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|---|--|---|
|  | <p>कार्यालय: प्रधान आयुक्त सीमाशुल्क, मुन्द्रा,<br/>सीमाशुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421<br/><b>OFFICE OF THE PRINCIPAL COMMISSIONER OF<br/>CUSTOMS:</b><br/><b>CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT-<br/>370421.</b><br/><b>PHONE : 02838-271426/271163 FAX :02838-271425</b><br/><b>E-mail id- adj-mundra@gov.in</b></p> |  |
|---|--|---|

|   |   |   |
|---|---|---|
| A | फा. सं./FILE NO.                                    | GEN/ADJ/ADC/1503/2025-Adjn  |
| B | मूल आदेश संख्या/ ORDER-IN-ORIGINAL NO.              | MCH/ADC/AKM/437/2025-26   |
| C | द्वारा पारित किया गया / PASSED BY                   | Amit Kumar Mishra<br>Additional Commissioner of Customs<br>Adjudication (Export), MCH |
| D | आदेश की तिथि<br>DATE OF ORDER                       | 15.12.2025  |
| E | जारी करने की तिथि<br>DATE OF ISSUE                  | 15.12.2025  |
| F | कारण बताओ नोटिस संख्या & तिथि<br>SCN NUMBER & DATE  | SCN and PH waived vide letter dated. 22.02.2025<br>and Letter dated. 09.06.2025       |
| G | निर्यातक / नोटिस प्राप्तकर्ता<br>EXPORTER / NOTICEE | M/s S.S Overseas, Delhi   |
| H | डिन संख्या /DIN NUMBER                              | 20251271MO000000DE8B  |

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

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

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

“सीमाशुल्क आयुक्त) अपील,  
चौथी मंजिल, हुडको बिल्डिंग, ईश्वरभुवन रोड,  
नवरंगपुरा, अहमदाबाद 380 009”  
**“THE COMMISSIONER OF CUSTOMS (APPEALS), MUNDRA  
HAVING HIS OFFICE AT 4<sup>TH</sup> FLOOR, HUDCO BUILDING, ISHWAR BHUVAN ROAD,  
NAVRANGPURA, AHMEDABAD-380 009.”**

3. उक्तअपील यहआदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए।

Appeal shall be filed within sixty days 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 –

- i. उक्त अपील की एक प्रति और A copy of the appeal, and
- ii. इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं०-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।

This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.

5. अपील ज्ञापन के साथ ड्यूटी/ ब्याज/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।

Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo.

6. अपील प्रस्तुत करते समय, सीमाशुल्क) अपील (नियम, 1982 और सीमाशुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए।

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

7. 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 (A) 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.

#### 1. Brief Facts of the case:

|                             |   |
|-----------------------------|---|
| <b>Name of the Exporter</b> | M/s. S. S. Overseas, Delhi.   |
| <b>Address</b>              | 301-G-33, Gupta Tower Community Centre Vikas Puri, New Delhi-110018 |
| <b>GSTN no.</b>             | 07AERF8152C1ZQ  |
| <b>IEC</b>                  | AERF8152C   |
| <b>Name of CHA</b>          | M/s. Shivam Seatrans Pvt. Ltd.                                      |
|                             |   |

|                             |   |
|-----------------------------|---|
| <b>Shipping Bill Nos.</b>   | 9251676, 9251677, 9251680, and 9251683 all dated 12.04.2023 |
| <b>Description of goods</b> | Synthetic Footwear Gents and Men's Leather Sandal           |
| <b>Date of examination</b>  | 19.04.2023  |
| <b>Intelligence</b>         | NCTC Alert No. 34/EXP/2023-24                               |

1.1. An NCTC alert was received by email on 17.04.2023 regarding the export of the goods declared as "Synthetic Footwear and Leather Sandals" in respect of the exporter M/s. S. S. Overseas having registered address at 301-G-33, Gupta Tower Community Centre Vikas Puri, New Delhi-110018. The shipping bills filed by the CHA M/s. Shivam Seatrans Pvt. Ltd. The destination of the export was Ajman, UAE to M/s. IQRA Dreams General FZE, Business Centre, Ajman, UAE.

1.2. The intelligence conveyed, multiple Shipping bills have been filed on the same day in a spurt manner and there is high probability of mis-declaration, misclassification and over-valuation of the export goods for higher undue export benefits and IGST refunds. The supply chain of the exporter is improper and appears to be manipulated and are mere paper-based book transactions.

The details of the Shipping bills filled is as under:

**Table- A**

| Sr. No. | SB No & Date       | Description of the goods declared in SB | Unit price (USD) | Qty, (Pair) | FOB (INR)      |
|---------|--------------------|---|------------------|-------------|----------------|
| 1       | 9249610/12.04.2023 | Synthetic Footwear Gents                | 15.6             | 2280        | 28,77,265.8    |
| 2       | 9249638/12.04.2023 | Synthetic Footwear Gents                | 15.6             | 2280        | 28,77,265.8    |
| 3       | 9249641/12.04.2023 | Synthetic Footwear Gents                | 16               | 456         | 23,24,488.2    |
|         |                    | Men's Leather Sandal                    | 14.9             | 1440        |                |
| 4       | 9249658/12.04.2023 | Men's Leather Sandal                    | 14.9             | 1704        | 20,51,797.56   |
| 5       | 9251676/12.04.2023 | Synthetic Footwear Gents                | 15.6             | 2280        | 28,77,265.8    |
| 6       | 9251677/12.04.2023 | Synthetic Footwear Gents                | 15.6             | 2280        | 28,77,265.8    |
| 7       | 9251680/12.04.2023 | Synthetic Footwear Gents                | 16               | 456         | 23,24,488.2    |
|         |                    | Men's Leather Sandal                    | 14.9             | 1440        |                |
| 8       | 9251683/12.04.2023 | Men's Leather Sandal                    | 14.9             | 1704        | 20,51,797.56   |
|         | <b>Total</b>       |   |                  | 16,320      | 2,02,61,637.72 |

1.3. Whereas, the documents related to the said shipment were asked from the CB, M/s. Shivam Seatrans Pvt. Ltd. The CB submitted the checklist, Invoice and Packing List of the SBs mentioned at Sr. No. 5,6, 7 & 8 along with a letter dated 13.04.2023 addressed to the deputy commissioner-Export for cancellation of SBs mentioned at Sr. No. 1 to 4 of the Table-A above, wherein he clarified that due to non-generation of Shipping bills on ICEGATE, they had filed the multiple Shipping bills for each invoice.

1.4. The examination of goods mentioned from Sr. No 5 to 8 of Table A was carried out on 19.04.2023 at M/s. Landmark CFS, Mundra – Kachchh, Gujarat-370421 by the officers of SIIB, CH, Mundra in the presence of Shri. Sooraj Singh (G- Card Holder of M/s. Shivam Seatrans Private Limited) and Mr. Tarkeshwar Kumar, authorized representative of M/s. Landmark CFS, Mundra. Representative samples were drawn and sent to CRCL Kandla for testing. Further, to ascertain the fair value of the goods, valuation report from the

government approved chartered engineer was mandated. The details of the Shipping Bills examined and goods are as under:

**Table-B**

| Sr. No. (a) | SB No & Date (b)   | Description declared (c ) | Qty, (Pair) Declared (d) | Description Found (e)                   | Qty (Pair) found (f) |
|-------------|--------------------|---------------------------|--------------------------|---|----------------------|
| 1           | 9251676/12.04.2023 | SYNTHETIC FOOTWEAR GENTS  | 2280                     | Gents Loafer Shoes Synthetic            | 96                   |
|             |                    |                           |                          | Gents Formal Shoes Synthetic            | 2184                 |
| 2           | 9251677/12.04.2023 | SYNTHETIC FOOTWEAR GENTS  | 2280                     | Gents Loafer Shoes Synthetic            | 1092                 |
|             |                    |                           |                          | Gents Shoes Leather                     | 252                  |
|             |                    |                           |                          | Gents Formal Shoes Synthetic            | 936                  |
| 3           | 9251680/12.04.2023 | SYNTHETIC FOOTWEAR GENTS  | 456                      | Gents Synthetic Formal and casual Shoes | 456                  |
|             |                    | MENS LEATHER SANDAL       | 1440                     | Gents Sandal Leather                    | 1440                 |
| 4           | 9251683/12.04.2023 | MENS LEATHER SANDAL       | 1704                     | Gents Sandal Leather                    | 624                  |
|             |                    |                           |                          | Gents Sandal Synthetic                  | 1080                 |
|             | Total              |                           |                          |   | 8160                 |

## 2. Investigation:

2.1. After examination and drawing of samples, the goods were allowed to be export; however, the IGST refund and other export benefits were placed on hold till the completion of the investigation letter dated 20.04.2023. The NCTC raised concerns regarding the exporter's supply chain, prompting letters to be sent to the jurisdictional CGST Commissionerate to verify the existence of the exporter, M/s. SS Overseas, Delhi, and its supplier, M/s. Furo Enterprises, Delhi.

2.1.1. In response, the CGST Commissionerate, Delhi West, via letter dated 10.09.2024, confirmed that the exporter, M/s. SS Overseas (GSTIN: 07AERFS8152CIZQ), was found to be operational at its principal place of business and has been regularly filing GST returns.

2.1.2. Further, the CGST Commissionerate, Delhi North, vide their letter dated 27.01.2025, submitted that the exporter M/s. Furo Enterprises (07APTPS6857F2Z1), was found existent at its principal place of Business. M/s. Furo Enterprises, has paid the impugned GST through ITC and documents regarding the supplies made to M/s. SS overseas were checked and found in order.

2.2. **Lab reports of CRCL Kandla.** Considering the nature of irregularities made by the exporter, representative samples of the export goods were drawn for each type of goods and sent to CRCL Kandla for further testing as per the following details:

**Table C**

| Sr. No. (a) | SB No & Date (b) | Description declared (c) | TM no. date (d) | CRCL Kandla respective test report No. (e) |
|-------------|------------------|--------------------------|-----------------|--|
|-------------|------------------|--------------------------|-----------------|--|

|   |                    |                          |                               |     |
|---|--------------------|--------------------------|-------------------------------|-----|
| 1 | 9251676/12.04.2023 | Synthetic Footwear Gents | 576/2022-23, dated 18.04.2023 | 911 |
| 2 | 9251677/12.04.2023 | Synthetic Footwear Gents | 578/2022-23, dated 18.04.2023 | 912 |
| 3 | 9251680/12.04.2023 | Synthetic Footwear Gents | 579/2022-23, dated 18.04.2023 | 913 |
|   |                    | Men's Leather Sandal     | 580/2022-23, dated 18.04.2023 | 914 |
| 4 | 9251683/12.04.2023 | Men's Leather Sandal     | 575/2022-23, dated 18.04.2023 | 910 |

### Test reports:

#### I. CRCL Kandla Test report No. 910 (9251683/12.04.2023):

*The samples as received is an article (Sandle single piece)*

*It has the following % composition:*

*Total weight sample= 255.0 gm*

*Upper portion and upper layer of soles made of polyester, knitted fabric coated with polyurethane=17.09%*

*Grey coloured plastic sheet (polyethylene) = 2.11%*

*Brown coloured paper board = 6.78%*

*Foam (PU)= 0.5%*

*Soles (compounded PVC) = balance*

#### Classification of goods as per test report

The exporter has classified the goods under the CTH 64031990, from the test report it appears that the correct classification of the goods may be 64041990 (drawback @1.5).

|          |  |
|----------|--|
| 6404     | Footwear with outer soles of rubber, plastic, leather, or composition leather and uppers of textile material |
|          | - Footwear with outer soles of rubber or plastics;   |
| 640419   | --others   |
| 64041990 | ---others  |

#### II. CRCL Kandla Test report No. 911 (9251676/12.04.2023):

*The samples as received is an article (Shoes single piece)*

*It has the following % composition*

*Total weight sample= 263.0 gm*

*Upper portion and upper layer of soles made of polyester, knitted fabric coated with polyurethane=28.17%*

*Light Blue coloured sheet (EPDM type) = 1.52%*

*Lining material (polyethylene) = 1.71%*

*Foam (PU)= 0.2%*

*Metallic part = 1.14%*

*Brown coloured paper board= 8.63%*

*Soles (compounded PVC) = balance*

#### Classification of goods as per test report

The exporter has classified the goods under the CTH 64029990, from the test report

it appears that the correct classification of the goods may be 64041990 (drawback @1.5).

|          |  |
|----------|--|
| 6404     | Footwear with outer soles of rubber, plastic, leather, or composition leather and uppers of textile material |
|          | - Footwear with outer soles of rubber or plastics;   |
| 640419   | --others   |
| 64041990 | ---others  |

### III. CRCL Kandla Test report No. 912 (9251677/12.04.2023):

*The samples as received is in the form of an article*

*It has the following % composition*

Total weight sample= 399.48.0 gm

% of ABS (Acrylonitrile Butadiene Styrene) main sole=57.59% by wt.

% of leather (upper portion) =17.37% by wt.

% of paper board material (main sole first upper layer+ upper portion front notch) =9.63%

% of polyethylene (PE) (foamy layer in sole+ foamy layer in upper portion) =3.95% by wt.

% of Polyester (second upper layer in main sole+ upper portion fabric layer + lace) =2.5% by wt.

% of polyethylene (PE) (sponge layer in sole+ sponge layer in upper portion) =1.97% by wt.

% of PVC (black layer in second upper layer in main sole) =0.3% by wt.

% of Metallic part + packaging material = balance

#### Classification of goods as per test report

The exporter has classified the goods under the CTH 64029990, from the test report it appears that the correct classification of the goods may be 64031990 (drawback @5.4).

|          |   |
|----------|---|
| 6403     | Footwear with outer soles of rubber, plastic, leather, or composition leather and uppers of leather |
|          | - other footwear with outer soles of leather;   |
| 640319   | --others  |
| 64031990 | ---others   |

### IV. CRCL Kandla Test report No. 913 (9251680/12.04.2023):

*The samples as received is in the form of an article (Shoes). It has the following % composition:*

Total weight of article = 313.20 gm

Compounded Polyvinyl Chloride PVC (Mainly sole part and other parts) =59.9 % by wt.

Polyurethane PU (foam and other part) =16.4 % by wt.

Polyester (fabric part) =11.2% by wt.

Cellulose material (base inner part) =5.13% by wt.

Polyethylene (inner part) =2.2% by wt.

Metallic part, adhesive and packaging material=balance

#### Classification of goods as per test report

The exporter has classified the goods under the CTH 64029990, from the test report it appears that the correct classification of the goods may be 64041990 (drawback @1.5).

|          |  |
|----------|--|
| 6404     | Footwear with outer soles of rubber, plastic, leather, or composition leather and uppers of textile material |
|          | - Footwear with outer soles of rubber or plastics;   |
| 640419   | --others   |
| 64041990 | ---others  |

#### V. CRCL Kandla Test report No. 914 (9251680/12.04.2023):

*The samples as received is in the form of an article (foot wear) having following % composition:*

*Total nt. weight of sample as received = 252.0 gm*

*% part made of Polyurethane PU =65.9*

*% part made of leather =22.3*

*% part made of Polypropylene =4.8*

*% part made of Polyester knitted fabric including thread =4.5%*

*% part made of paper board and adhesive material used = balance*

#### **Classification of goods as per test report**

The exporter has classified the goods under the CTH 64031990 (drawback @5.4), from the test report it appears that the correct classification of the goods may be 64031990 (drawback @5.4).

|          |   |
|----------|---|
| 6403     | Footwear with outer soles of rubber, plastic, leather, or composition leather and uppers of leather |
|          | - other footwear with outer soles of leather;   |
| 640359   | --others  |
| 64031990 | ---others   |

In view of the above test reports, it appears that Sample does not merit the classification under the CTH done by the exporter, and it appears the exporter has mis-classified the goods.

**2.3. Rejection and Redetermination of Valuation:** As goods exported vide shipping bill no. 9251676, 9251677, 9251680, and 9251683, all dated 12.04.2023, were found to be mis-declared in terms of classification (description), hence the shipping bills are liable to be re-assessed under Section 17(4) of the Customs Act, 1962. Since mis-declaration of goods, in parameters such as description, which have relevance to value, and thus export benefits, the declared value of the goods is liable to be rejected under Rule 08, of Customs Valuation (Determination of Value of Export Goods) Rules, 2007 (hereinafter referred to as the CV Rules 2007) and is liable to be re-determined in terms of Rule 08, explanation 2 (i), of the said Rules, by going sequentially from Rule 4 to 6 thereof,

2.2.1. Further, as per **Rule 4 of the CV Rules 2007, Determination of export value by comparison, is reproduced as under as under –**

*(1) The value of the export goods shall be based on the transaction value of goods of like kind and quality exported at or about the same time to other buyers in the same destination*

country of importation or in its absence another destination country of importation adjusted in accordance with the provisions of sub-rule (2).

(2) In determining the value of export goods under sub-rule (1), the proper officer shall make such adjustments as appear to him reasonable, taking into consideration the relevant factors, including- (i) difference in the dates of exportation, (ii) difference in commercial levels and quantity levels, (iii) difference in composition, quality and design between the goods to be assessed and the goods with which they are being compared, (iv) difference in domestic freight and insurance charges depending on the place of exportation.

2.3.2. In response to the concerns raised by NCTC alert, the submission of a valuation report from a government-approved chartered engineer has been mandated. The Chartered Engineer (CE) Shri Ajay Rajsinh B. Jhala was present during the examination, for analysing the goods to ascertain their value. The details of the valuation reports submitted by him are as follows:

**Table-D**

| Sr. No. (a) | CE report No. / Date (b)                 | SB No & Date (c)   | Description declared (d) | Qty (Pair) Declared (e) | Description Found (f)                   | Qty. (Pair) found (g) | Invoice Value (h) | C & F Value as per CE Report (i) |
|-------------|--|--------------------|--------------------------|-------------------------|---|-----------------------|-------------------|----------------------------------|
| 1           | ABJ:INSP:CE:2023-24:43, dated 26.07.2023 | 9251676/12.04.2023 | Synthetic Footwear Gents | 2280                    | Gents Loafer Shoes Synthetic            | 96                    | 121455            | 110400                           |
|             |  |                    |                          |                         | Gents Formal Shoes Synthetic            | 2184                  | 2763109           | 2511600                          |
| 2           | ABJ:INSP:CE:2023-24:44, dated 26.07.2023 | 9251677/12.04.2023 | Synthetic Footwear Gents | 2280                    | Gents Loafer Shoes Synthetic            | 1092                  | 1381555           | 1255800                          |
|             |  |                    |                          |                         | Gents Shoes Leather                     | 252                   | 318820            | 289800                           |
|             |  |                    |                          |                         | Gents Formal Shoes Synthetic            | 936                   | 1184190           | 1076400                          |
| 3           | ABJ:INSP:CE:2023-24:45, dated 26.07.2023 | 9251680/12.04.2023 | Synthetic Footwear Gents | 456                     | Gents Synthetic Formal and Casual Shoes | 456                   | 591706            | 547200                           |
|             |  |                    | Men's Leather            | 1440                    | Gents Sand                              | 1440                  | 1740082           | 1512000                          |



|   |  |                    |                      |      |                        |             |                 |                |
|---|--|--------------------|----------------------|------|------------------------|-------------|-----------------|----------------|
|   |  |                    | her Sandal           |      | al Leather             |             |                 |                |
| 4 | ABJ:INSP:CE:2023-24:46, dated 26.07.2023 | 9251683/12.04.2023 | Men's Leather Sandal | 1704 | Gents Sandal Leather   | 624         | 754036          | 655200         |
|   |  |                    |                      |      | Gents Sandal Synthetic | 1080        | 1305061         | 1134000        |
|   |  | <b>Total</b>       |                      |      |                        | <b>8160</b> | <b>10160014</b> | <b>9092400</b> |

**2.3.3.** The total value of the goods declared by the exporter in respect of the 04 shipping bills is Rs. 1,01,60,014/-, which is in excess of Rs. 10,67,614/-, then the value of the goods ascertained by the chartered engineer. The total ascertained value of the goods covered under the aforesaid 04 shipping bills is 90,92,400/-

## **2.4. Statement of the authorised representative of the exporter**

2.4.1. Considering the concerns raised by NCTC and mis-declaration noticed in terms of the classification of the goods and valuation of the goods, the exporter was issued summons dated 04.08.2023, under section 108, of the Customs Act 1962, for tendering the statement in the matter and to produce relevant documents in respect of the impugned goods.

2.4.2. Statement of Shri Vijay Singh Sisodia, authorised representative of the exporter, was recorded on 04.08.2023, wherein he inter-alia stated as under:

- a. that he looks after the customs related work of M/s. SS overseas, Delhi. He further stated that M/s. SS overseas, Delhi is a trading firm that procures goods from local suppliers and exports them to overseas buyers as per requirement.
- b. that he agrees with the examination report dated 19.04.2023, and stated that the mis-declaration in the classification is due to typographical error by their office staff, who did not mention the specific classification of the goods.
- c. that he agrees with the valuation report dated 26.07.2023, of the government-approved chartered engineer, and are ready to return the export incentives that are availed in excess.
- d. that he agrees with the Lab reports received from CRCL Kandla.

### **3. Rules of Interpretation**

3.1. As specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), Classification of goods in this Schedule shall be governed by the following principles.

1. The titles of Sections, Chapters and Sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions:
2. (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), presented unassembled or disassembled.

(b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.

3 When by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:

a) the heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

b) mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to (a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

c) when goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

#### 4. Differential Drawback, IGST refund and other export benefits

4.1. Based on investigations conducted in the matter, it appears that the exporter has mis-declared the goods attempted to be exported in terms of classification and value. Therefore, it appears that the exporter has contravened Section 14 and Section 50 of the Customs Act, 1962 read with Rule 7 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007, in as much as they failed to declare correct classification and value of the goods in the shipping bills filed by them.

4.2. In light of the examination report, Lab report received from CRCL Kandla and Valuation Report of CE, the amount of eligible Drawback is to be re-determined. summary of the calculation is as follows:

**Table E: Eligible Drawback**

| Sr. No. (a) | SB No & Date (b)   | Description declared (c) | Qty (Pair) Declared (d) | Declared FOB (e) | Drawback claimed (f) | Description Found (g)         | Qty (Pair) found (h) | CTH (i)  | Eligible DBK Rate (j) | C & F Value as per CE Report (k) | Freight (l) | FOB (m) | Eligible DBK Amount (n) | Differential Drawback claimed in excess (g) |
|-------------|--------------------|--------------------------|-------------------------|------------------|----------------------|-------------------------------|----------------------|----------|-----------------------|----------------------------------|-------------|---------|-------------------------|---|
| 1           | 9251676/12.04.2023 | Synthetic Footwear Gents | 2280                    | 2877266          | 120845               | Gents Loafers Shoes Synthetic | 96                   | 64041990 | 1.50%                 | 110400                           | 307         | 110093  | 1651                    | 81624                                       |
|             |                    |                          |                         |                  |                      | Gents Formal Shoes Synthetic  | 2184                 | 640419   | 1.50%                 | 2511600                          | 699         | 25094   | 37569                   |   |

|   |                                |                                     |      |                 |            |  |      |                      |           |         |                       |                                 |       |       |
|---|--------------------------------|-------------------------------------|------|-----------------|------------|--|------|----------------------|-----------|---------|-----------------------|---------------------------------|-------|-------|
|   |                                |                                     |      |                 |            | nthetic  |      | 90                   | %         |         | 2                     | 6                               |       |       |
|   |                                |                                     |      |                 |            |  |      |                      |           |         |                       | 0                               |       |       |
|   |                                |                                     |      |                 |            |  |      |                      |           |         |                       | 8                               |       |       |
| 2 | 9251<br>677/<br>12.04<br>.2023 | Synthe<br>tic Foo<br>twear<br>Gents | 2280 | 287<br>726<br>6 | 1208<br>45 | Gents Loaf<br>er Shoes Sy<br>nthetic               | 1092 | 64<br>04<br>19<br>90 | 1.50<br>% | 1255800 | 3<br>4<br>9<br>6      | 1<br>2<br>5<br>2<br>3<br>0<br>4 | 18785 |       |
|   |                                |                                     |      |                 |            | Gents Shoe<br>s Leather                            | 252  | 64<br>03<br>19<br>90 | 5.40<br>% | 289800  | 8<br>0<br>7           | 2<br>8<br>8<br>9<br>9<br>3      | 15606 | 70354 |
|   |                                |                                     |      |                 |            | Gents Form<br>al Shoes Sy<br>nthetic               | 936  | 64<br>04<br>19<br>90 | 1.50<br>% | 1076400 | 2<br>9<br>9<br>6      | 1<br>0<br>7<br>3<br>4<br>0<br>4 | 16101 |       |
| 3 | 9251<br>680/<br>12.04<br>.2023 | Synthe<br>tic Foo<br>twear<br>Gents | 456  | 589<br>853      | 2477<br>4  | Gents Synt<br>hetic Forma<br>l and casual<br>Shoes | 456  | 64<br>04<br>19<br>90 | 1.50<br>% | 547200  | 1<br>7<br>5<br>6<br>4 | 5<br>4<br>4<br>4                | 8182  |       |
|   |                                | Men's<br>Leathe<br>r Sand<br>al     | 1440 | 173<br>463<br>5 | 9367<br>0  | Gents Sand<br>al Leather                           | 1440 | 64<br>03<br>19<br>90 | 5.40<br>% | 1512000 | 5<br>5<br>4<br>4      | 1<br>5<br>0<br>6<br>4<br>5<br>6 | 81349 | 28914 |
| 4 | 9251<br>683/<br>12.04<br>.2023 | Men's<br>Leathe<br>r Sand<br>al     | 1704 | 205<br>179<br>7 | 1107<br>97 | Gents Sand<br>al Leather                           | 624  | 64<br>03<br>19<br>90 | 5.40<br>% | 655200  | 2<br>6<br>7<br>2      | 6<br>2<br>5<br>2<br>8           | 35237 |       |
|   |                                |                                     |      |                 |            | Gents Sand<br>al Synthetic                         | 1080 | 64<br>04<br>19<br>90 | 1.50<br>% | 1134000 | 4<br>6<br>2<br>6      | 1<br>1<br>2<br>9<br>3<br>7<br>4 | 16941 | 58620 |
|   |                                |                                     |      |                 |            |  |      |                      |           |         | 2                     | 9                               |       |       |
|   |                                |                                     |      |                 |            |  |      |                      |           |         | 0                     |                                 |       |       |

|  |              |                 |               |  |             |  |  |                |             |              |               |               |
|--|--------------|-----------------|---------------|--|-------------|--|--|----------------|-------------|--------------|---------------|---------------|
|  | <b>Total</b> | <b>10130817</b> | <b>470931</b> |  | <b>8160</b> |  |  | <b>9092400</b> | <b>9196</b> | <b>63204</b> | <b>231419</b> | <b>239512</b> |
|--|--------------|-----------------|---------------|--|-------------|--|--|----------------|-------------|--------------|---------------|---------------|

From the table E above, it appears that the exporter is eligible for an amount of Rs. 2,31,419/- (Two lakh, Thirty-one thousand, four hundred and nineteen only) against drawback.

**4.3.** The amount of eligible RoDTEP also, is to be re-determined, summary of the calculation is as follows:

**Table F: RoDTEP**

| Sr. No. (a) | SB No & Date (b)    | Description declared (c) | Qty (Pair) Declared (d) | Declared FOB (e) | RoDTEP claimed (f) | Description Found (g)                   | Qty (Pair) found (h) | C T H (i) | Eligible RoDTEP Rate (j) | C & F Value as per CE Report (k) | Freight (l) | FOB (m) | Eligible RoDTEP Amount (n) | Differential RoDTEP claimed in excess (o) |
|-------------|---------------------|--------------------------|-------------------------|------------------|--------------------|---|----------------------|-----------|--------------------------|----------------------------------|-------------|---------|----------------------------|---|
| 1           | 9251676/ 12.04.2023 | Synthetic Footwear Gents | 2280                    | 2877266          | 28773              | Gents Loafer Shoes Synthetic            | 96                   | 64041990  | 1.00%                    | 110400                           | 307         | 110093  | 1101                       | 2626                                      |
|             |                     |                          |                         |                  |                    | Gents Formal Shoes Synthetic            | 2184                 | 64041990  | 1.00%                    | 2511600                          | 6992        | 2504608 | 25046                      |   |
| 2           | 9251677/ 12.04.2023 | Synthetic Footwear Gents | 2280                    | 2877266          | 28773              | Gents Loafer Shoes Synthetic            | 1092                 | 64041990  | 1.00%                    | 1255800                          | 3496        | 1252304 | 12523                      | 2626                                      |
|             |                     |                          |                         |                  |                    | Gents Shoes Leather                     | 252                  | 64031990  | 1.00%                    | 289800                           | 807         | 288993  | 2890                       |   |
|             |                     |                          |                         |                  |                    | Gents Formal Shoes Synthetic            | 936                  | 64041990  | 1.00%                    | 1076400                          | 2996        | 1073404 | 10734                      |   |
| 3           | 9251680/ 12.04.2023 | Synthetic Footwear Gents | 456                     | 589853           | 5899               | Gents Synthetic Formal and casual Shoes | 456                  | 64041990  | 1.00%                    | 547200                           | 1756        | 545444  | 5454                       | 3410                                      |
|             |                     | Men's Leather Sandal     | 1440                    | 1734635          | 22550              | Gents Sandal Leather                    | 1440                 | 64031990  | 1.30%                    | 1512000                          | 5544        | 1506456 | 19584                      |   |
| 4           | 9251683/ 12.04.2023 | Men's Leather Sandal     | 1704                    | 2051797          | 26673              | Gents Sandal Leather                    | 624                  | 64031990  | 1.30%                    | 655200                           | 2672        | 652528  | 8483                       | 3508                                      |
|             |                     |                          |                         |                  |                    |   |                      | 64        |                          |                                  |             | 11      |                            |   |

|  |              |  |  |                      |                        |             |                |       |                |                        |                               |                  |              |
|--|--------------|--|--|----------------------|------------------------|-------------|----------------|-------|----------------|------------------------|-------------------------------|------------------|--------------|
|  | 3            |  |  |                      | Gents Sandal Synthetic | 1080        | 04<br>19<br>90 | 1.30% | 1134000        | 46<br>26               | 29<br>37<br>4                 | 14682            |              |
|  | <b>Total</b> |  |  | <b>1013<br/>0817</b> | <b>11266<br/>7</b>     | <b>8160</b> |                |       | <b>9092400</b> | <b>29<br/>19<br/>6</b> | <b>90<br/>63<br/>20<br/>4</b> | <b>100497.11</b> | <b>12170</b> |

From the table F above, it appears that the exporter is eligible for an amount of Rs. 1,00,497/- (One lakh, four hundred and ninety-seven only) against RoDTEP.

**4.4.** The amount of eligible IGST refund, is to be re-determined, summary of the calculation is as follows:

**Table G: IGST Refund**

| Sr. No. (a)  | SB No & Date (b)       | Description Found (c)   | Qty (Pair) Declared (d) | IGST Taxable Declared value (e) | IGST paid (f)  | Rate of IGST (g) | IGST Taxable Value as per CE Report (h) | Eligible IGST refund Amount (i) | IGST excess claimed (j) |
|--------------|------------------------|---|-------------------------|---------------------------------|----------------|------------------|---|---------------------------------|-------------------------|
| 1            | 9251676/<br>12.04.2023 | Gents Loafer Shoes Synthetic <b>and</b> Gents Formal Shoes Synthetic                      | 2280                    | 2884565                         | 519222         | 18%              | 2622000                                 | 471960                          | <b>47262</b>            |
| 2            | 9251677/<br>12.04.2023 | Gents Loafer Shoes Synthetic, Gents Shoes Leather <b>and</b> Gents Formal Shoes Synthetic | 2280                    | 2884565                         | 519222         | 18%              | 2622000                                 | 471960                          | <b>47262</b>            |
| 3            | 9251680/<br>12.04.2023 | Gents Synthetic Formal and casual Shoes   | 456                     | 591706                          | 106507         | 18%              | 547200                                  | 98496                           | <b>8011</b>             |
|              |                        | Gents Sandal Leather  | 1440                    | 1740082                         | 313215         |                  | 1512000                                 | 272160                          | <b>41055</b>            |
| 4            | 9251683/<br>12.04.2023 | Gents Sandal Leather and Gents Sandal Synthetic   | 1704                    | 2059097                         | 370637         | 18%              | 1789200                                 | 322056                          | <b>48581</b>            |
| <b>Total</b> |                        |   |                         | <b>10160013</b>                 | <b>1828802</b> |                  | <b>9092400</b>                          | <b>1636632</b>                  | <b>192170</b>           |

From the table G above, it appears that the exporter is eligible for an amount of Rs. 16,36,632/- (Sixteen lakh, thirty-six thousand, six hundred and thirty-two only) against IGST refund.

**4.5. Rule 96 - Refund of integrated tax paid on goods or services exported out of India.**

*(1) The shipping bill filed by an exporter of goods shall be deemed to be an application for refund of integrated tax paid on the goods exported out of India and such application shall be deemed to have been filed only when: -*

*(a) the person in charge of the conveyance carrying the export goods duly files a departure manifest or an export manifest or an export report covering the number and the date of shipping bills or bills of export; and*

*(b) the applicant has furnished a valid return in **FORM GSTR-3** or **FORM GSTR-3B**, as the case may be;*

*(2) The details of the relevant export invoices in respect of export of goods contained in **FORM GSTR-1** shall be transmitted electronically by the common portal to the system designated by the Customs and the said system shall electronically transmit to the common portal, a confirmation that the goods covered by the said invoices have been exported out of India.*

*(3) Upon the receipt of the information regarding the furnishing of a valid return in **FORM GSTR-3** or **FORM GSTR-3B**, as the case may be from the common portal, the system designated by the Customs or the proper officer of Customs, as the case may be, shall process the claim of refund in respect of export of goods and an amount equal to the integrated tax paid in respect of each shipping bill or bill of export shall be electronically credited to the bank account of the applicant mentioned in his registration particulars and as intimated to the Customs authorities.*

4.5.1. In view of the rule 96, copies of GSTR-1, GSTR-3B and electronic credit ledger of the exporter were asked for. The exporter has filed the due returns for the period April-23. On verification of the GSTR-1, it appears that the exporter has furnished the information relating to exports in Table 6A (Export with payment) of **FORM GSTR-1** and in table 3.1 (Outward taxable supplies-Zero rated) **FORM GSTR-3B**. Further, relevant debit entry has also been made in the electronic credit ledger vide ref. no. DI0705230038021 dated 15.05.2023. Therefore, it appears that the exporter is eligible for IGST refund.

## **5. Relevant Legal provisions:**

### **5.1. Definitions given in Section 2 of the Customs Act, 1962**

*(3A) "beneficial owner" means any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported;*

**5.2.** *As per Section 17(4) of the Customs Act, 1962; where it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.*

### **5.3. Relevant portion of Section 50 of the Customs Act, 1962**

*(2) The exporter of any goods, while presenting a shipping bill or bill of export, shall make and subscribe to a declaration as to the truth of its contents.*

*(3) The exporter who presents a shipping bill or bill of export under this section 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.*

**5.4. Section 113. Confiscation of goods attempted to be improperly exported, etc.**

*(h) any goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77*

*(i) any goods entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act or in the case of baggage with the declaration made under section 77;*

*(i a) any goods entered for exportation under claim for drawback which do not correspond in any material particular with any information furnished by the exporter or manufacturer under this Act in relation to the fixation of rate of drawback under section 75;*

*(j a) any goods entered for exportation under claim for remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the provisions of this act or any other law for time being in force;*

**5.5. Section 114. Penalty for attempt to export goods improperly, etc. -**

*Any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act, shall be liable, -*

*(iii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten percent, of the duty sought to be evaded or five thousand rupees, whichever is the greater;*

**5.6 Section 114AA: Penalty for use of false and incorrect material**

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

**5.7 SECTION 125: Option to pay fine in lieu of confiscation.**

*(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods or, where such owner is not known, the person from whose possession or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit:*

*Provided that where the proceedings are deemed to be concluded under the proviso to sub-section (2) of section 28 or under clause (i) of sub-section (6) of that section in respect of the goods which are not prohibited or restricted, 3 [no such fine shall be imposed]:*

*Provided further that, without prejudice to the provisions of the proviso to sub-section (2) of section 115, such fine shall not exceed the market price of the goods confiscated, less in the case of imported goods the duty chargeable thereon.*

*(2) Where any fine in lieu of confiscation of goods is imposed under sub-section (1), the owner of such goods or the person referred to in sub-section (1), shall, in addition, be liable to any duty and charges payable in respect of such goods.]*

*(3) Where the fine imposed under sub-section (1) is not paid within a period of one hundred and twenty days from the date of option given thereunder, such option shall become void, unless an appeal against such order is pending.*

#### **5.8. Relevant provisions of Customs Valuation (Determination of Value of Export Goods) Rules, 2007**

*3. Determination of the method of valuation. - (1) Subject to rule 8, the value of export goods shall be the transaction value. (2) The transaction value shall be accepted even where the buyer and seller are related, provided that the relationship has not influenced the price. (3) If the value cannot be determined under the provisions of sub-rule (1) and sub-rule (2), the value shall be determined by proceeding sequentially through rules 4 to 6.*

*4. Determination of export value by comparison. - (1) The value of the export goods shall be based on the transaction value of goods of like kind and quality exported at or about the same time to other buyers in the same destination country of importation or in its absence another destination country of importation adjusted in accordance with the provisions of sub-rule (2). (2) In determining the value of export goods under sub-rule (1), the proper officer shall make such adjustments as appear to him reasonable, taking into consideration the relevant factors, including- (i) difference in the dates of exportation, (ii) difference in commercial levels and quantity levels, (iii) difference in composition, quality and design between the goods to be assessed and the goods with which they are being compared, (iv) difference in domestic freight and insurance charges depending on the place of exportation.*

.....

*7. Declaration by the exporter. -*



*The exporter shall furnish a declaration relating to the value of export goods in the manner specified in this behalf.*

**8. Rejection of declared value. -**

*(1) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any export goods, he may ask the exporter of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such exporter, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, the transaction value shall be deemed to have not been determined in accordance with sub-rule (1) of rule 3.*

*2) At the request of an exporter, the proper officer shall intimate the exporter in writing the ground for doubting the truth or accuracy of the value declared in relation to the export goods by such exporter and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (1).*

*Explanation. - (1) For the removal of doubts, it is hereby declared that-*

*(i) This rule by itself does not provide a method for determination of value, it provides a mechanism and procedure for rejection of declared value in cases where there is reasonable doubt that the declared value does not represent the transaction value; where the declared value is rejected, the value shall be determined by proceeding sequentially in accordance with rules 4 to 6.*

*(ii) The declared value shall be accepted where the proper officer is satisfied about the truth or accuracy of the declared value after the said enquiry in consultation with the exporter.*

*(iii) The proper officer shall have the powers to raise doubts on the declared value based on certain reasons which may include -*

*(a) the significant variation in value at which goods of like kind and quality exported at or about the same time in comparable quantities in a comparable commercial transaction were assessed.*

*(b) the significantly higher value compared to the market value of goods of like kind and quality at the time of export.*

*(c) the misdeclaration of goods in parameters such as description, quality, quantity, year of manufacture or production.*

**5.9.** *As per Section 11 (1) of the Foreign Trade (Development and Regulation) Act, 1992: "No export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made there under and the export and import policy (now termed as Foreign Trade Policy) for the time being in force"*

*As per Rule 11 of the Foreign Trade (Regulations), 1993 stipulates that on exportation out of any customs port of any goods, whether liable to duty or not, the owner of the such goods shall in the S/bill or any other documents prescribed under the customs act, 1962, state the value quantity and description of such goods to the best of his knowledge and belief and certify that the quality and specifications of the goods as stated in those documents, are in accordance with the terms of the export contract entered into with the buyer or consignee in pursuance of which the goods are being exported and shall subscribe a truthful declaration of such statement at the foot of such shipping bill or any other documents.*

**6. Outcome of the investigations: -**

**6.1.1** A total of four shipping bills were filed by the exporter, M/s. S. S. Overseas, with

the intent to export highly overvalued consignments to obtain export incentives. Based on an NCTC alert, a thorough examination was conducted in the presence of the CHA, a representative of the CFS, and a Chartered Engineer

**6.1.2.** During the examination, the goods were found to be men's footwear. However, to determine the composition of the materials used in their manufacturing, representative samples were drawn and forwarded to CRCL, Kandla, for testing. The test results from CRCL, Kandla, revealed that the goods had been mis declared with respect to their description, quality, and value. Consequently, the goods have been reclassified as per paragraph 2.1 supra.

**6.1.3.** As the goods were found to be mis declared, the FOB value declared in the aforementioned four shipping bills, amounting to Rs. 1,01,30,818/- (Rupees One Crore One Lakh Thirty Thousand Eight Hundred Eighteen only), is liable to be rejected. In accordance with Section 14(1) of the Customs Act, 1962, and Rule 8 of the Customs Valuation (Determination of Value of Imported Goods) Rules, the FOB value has been re-determined to Rs. 90,63,204/- (Rupees Ninety Lakhs Sixty-Three Thousand Two Hundred Four only) under Rule 6 of the said Rules, based on the valuation report of the Chartered Engineer.

**6.2** The goods were permitted for export; however, the export benefits were withheld until the completion of the investigation. The exporter was summoned for statement recording under Section 108 of the Customs Act, 1962. Accordingly, the statement of Shri Vijay Singh Sisodia, the authorized representative of the exporter, was recorded on 04.08.2023. In his statement, he, inter alia, acknowledged the test reports received from CRCL, Kandla, as well as the valuation report issued by the government-approved Chartered Engineer. Furthermore, he agreed to reverse the excess export benefits claimed.

**6.3** The total drawback amount claimed on the export goods under the aforementioned four shipping bills, amounting to Rs. 4,70,931/- (Rupees Four Lakhs Seventy Thousand Nine Hundred Thirty-One only), is liable to be rejected. The drawback has been re-calculated to Rs. 2,31,419/- (Rupees Two Lakhs Thirty-One Thousand Four Hundred Nineteen only) based on the re-determined FOB value.

**6.4** The total RoDTEP amount claimed on the export goods under the aforementioned four shipping bills, amounting to Rs. 1,12,667/- (Rupees One Lakh Twelve Thousand Six Hundred Sixty-Seven only), is liable to be rejected. The RoDTEP amount has been re-calculated to Rs. 1,00,497/- (Rupees One Lakh, Four Hundred Ninety-Seven only) based on the re-determined FOB value.

**6.6** The total IGST amount declared on the export goods under the aforementioned four shipping bills, amounting to Rs. 18,28,802/- (Rupees Eighteen Lakhs Twenty-Eight Thousand Eight Hundred Two only), is liable to be rejected. The IGST amount has been re-calculated to Rs. 16,36,632/- (Rupees Sixteen Lakhs Thirty-Six Thousand Six Hundred Thirty-Two only) based on the re-determined IGST taxable value.

**6.7.** Exporter had violated the provisions of Rule 11 of the Foreign Trade (Regulations), 1993 and Section 11 (1) of the Foreign Trade (Development and Regulation) Act, 1992, inasmuch as they did not make a correct declaration of value and description of such goods, in the said Shipping Bills submitted by them to the Customs authorities.

## **7. Waiver of Show Cause Notice and Personal Hearing: -**

The exporter vide their letter dated 22.02.2025 & 09.06.2025 has submitted that they are agree with the valuation opined by the Chartered Engineer and the reports submitted by the lab CRCL Kandla and requested to decide the matter on merit and they do not want any

SCN and PH in the matter.

**8. In view of the above, it appears that: -:**

- a) the declared FOB value of the goods Rs. 1,01,30,818/- (Rs. One crore One lakh thirty thousand Eight hundred eighteen only) covered under the above said 04 Shipping Bills as per Table- A of the IR is liable to be rejected in terms of Section 14 (1) of the Customs Act read with Rule 8 of Customs Valuation Rules and re-determine the same to Rs. 90,63,204/- (Rs. Ninety lakhs Sixty-three thousand Two hundred four only) under Rule 6 of Customs Valuation Rule as valuation report of Chartered Engineer on the basis of various means/aids/market survey/previously assessed data by customs. (Table D)
- b) the claim of drawback on above said 04 Shipping Bills is liable to be rejected for the reasons stated above and the drawback is liable to be restricted to the re-determined value (table E).
- c) the claim of RoDTEP on above said 04 Shipping Bills is liable to be rejected for the reasons stated above and the RoDTEP is liable to be restricted to the re-determined value (table F).
- d) the claim of IGST refund on above said 04 Shipping Bills is liable to be rejected for the reasons stated above and the IGST refund is liable to be restricted to the re-determined value (Table G).
- e) the goods covered under said 04 Shipping Bills having re-determined value of Rs. 90,63,204/- (Rs. Ninety lakhs Sixty-three thousand Two hundred four only) are liable for confiscation under Section 113 (h), (i), (ia) and (ja) read with section 50(2) of the Customs Act, 1962, Rule 11 of the Foreign Trade (Regulations), 1993, Section 11 (1) of the Foreign Trade (Development and Regulation) Act, 1992.
- f) the penalty is liable to be imposed on M/s S. S. Overseas under section 114 (iii) & 114 AA of the Customs Act, 1962 for knowingly and intentionally using false and incorrect information in terms of description, value, composition and quality in the said declaration which has rendered the said goods liable to confiscation under the provisions of Section 113 (h) (i) and 113(ia) (ja) read with section 50(2) of the Customs Act, 1962, Rule 11 of the Foreign Trade (Regulations), 1993, Section 11 (1) of the Foreign Trade (Development and Regulation) Act, 1992.

**DISCUSSION AND FINDINGS**

**9. Show Cause Notice and Personal Hearing**

The exporter have already requested for waiver of the show cause notice and personal hearing in the matter vide letter dated. 22.02.2025 & 09.06.2025. Therefore, I proceed to decide the case on merit, outcome of the Investigation Report dated. 28.02.2025 issued by the SIIB, Mundra Custom House, record and material evidences available. Further, the exporter vide letter dated. 09.06.2025 has accepted the valuation of the goods as suggested by the Chartered Engineer in his report and the exporter agrees with the test results of the sample sent for testing at CRCL, Kandla Lab & requested to decide the case on merit.

10.1 I find that multiple shipping bills (08), as mentioned in Table-A above, for export of the goods declared as 'Synthetic Footwear Gents/Men's Leather Sandal' were filed. However, the CB submitted the checklist, Invoice and Packing List of the Shipping Bills mentioned at Sr No. 5,6,7 & 8 alongwith a letter dated. 13.04.2023 addressed to Deputy Commissioner-Export for cancellation of Shipping Bills mentioned at Sr No. 01 to 04 of

the Table-A above, where it was clarified that due to non-generation of Shipping Bills on ICEGATE, they had filed the multiple Shipping Bills for each invoice.

10.2 The examination of the goods mentioned from Serial No. 05 to 08 of Table-A was carried out by the SIIB (MCH) and representative samples were drawn and sent to the CRCL, Kandla Lab for testing to ascertain the composition. Further to ascertain the fair value of the goods, valuation report from the government approved chartered engineer was mandated. During examination, the description of the goods found as mentioned in **Column (e) in Table-B above.**

10.3 After examination and drawing of samples, the goods were allowed to be export; however, the IGST refund and other export benefits were placed on hold till completion of the investigation in the subject matter.

### Classification

11.1 Further, I find that 05 representative sealed samples were drawn and forwarded to the CRCL, Kandla lab for testing vide **Test Memo Nos. 575,576,578,579 &580/2022-23 dated. 12.04.2023** in respect of Shipping Bill No. as mentioned in Table-C above. I find that following descriptions were found during testing of the goods :-

| SL No. | Description and Composition found during testing (a)  | Classification (CTI) adopted by the Exporter (b) | Goods actually classifiable under CTI (c) | Shipping Bill No. & Date (d) | Test Report No. (e ) |
|--------|---|--|---|------------------------------|----------------------|
| 1      | <i>The samples as received is an article (Sandle single piece)<br/>It has the following % composition:<br/>Total weight sample= 255.0 gm<br/>Upper portion and upper layer of soles made of polyester, knitted fabric coated with polyurethane=17.09%<br/>Grey coloured plastic sheet (polyethylene) = 2.11%<br/>Brown coloured paper board = 6.78%<br/>Foam (PU)= 0.5%<br/>Soles (compounded PVC) = balance</i>  | 64031990   | 64041990                                  | 9251683 & 12.04.2023         | 910                  |
| 2      | <i>The samples as received is an article (Shoes single piece)<br/>It has the following % composition<br/>Total weight sample= 263.0 gm<br/>Upper portion and upper layer of soles made of polyester, knitted fabric coated with polyurethane=28.17%<br/>Light Blue coloured sheet (EPDM type) = 1.52%<br/>Lining material (polyethylene) = 1.71%<br/>Foam (PU)= 0.2%<br/>Metallic part = 1.14%<br/>Brown coloured paper board= 8.63%<br/>Soles (compounded PVC) = balance</i>   | 64029990   | 64041990                                  | 9251676 & 12.04.2023         | 911                  |
| 3      | <i>The samples as received is in the form of an article<br/>It has the following % composition<br/>Total weight sample= 399.48.0 gm<br/>% of ABS (Acrylonitrile Butadiene Styrene) main sole=57.59% by wt.<br/>% of leather (upper portion) =17.37% by wt.<br/>% of paper board material (main sole first upper layer+ upper portion front notch) =9.63%<br/>% of polyethylene (PE) (foamy layer in sole+ foamy layer in upper portion) =3.95% by wt.<br/>% of Polyester (second upper layer in main sole+ upper portion fabric layer + lace) =2.5%</i> | 64029990   | 64031990                                  | 9251677 & 12.04.2023         | 912                  |

|   |  |          |          |                      |     |
|---|--|----------|----------|----------------------|-----|
|   | by wt.<br>% of polyethylene (PE) (sponge layer in sole+ sponge layer in upper portion) =1.97% by wt.<br>% of PVC (black layer in second upper layer in main sole) =0.3% by wt.<br>% of Metallic part + packaging material = balance  |          |          |                      |     |
| 4 | The samples as received is in the form of an article (Shoes). It has the following % composition:<br>Total weight of article = 313.20 gm<br>Compounded Polyvinyl Chloride PVC (Mainly sole part and other parts) =59.9 % by wt.<br>Polyurethane PU (foam and other part) =16.4 % by wt.<br>Polyester (fabric part) =11.2% by wt.<br>Cellulose material (base inner part) =5.13% by wt.<br>Polyethylene (inner part) =2.2% by wt.<br>Metallic part, adhesive and packaging material=balance | 64029990 | 64041990 | 9251680 & 12.04.2023 | 913 |
| 5 | The samples as received is in the form of an article (foot wear) having following % composition:<br>Total nt. weight of sample as received = 252.0 gm<br>% part made of Polyurethane PU =65.9<br>% part made of leather =22.3<br>% part made of Polypropylene =4.8<br>% part made of Polyester knitted fabric including thread =4.5%<br>% part made of paper board and adhesive material used = balance  | 64031990 | 64031990 | 9251680 & 12.04.2023 | 914 |

11.2 I find that the classification of the goods is governed by the ‘General Rules of Interpretation (G.I.R)’ as specified in the First Schedule to the Customs Tariff Act, 1975. On going through it, I find as per Rule 3(a) the heading which provides the most specific description shall be preferred to headings providing a more general description. Further, Rule 3(b) mandates that mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to (a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

Therefore, relying on the G.I.R, it is observed that the goods have been misclassified under wrong CTI as mentioned above in **Column ‘B’ of Table-‘H’**. However, the goods are to be classified under CTI as mentioned **Column ‘C’ of Table-‘H’ above**.

### **VALUATION OF THE GOODS**

**12.** I find that the description of the goods have been found mis-declared as verified from the result of the test reports and description of the goods have relevance to the value. Therefore, as per the provisions of the Customs Valuation Rules (Determination of Value of Export Goods) Rules, 2007, the declared value is liable for rejection under Rule 8 of the said rules and the shipping bills become liable for re-assessment under Section 17(4) of the Customs Act, 1962.

The value of the goods is required to be re-determined under Rule 4 of the CVR, 2007 (Export). Accordingly, I rely on the valuation of the goods suggested by the Chartered

Engineer Sh. Ajay Rajsinh B. Jhala in their report dated. 26.07.2023 (details mentioned in Table-D above). Hence, I find that the declared Invoice value of the goods i.e Rs. 10160014/-is liable for rejection and the same is to be re-determined to Rs. 90,92,400/-.

Further, I find that **Sh. Vijay Singh Sisodia**, authorized representative of the Exporter during statement on 04.08.2023 tendered before SIIB, MCH agreed to the re-classification and valuation of the goods as suggested by the Government Approved Chartered Engineer (C.E) covered under the SBs mentioned in Table-B above.

**13.** Further, I find that the exporter was availing the export incentives viz. Drawback and RoDTEP and IGST rate on higher side on account of mis-classification of the goods viz. **incorrect classification and overvaluation**. Accordingly, I find that the exporter is eligible for Drawback, RoDTEP and refund of IGST amounting to **Rs. 2,31,419/-, Rs. 1,00,497/- and Rs. 16,36,632/- respectively**.

I further find that the Exporter was availing the said incentives and IGST refund on higher side and amount of differential Drawback, RoDTEP and IGST refund is as follows **Rs. 2,39,512/-, Rs. 12,170/- and Rs. 1,92,170/- (Total Rs. 4,43,852)** respectively as calculated in **Table-E, F and G**.

However, data retrieved from ICES 1.5 system confirms that export incentives (DBK Rs. 1,10,797/-, RoDTEP Rs. 26,673/- and IGST Rs. 3,70,637/-) were already disbursed to exporter for shipping bill no. 9251683 dated 12.04.2023. Therefore, the export incentive disbursed in excess, total Rs. 1,10,709/- is restricted by the limits set in Table- E, F and G. Therefore, the amount should therefore be recovered.

**14.** I find that the exporter has violated the provisions of Rule 11 of the Foreign Trade (Regulations), 1993 and Section 11 (1) of the Foreign Trade (Development and Regulation) Act, 1992 inasmuch as the exporter had not made a correct declaration of value and description of such goods in the 04 Shipping Bills mentioned in Table-B above. Further, the exporter has contravened the provisions of **the Section 50 (2) & (3)** of the Customs Act, 1962 as they have failed to declare the truth contents in the Shipping Bill.

**14.2** Further, it is observed that the exporter knowingly and intentionally used false and incorrect information in terms of description, value, composition and quality to avail the export incentives and claim of IGST refund on higher side. The exporter was in possession of the subject goods before exportation, they were supposed to mention the correct declaration in terms of description, classification and valuation. However, the exporter tried to avail the undue benefit from the exchequer of Government of India. Government has introduced the export incentives and reward in order to support and motivate the exporter of India. However, the exporter breached the trust inasmuch as they attempted to loss the exchequer of Government by way of mis-declaration of the goods.

**14.3** Hence, by way of such act the exporter rendered themselves liable to penalty under Section 114 (iii) & 114AA of the Customs Act, 1962 and the exporter has rendered the subject goods covered under 04 Shipping Bills, as mentioned in Table-B above, liable to confiscation under **Section 113(h) (i) and 113(ia) (ja)** read with **Section 50(2)** of the Customs Act, 1962, **Rule 11 of the Foreign Trade (Regulations), 1993, Section 11(1)** of the Foreign Trade (Development and Regulation) Act, 1962. However, the impugned goods were permitted for export subject to the withholding of the corresponding export incentive and the IGST refund. Hence, considering that the goods are not available for confiscation, I refrain from imposing any redemption fine.

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

**ORDER**

- i) I reject the declared FOB value of the goods **Rs. 1,01,30,818/-** (Rs. One crore One lakh thirty thousand Eight hundred eighteen only) covered under the said 04 Shipping Bills (Serial No. 05 to 08 in Table- A) in terms of Section 14 (1) of the Customs Act read with Rule 8 of Customs Valuation Rules and order to re-determine the same to **Rs. 90,63,204/-** (Rs. Ninety lakhs Sixty-three thousand Two hundred four only) under Rule 6 of Customs Valuation Rule as valuation report of Chartered Engineer on the basis of various means/aids/market survey/previously assessed data by customs. (Column i of Table D).
- ii) I reject the claim of drawback on above said 04 Shipping Bills and the drawback is restricted to the re-determined value (Column j & n of Table E).
- iii) I reject the claim of RoDTEP on above said 04 Shipping Bills and order to restrict the RoDTEP amount to the re-determined value (Column j& n of Table F).
- iv) I reject the claim of IGST refund on above said 04 Shipping Bills and order to restrict the IGST refund to the re-determined value (Column i of Table G).
- v) I order to recover excess export incentive of Rs. 1,10,709/- which already been disbursed against shipping bill no. 9251683 dated 12.04.2023.
- vi) I reject the declared classification of the goods and order to re-assess/re-determine the same under Customs Tariff Item (CTI) as per the results mentioned in **Para 2.2 (I to V)** of this Order.
- vii) I order to confiscate the goods covered under said 04 Shipping Bills having re-determined value of Rs. 90,63,204/- (Rs. Ninety lakhs Sixty-three thousand Two hundred four only) under Section 113 (h), (i), (ia) and (ja) read with section 50(2) of the Customs Act, 1962, Rule 11 of the Foreign Trade (Regulations), 1993, Section 11 (1) of the Foreign Trade (Development and Regulation) Act, 1992. Since, goods are not physically available for confiscation, I refrain from imposing redemption fine on the goods under Section 125 (1) of the Customs Act, 1962.
- viii) I order to impose the penalty of **Rs. 2,00,000/- (Rupees Two Lakh only )** on M/s S. S. Overseas under section 114 (iii) of the Customs Act, 1962.
- ix) I order to impose the penalty of **Rs. 1,00,000/- (Rupees One Lakh only)** on M/s S.S Overseas under Section 114 AA of the Customs Act, 1962

**16.** The Investigation Report No. 121 dated. 28.02.2025 issued vide F.No CUS/SIIB/ALT/81/2024-SIIB-MCH stands disposed of on above terms.

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

**(AMIT KUMAR MISHRA)**  
**ADDITIONAL COMMISSIONER OF**  
**CUSTOMS**  
**CUSTOM HOUSE, MUNDRA.**

**To:**

**M/s. S. S. Overseas.**  
**301-G-33, Gupta Tower Community Centre,**

**Vikas Puri, New Delhi-110018**

Copy to:

1. The DC/AC, (SIIB, TRC, RRA, EDI, Export Assessment), Mundra Customs.
2. Guard File.