demand and ordered recovery of the differential Customs duty amounting to **Rs. 21,01,109/-** (Rupees Twenty-nine Lakh One Thousand One Hundred and Nine only) pertaining to goods, under the provisions of Section 28(4) of the Customs Act, 1962.

(iv) The adjudicating authority held that interest under Section 28AA of the Customs Act, 1962, to be recovered on the demand of differential Customs duty as per the SCN from the importer.

(v) The adjudicating authority imposed penalty of Rs. 21,01,109/- (Rupees Twenty-One Lakh One Thousand One Hundred and Nine only) and interest payable thereon under section 114A of the Customs Act, 1962.

(vi) As penalty under Section 114A was already imposed, The adjudicating authority refrained from imposing penalty under Section 112(a) of the Customs Act, 1962.

(vii) The adjudicating authority imposed a penalty of Rs. 2,00,000/- (Rupees Two Lakhs only) under Section 114AA of the Customs Act, 1962.

This Show Cause Notice bearing F.No. VIII/10-84/ICD-Khod/O&A/2018 dated 09.05.2019 was accordingly disposed off.

Being aggrieved by the aforementioned Order the noticee filed an appeal and the same was decided by Commissioner of Customs (Appeals) Ahmedabad vide OIA No. AHD-CUSTM-000-APP-1041-21-22 dated 01.11.2021. The

Commissioner of Customs (Appeals) Ahmedabad vide his aforementioned order found no infirmity in the impugned order and accordingly, the appeal filed by the noticee was rejected.

Being aggrieved by the aforementioned OIA the noticee preferred an appeal in CESTAT Ahmedabad. The noticee's appeal No.10046 of 2022-DB was finally decided vide CESTAT Ahmedabad final order No.10664/2025 dated 27.08.2025. The Honorable CESTAT Ahmedabad vide aforementioned order observed as under:

“We have heard the rival submissions. Short issue to be decided in this case is whether Country of Origin certificate is valid for availing the concessional rate of duty on imports made by the appellant from M/s CPSC. The appellant's contention is that the department had initiated inquiry after a gap of four years and at that time also, they cooperated in investigation and provided all the data/documents. As they have not mis-declared anything, the extended period is not invocable in this case and the show cause notice is therefore hit by the limitation. On this ground alone, the department's case does not survive. Their another argument is that they have not been provided with copy of the verification report to effectively defend their case and thus, principles of natural justice have not been followed in this case. On the other hand, the department's argument is that when the required conditions of local value component have not been correctly disclosed in the Country of Origin certificate, the same loses its veracity and disentitle the appellant the benefit of COO certificate.

“We find that the department has not given any evidence to show that they had despatched letter(s) of personal hearing to the appellant at their Mumbai address for attending to personal hearing. There is also no counter from the department side that they had handed over copy of the DRI report dated 09.03.2018 on the basis of which FTA benefit was denied to the appellant and duty was confirmed. There is also no finding of the authorities below on local value content required as per the rules and that found by the verification team. We are of the considered opinion that a clear-cut finding of the adjudicating authority is a must on these contentions raised by the appellant. We therefore deem it fit to remand the matter to the adjudicating authority to give clear findings on the above points and also on invocation of extended period of limitation within a period of 10 weeks from the date of receipt of this order. We also give liberty to the appellant to submit any further document in support of their contention before the Adjudicating authority. With these directions, the matter is remanded to the original authority.”

In view of the aforementioned honorable CESTAT order wherein the case was remanded back, this present adjudication process is being undertaken on the basis of available records.

17 RECORD OF PERSONAL HEARING AND SUBMISSION OF IMPORTER

To follow the principles of Natural justice the first PH of the case was scheduled on 06.02.2026 vide this office letter dated 29.01.2026. The PH was attended by Miss Bhanvi (Adv. M/s Nanavati Associates) on behalf of the Noticee. She requested for Two weeks' time for filing their reply. In view of this request of the Noticee new date of PH was fixed on 17.02.2026 vide this office letter dated 09.02.2026.

This second PH was held in virtual mode online on 17.02.2026 and the same was attended by Shri Aaditya Dave (Adv. M/s Nanavati Associates). He submitted that they have received RUD's recently at the time of CESTAT hearing stage only, and for their defence submission in this matter they have to co-relate multiple documents simultaneously; and accordingly for this purpose they requested for physical personal hearing so that they can effectively present their defence submission. In view of this request of the Noticee, new date of PH was fixed on 27.02.2026 at 11:30 Hrs. to be held in physical mode, vide this office letter dated 17.02.2026.

This third PH was held in physical mode on 27.02.2026 and the same was attended by Shri Aaditya Dave & Miss Bhanvi Juvekar (Adv. M/s Nanavati Associates). They submitted their detailed written submission dated 27.02.2026 and tendered supporting case laws.

They reiterated the contents of above written submission. Lastly they requested to consider their submission while deciding the issue.

18. WRITTEN SUBMISSION

The Noticee submitted their detailed written submission dtd 27.02.2026 at the time of PH on 27.02.2026. In this submission they interalia submitted that:

1- Violation of Principles of Natural Justice- Failure to Provide Documents referenced in the Show cause notice.

a- The actions of the department throughout the investigation and adjudication process have been in violation of the principles of natural justice. Despite several requests they were not provided relied upon documents. This failure to provide these documents undermined the fairness of the proceedings and denied them an opportunity to adequately defend themselves. The SCN dtd 9 May 2019 relied upon certain investigation reports, including those from DRI Mumbai, and declarations made by the exporters M/s Chevron Phillips

Singapore (CPSC) among others. They submitted that despite multiple requests the authorities failed to supply any of the requested documents. As a result they were forced to respond to the SCN without access to vital evidence, and thus they were never given an opportunity to effectively meet with the allegations raised in the SCN. They further submitted that for instance, the account statements prepared by one Jonathan Cheng have been basis of holding that they have indulged wilful misrepresentation. The aforesaid account statements were never provided to them.

2- Value of Origination Materials are not less than 40%

They submitted that “Local Value Content” (LVC) as mentioned in para 8.1 of the SCN, alleges that the LVC in the goods imported from M/s Chevron Phillips, Singapore (CPSC) was below the required threshold. The SCN records that the LVC should not be less than 40%, however, at no given instance the SCN or any other document records that the LVC was less than 40%. They further submitted that till date there is no written determination of the same.

They further submitted that the goods in question were imported in compliance with the applicable Preferential Trade Agreement (PTA) and were accompanied by a Certificate of Origin (COO) issued by the Director –General of Customs, Singapore, in accordance with the Rules of Origin under Notification No. 59/2005-Cus. They further submitted that at the time of importation in 2014, the authorities had no objections about the authenticity of the COO, and the goods were cleared without objection.

They further submitted that, assuming without admitting, even if the case of department is entirely correct, the report prepared by Dr. Kotraswami M, dated 9 March 2019, states that the LVC of the goods was determined to be 42.2% by Indian Authorities themselves. This percentage exceeds the 40% threshold stipulated under the rules, indicating that the goods should have qualified for the concessional duty benefits under Notification No.10/2008 –Cus.

3- No instance of wilful misrepresentation attributable to the Appellants

They submitted that the cost statement prepared by one Jonathan Cheng dated 28 Feb 2015 States that the Local value added content is 45%. They further submit that, another Cost statement produced to the Singapore Customs, which is also prepared by the same person on the same day states that the local value added content is 42.2%. Hence, even by both cases, the Local Value Added content was above 40%. They submitted that this statement was prepared after the visit of Indian Authorities. Thus, in any case, whichever report is relied upon, the local value added is above the requirement of 40%.

They further submitted that the sole reason for rejection of the Certificate of origin was the difference in account statements. However, as these account statements as prepared by one Jonathan Cheng were not provided to them. It was only in the first hearing of their appeal No.10046 of 2022 that the relied upon documents were provided to them. These documents contained the statement as prepared by Mr.Cheng therefore they had no opportunity to meet with the allegations which were presented by the department at the time of issuance of show cause notice.

b- Assuming even if the statements as provided by the respondent authority are true, and correct, those statements do not show that the local value added content was less than 40%. They further submit that therefore, in any case, the mandate of the Rules requiring minimum prescribed limit of the local value added content, has been fulfilled. They submitted it is not the case, that by any of the measure i.e. first or second statement, the local value added content is in violation of the rules. Therefore, in any case, it cannot be said that they were not entitled to preferential tariff.

c- They further submitted that one important aspect, which has not been considered by the department is that the difference in both the statements prepared by Mr Jonathan Cheng had a reason out of a difference in the currency used as the basis of those statements respectively. Whereas the first statement is prepared on the basis of US dollars, the second statement uses Singapore dollars as its basis. Therefore, such a difference, even if has crept in the two statements, the same is not owing to any miss declaration or wilful misrepresentation on their part in any manner. Even otherwise such a difference has not been explained by the department in any manner.

d- They stated that they had no reason to believe or at the very least suspect that the COO produced by CPSC was fraudulent or in correct. Such discrepancy in cost statement was only admitted by CPSC after the visit of the verification team as stated in the report by DRI Mumbai and further, in any case the Local value added as calculated by Indian Customs is 42.2%. Hence, they submitted that there is no instance whatsoever by which it can be shown that they had a wilful intention to misrepresent and had obtain a fraudulent COO.

They lastly submitted that Hon'ble CESTAT in its order dated 27 Aug 2025 has held as follows:

i. department failed to prove that they had dispatched letters of personal hearing to them at their Mumbai address for attending PH.

ii. Further, there is no counter argument on behalf of the department that they had handed over the copy of the DRI Report dated 9 March 2018 on the basis of which the FTA benefit was denied and duty was confirmed.

iii. There is no finding of the concerned Authorities in local value content required as per rules and as found by the verification team.

iv. There is also no finding on the invocation of extended period of limitation.

Lastly in view of the above they submitted that the Hon'ble CESTAT has accepted the contentions advanced by them and accordingly, has deemed it fit to remand the matter for consideration by the original adjudicating authority.

19.DISCUSSION AND FINDINGS

The present remand back adjudication proceedings is initiated in compliance to the Hon'ble CESTAT Ahmedabad's final order No.10664/2025 dated 27.08.2025 arising out OIA No. AHD-CUSTOM-000-APP-1041-21-22 dated 01.11.2021 and original OIO No. 48/JC/SM/ O & A / 2019-20 issued on 05-02-2022. The relevant Para of the aforesaid hon'ble CESTAT's order is re-produced as follows:

“We have heard the rival submissions. Short issue to be decided in this case is whether Country of Origin certificate is valid for availing the concessional rate of duty on imports made by the appellant from M/s CPSC. The appellant's contention is that the department had initiated inquiry after a gap of four years and at that time also, they cooperated in investigation and provided all the data/documents. As they have not mis-declared anything, the extended period is not invocable in this case and the show cause notice is therefore hit by the limitation. On this ground alone, the department's case does not survive. Their another argument is that they have not been provided with copy of the verification report to effectively defend their case and thus, principles of natural justice have not been followed in this case. On the other hand, the department's argument is that when the required conditions of local value component have not been correctly disclosed in the Country of Origin certificate, the same loses its veracity and disentitle the appellant the benefit of COO certificate.

“We find that the department has not given any evidence to show that they had despatched letter(s) of personal hearing to the appellant at their Mumbai address for attending to personal hearing. There is also no counter from the department side that they had handed over copy of the DRI report dated 09.03.2018 on the basis of which FTA benefit was denied to the appellant and duty was confirmed. There is also no finding of the

authorities below on local value content required as per the rules and that found by the verification team. We are of the considered opinion that a clear-cut finding of the adjudicating authority is a must on these contentions raised by the appellant. We therefore deem it fit to remand the matter to the adjudicating authority to give clear findings on the above points and also on invocation of extended period of limitation within a period of 10 weeks from the date of receipt of this order. We also give liberty to the appellant to submit any further document in support of their contention before the Adjudicating authority. With these directions, the matter is remanded to the original authority.”

In view of Hon’ble CESTAT Ahmedabad’s order following four issues as mentioned below are before me to give clear findings on the same.

1- Whether the department had dispatched letter(s) of personal hearing to the appellant at their Mumbai address for attending to personal hearing.

2.-Whether the department had handed over copy of the DRI report dated 09.03.2018 on the basis of which FTA benefit was denied to the appellant and duty was confirmed.

3.-Whether there was any finding of the authorities below on local value content required as per the rules and that found by the verification.

4 - Whether invocation of extended period was correct

I have carefully studied all the available case records, submissions made by the importer, and the records of all the three personal hearings held on 06.02.2026, 17.02.2026 and 27.02.2026 and submissions made therein including the written submission dated 27.02.2026. The case has already travelled a long legal journey from Adjudication of SCN to CESTAT and now is again back to remand back adjudication. Looking at the peculiar facts and circumstances of the impugned case I limit myself to adjudicate the matter by giving clear findings on the observations raised by the Hon’ble CESTAT Ahmedabad. Now I will discuss all the above mentioned four issues one by one which are before me to decide and give clear findings and the same are discussed below.

20. Whether the department had dispatched letter(s) of personal hearing to the appellant at their Mumbai address for attending to personal hearing.

On the above issue I find that the case was initially decided vide OIO No.48/JC/SM/O&A/2019-20 dtd 28.01.2020. This OIO in Para 14 clearly mentions that the Noticee was offered a personal hearing on 27.12.2019 and

wherein Shri Rohan Lavkumar, Advocate, duly authorized appeared before the adjudicating authority. He also submitted their written defence letter dtd 27.12.2019 as additional submissions. All their written submissions along with this submission dtd 27.12.2019 were summarized and taken on records during this initial adjudication process as mentioned in the aforementioned OIO itself. Hence I find beyond doubt that the department had followed the principles of natural justice by successfully giving opportunity and successfully conducting personal hearing before the initial adjudication. In view of this factual position, I find that due legal process and principles of natural justice were followed during the then adjudication process.

Here I also find worth mentioning the fact that consequent to issuance of OIO No.48/JC/SM/O&A/2019-20 dtd 28.01.2020 the importer had preferred an appeal which was decided vide OIA No. Commissioner of Customs (Appeals) Ahmedabad vide OIA No. AHD-CUSTOM-000-APP-1041-21-22 dated 01.11.2021. The Commissioner of Customs (Appeals) Ahmedabad vide his aforementioned order found no infirmity in the impugned order and accordingly, the appeal filed by the noticee was rejected. From perusal of this OIA from reading of Para 3 I find that and I quote "Personal hearing in the case was fixed three times, i.e. 24.08.2021, 06.09.2021 and 15.09.2021 and duly communicated to the appellant , however ,there is no response from the appellant to any of the communications. I am therefore constrained to pass this order on the basis of submissions made in the grounds of appeal." From the above observation it emerges that though the OIA was an ex-parte appeal order but the office of Commissioner (Appeals) had given the appellant opportunity of personal hearing three times at their address on records as evidenced from the OIA.

21. Whether the department had handed over copy of the DRI report dated 09.03.2018 on the basis of which FTA benefit was denied to the appellant and duty was confirmed.

From the perusal of submission made by the importer at the time of initial adjudication and as mentioned in the initial OIO passed I find mention of DRI report and its contents by the noticee in their defence submission.

From perusal of para 15 (mentioning submissions of the noticee) of the earlier adjudication order I find that the noticee had initially requested for copies of investigation report issued by DRI alongwith exhibits.

On further perusal of this adjudication order dated 28.01.2020 I also find the noticee in their defence submission has submitted following . I am reproducing the relevant paras of defence submission of the noticee as

appearing in Para 15 page 5 of the earlier adjudication order dated 28.01.2020.

“Even if the said report is accepted it concludes at paragraph 4.2.2 that the Local Value Content after examination by Indian Authorities is 42.2%”.

In finding the answer to the above question I also rely upon defence submissions mentioned in para 15 page 6 of the earlier adjudication order No.48/JC/SM/O&A/2019-20 dtd 28.01.2020. In this Para 15 in concluding part it is mentioned and I reproduce it below

“In conclusion they submitted that:

- i. The entire SCN blindly accepts the contents of the report of the DRI intelligence dtd 09.03.2028. The present authority has in no manner conducted its own inquiry or applied its own judicial mind. Hence, the present notice suffers from non-application of mind and failure to appropriately exercise discretion and is hence bad in law.*
- ii. In addition to above , none of the documents relied on in the report have been made available to them . ”*

From perusal of the above mentioned point “*ii. In addition to above*” I find it beyond doubt that the copy of DRI report dtd 09.03.2018 as mentioned in “*point i*” was available with the noticee at the time of initial adjudication. I also find that in the earlier adjudication order there is no rebuttal to this submission.

In view of above discussion I find that the DRI report dtd 09.03.2018 was available with the noticee at the time of first adjudication though some annexures/exhibits were not available with them.

I also find that Now during the present adjudication process at the time of second Personal hearing held on 17.02.2026 the advocate of the noticee had submitted that they have received all the relied upon documents at the time of CESTAT hearing stage. In view of this now I find and hold that the noticee is having all the relied upon documents and the principles of natural justice have been duly complied with.

22. Whether there was any finding of the authorities below on local value content required as per the rules and that found by the verification.

The Hon'ble CESTAT Ahmedabad has remarked as “There is also no finding of the authorities below on local value content required as per the rules and that found by the verification team”. Now coming to the crucial point, it is considered appropriate to reproduce the relevant part of the

Notification No.59/2005-Customs (N.T.) dated 20th July 2005 which is as mentioned below.

“Notification No. 59 /2005-Customs (N.T.)

IN EXERCISE OF THE POWER CONFERRED BY SUB-SECTION (I) OF SECTION 5 OF THE CUSTOMS TARIFF ACT, 1975 (51 OF 1975), THE CENTRAL GOVERNMENT HEREBY MAKES THE FOLLOWING RULES, NAMELY: -

1. Short Title and Commencement

- (1) These Rules may be called 'Rules of Origin' for determining the origin of products eligible for the preferential tariff concessions pursuant to Comprehensive Economic Cooperation Agreement between Republic of India and Republic of Singapore (hereinafter referred to as 'the Agreement'), the following Rules shall apply;
- (2) They shall come into force on the 1 st day of August 2005

2.....

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5. Not Wholly Obtained or Produced

1. Within the meaning of paragraph (b) of Rule 3 and subject to the provisions of Rule 7, 10 and that the final process of manufacturing is performed within the territory of the exporting Party, products would be considered as originating if:

- (a) (i) the total value of the materials, parts or produce originating from countries other than the Parties or of undetermined origin used in the manufacture of the product does not exceed 60% of the FOB value of the product so produced or obtained and,
- (ii) the product so produced or obtained is classified in a heading, at the four digit level, of the Harmonised System different from those in which all the non-originating materials used in its manufacture are classified; or
- (b) the product satisfies the Product Specific Rules as specified in Annex B.

2. For the purposes of calculating the local value added content, either of the following methods can be applied:

4-3 This would cover all waste and scrap, including waste and scrap resulting from manufacturing or processing operation or consumption in the same Party, scrap machinery, discarded packaging and all products that can no longer perform the purposes for which they were produced and are fit only for disposal for the recovery of parts or raw materials. Such manufacturing or processing operations shall include all types of processing not only industrial or chemical but also mining, agriculture, construction, refining, incineration and sewage treatment operations.

(a) Direct Method

| |
|--|
| $\frac{\text{Value of Originating materials} + \text{Direct Labour Cost} + \text{Direct Overhead Cost} + \text{Profit}}{\text{FOB Price}} \times 100 \% \geq 40\%$ |
|--|

(b) Indirect Method

| |
|--|
| $\frac{\text{Value of Non-originating materials}^{4-4}}{\text{FOB Price}} \times 100 \% \leq 60\%$ |
|--|

3. For the purpose of paragraph 2, if the material does not satisfy the requirements of paragraph 1, the non-qualifying value of the materials shall be that proportion which cannot be attributed to one or both of the Parties, provided that the requirements of Rule 7 at each stage of value accumulation are satisfied.

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16. Certificate of Origin

Products eligible for preferential concessions shall be supported by a Certificate of Origin issued by a government authority designated by the government of the exporting Party and notified to the other Party (referred to herein as "the certifying authority") in accordance with the Operational Certification Procedures, as set out in Annex A

17. Co-operation on verification of Certificates of Origin

1. The Parties shall co-operate with each other to verify the authenticity and the correctness of the information given in the certificates of origin.

2. For the purpose of implementing the provisions of paragraph 1, the customs administration of the importing Party shall return the certificate of origin, or a copy of the document, to the certifying authority of the exporting Party, giving the reason for the enquiry. Any document and/or information obtained suggesting that the information given on the certificate of origin is incorrect shall be forwarded in support of the request for verification.
3. The verification shall be carried out by the certifying authority of the exporting Party.

18. Denial of Preferential Tariff Treatment

1. Export of consignments accompanied by an authentic Certificate of Origin will not be subjected to any detention or delays by the Customs Authorities of the importing country.
2. In case of reasonable doubt about the authenticity of Certificate of Origin, the Customs authority of the importing country may seek a clarification from the certifying authority of the exporting country, which will furnish the same within a period of 30 days. Meanwhile, the subject consignment will be allowed entry into the importing country on a provisional basis against a bond or a guarantee i.e. a legally binding undertaking as may be required. After examining the information so provided by the certifying authority, the Customs Authority in the importing country would take appropriate action to finalise the provisional assessment.
3. Where the clarification carried on in above paragraph 2 is not conclusive, the importing Party may, upon informing the exporting Party and with the knowledge of the importer concerned and with the consent of the exporter or manufacturer concerned, visit the exporter or manufacturer concerned for the purpose of verifying the preference claim. If no consent is given by the exporter or manufacturer concerned within a period of 45 days, the importing party may disallow the tariff preference for the particular Certificate of Origin.

19. Consultation and Modifications

These rules may be reviewed as and when necessary upon the request of either Party and may be modified by mutual agreement pursuant to Article 16.7 of the agreement on Comprehensive Economic Co-operation Agreement between Republic of India and Republic of Singapore.

F.No.467/34/2005-Cus.V/ICD.”

From the perusal of above Notification I find it that as per aforementioned Rule 5, the Local Value added Content of the imported goods should be more than 40 %. From plain reading of Para 8.1 of the SCN I find that the local value added content as per the cost statement produced during verification visit was 45%. Further as per cost statement produced to Singapore customs subsequent to verification visit undertaken by officers of Indian Customs was 42.2%. Thus I find that on both counts the local value added content is well always above the stipulated 40% as required under the Rules.

I also find that though this issue has been discussed in detail in the earlier adjudication order but specific finding of comparative local value added content of the imported goods as required in the Rules and as found out by verification team is not particularly appearing in the findings. Though in the second last line of para 20 of the adjudication order dtd 28.01.2020 the adjudicating authority has mentioned and I reproduce it below

“ It is not understood how there could be two sets of costing and what is to be accepted as true and correct”.

Now coming to allegations made in SCN that the local value added content as declared by CPSC is 95% , while the local value added content as per the cost statement produced during verification visit is 45%. The local value added content as per the cost statement produced to the Singapore customs

subsequent to verification visit undertaken by officers of Indian customs was 42.2%.

The noticee in their defence reply have submitted that at no given instance the SCN or any other document records that the Local value content was less than 40%. They further submitted in their defence reply that the Report dtd 9 th March 2019 states that the local value content of the goods was determined to be 42.2% by the Indian authorities themselves. This percentage exceeds the 40% threshold stipulated under the Rules. In their defence reply the noticee has further submitted that the difference in both the statements prepared by Mr. Jonathan Chang had a reason out of a difference in the currency used as the basis of those statements. The first statement is prepared on the basis of US dollars, the second statement uses Singapore dollars as its' basis.

From the available records it is observed that the local value added content as per the cost statement produced during verification visit was 45%. The local value added content as per the cost statement produced to the Singapore customs subsequent to verification visit undertaken by officers of Indian customs was 42.2%.

Now in view of hon'ble CESTAT order and within the four corners of Rules of origin I find and conclude it beyond doubt that the local value added content is above stipulated 40%. On basis of this finding the case loses the only ground on which it was standing within the Rules of origin and I hold the goods to be eligible for preferential tariff treatment.

23. Whether invocation of extended period was correct.

Since as per my findings in previous aforementioned para 22 wherein I have already hold the goods to be eligible for preferential tariff treatment benefit in view of peculiar facts of the case. And in view of specific facts and circumstances of the present case wherein I had already found the demand not sustainable in terms of Rules of origin. The issue of correctness of invocation of extended period is no more relevant and I refrain to discuss the same.

24. Accordingly, I pass the following order:

ORDER

- i. **I drop the proceedings initiated against the noticee vide SCN F. No. VIII/10-84/ ICD-KHOD/O&A/2025-26 Dated: 09.05.2019.**

25. This Order is issued without prejudice to any other action that may be taken against the Importer or other in respect of the imported goods under the provisions of the Customs Act, 1962 or any other law for the time being in force in India.

(Shravan Ram)
Additional Commissioner
Customs, Ahmedabad

DIN: **20260571MN00006606B9**

F. No. **GEN/ADJ/ADC/2144/2025-ADJN-O/o PR COMMR-CUS-AHMEDABAD** Date: **05.05.2026**

To,

1-M/s. J.J. Polyplast Private Ltd (now M/s AAA Corp Exim India Pvt Ltd), C/2, Gajarawala Flats, Near Adani Gas Station, Paldi Cross Roads, Paldi, Ahmedabad - 380007

2-M/s. J.J. Polyplast Private Ltd (now M/s AAA Corp Exim India Pvt Ltd), C-206, 2nd Floor Ghatkopar Industrial Estate, LBS Marg, Ghatkopar West, Mumbai Maharashtra - 400086

Copy to:

1. The Asst./Dy. Commissioner of Customs (Review Cell), Customs, HQ, Ahmedabad.
2. The Asst./Dy. Commissioner of Customs (EDI/Systems), Customs, HQ, Ahmedabad.
3. The Asst./Dy. Commissioner of Customs, ICD Khodiyar, Ahmedabad.
4. Office Copy.