

	<p><b>कार्यालय: प्रधान आयुक्त सीमा शुल्क, मुन्द्रा,</b>  <b>सीमा शुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421</b></p> <p><b>OFFICE OF THE COMMISSIONER OF CUSTOMS, CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT- 370421.</b></p>	
<b>A</b>	<b>FILE NO.</b> फाइल संख्या	CUS/APR/SCN/997/2025-Gr 3-O/o Pr Commr-Cus-Mundra
<b>B</b>	<b>OIO NO.</b> आदेश संख्या	MCH/ADC/ZDC/479/2025-26
<b>C</b>	<b>PASSED BY</b> जारीकर्ता	Dipak Zala Additional Commissioner of Customs/अपर आयुक्त सीमा शुल्क, Custom House, Mundra/कस्टम हाउस, मुंद्रा।
<b>D</b>	<b>DATE OF ORDER</b> आदेश की तारीख	07.01.2026
<b>E</b>	<b>DATE OF ISSUE</b> जारी करने की तिथि	07.01.2026
<b>F</b>	<b>SCN No. &amp; Date</b> कारण बताओ नोटिस क्रमांक	<b>39(L)/2025-26/ADC/ZDC/Gr. III/MCH and 02.07.2025</b>
<b>G</b>	<b>NOTICEE/ PARTY/ IMPORTER</b> नोटिसकर्ता/पार्टी/आयातक	M/s Dhamija Trading Co. ( IEC CNKPR4728K) Khasra No. 4373, Barsat Road, Bichpuri Chowk, Narayan Chetna School, 2 Jyoti Colony, Panipat, Haryana 132103
<b>H</b>	<b>DIN/दस्तावेज़ पहचान संख्या</b>	<b>20260171MO0000222D83</b>

1. यहआदेश संबन्धित 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 परअपील 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:

“सीमाशुल्कआयुक्त (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 सं.-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 जापन के साथ इयूटि/ 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.

**Brief facts of the case**

## **Brief Facts of the Case**

1. M/s Dhamija Trading Co., having IEC CNKPR4728K, Khasra No. 4373, Barsat Road, Bichpari Chowk, Narayan Chetna School, 2 Jyoti Colony, Panipat, Haryana 132103 and GST No. 06CNKPR4728K1ZF (hereinafter referred as 'the importer' for brevity) imported goods declared as "6 Bales Jeans Wipers-3273 kgs, 30 Bales Sweaters Wipers and 25 Bales Wipers Textiles Mix 11503 kg vide BL No. MAEU247194470 dated 28.11.2024 from UAE.

1.1 Based on the risk analysis of IGM data, the NCTC identified shipment of the importer, M/s Dhamija Trading Co. to be risky for concealment of prohibited/restricted items. Following the alert, container TCKU7576107 was put on hold for SIIB examination. No CHA or importer came forward to claim the cargo.

2. Investigation was initiated in as per instruction of NCTC Alert and consignment of M/s Dhamija Trading Co was put on hold. However, no one came forward to claim the cargo. Goods were examined under Panchnama dated 03.01.2025. During examination the container was found stuffed with old and used clothes compressed and tied with metal wire to form bales. All the bales were de-stuffed from the container carefully, and stacked in the CFS warehouse. The compressed bales were opened randomly and it was observed that the clothes were old and used, some clothes were tattered at places. There were 61 bales stuffed in the container and the labelling on the packing material reads as "Second Hand Clothes".

2.1 Further, the Chartered Engineer was also called for, to analyze the goods. The CE vide his report dated 23.01.2025 submitted that the '*on the physical and visual examination of the goods, we have found mix different variety of old and used clothes and goods that are valued at Rs. 24,64,200/-.*

2.2 As per Bill of Lading MAEU247194470 dated 28.11.2024, the port of discharge is 'Mundra' and port of loading is 'Jebel Ali' and shipping line is

'Maersk Shipping'. Further, IGM details were checked from ICES system, wherein destination port is 'INPTL6'.

2.3 Importer has not submitted any document mentioning value of the imported goods. Therefore, government empanelled Chartered Engineer Report was also called for. It appears from the Charter Engineer Report vide Ref. no. ABJ:INSP:SIIB:CE:ALFA:24-25:02 dated 23.01.2025, the value goods is Rs. 24,64,200/-.

3. A summons dated 04.02.2025 was issued to the importer to appear on 13.02.2025, for recording of statement under Section 108 of the Customs Act, 1962, in the subject matter. However, nobody appeared on the appointed date. Further, another Summons dated 20.03.2025 & 03.04.2025 were issued to the Importer to appear for recording of statement, but no person appeared again.

3.1 Further, Summons dated 21.03.2025 was issued to Shipping Line M/s Maersk Line India Private Limited, to appear on 28.03.2025, for recording of statement under Section 108 of the Customs Act, 1962.

3.2 Shri Rohit Anjaria, employee of M/s. Maersk Line India Pvt. Ltd., were appeared on 03.04.2025 voluntary, therefore, another Summons dated 03.04.2025 was issued and his statement was recorded on 03.04.2025, under Section 108 of the Customs Act, 1962, wherein he inter-alia stated that:-

- On being asked, what goods have been imported vide BL no. MAEU247194470 dated 28.11.2024, he stated that as declared in the BL no. MAEU247194470 dated 28.11.2024, the goods imported are jeans wipers, sweater wipers and mix textile wipers;
- On being asked, who made the booking for the container no. TCKU7576107, he stated that the booking for the container was made by the supplier in Dubai; that he hereby submitted copy of the booking confirmation copy issued by our Dubai office M/s. Maersk Kanoo Emirates LLC, Dubai;
- On being asked, that the import container no. TCKU7576107 was initially meant for delivery at Mundra port, however an amendment in the BL was sought for change in final place of delivery to ICD Patli, please share details of person/firm who approached, he stated that they

were approached by a Custom clearing agent named M/s. Shivoy Enterprise. A-7, Viskarma Colony Pul, Prahlad Pur, New Delhi- 110044 through e-mail (heeru.shivoy@yahoo.com); that he hereby shared the copy of email and attached letter, received for amendment in the place of delivery.

- He further stated that the importer M/s. Dhamija Trading Co., Panipat paid the necessary amendment fee of Rs. 11,800/- (receipt no. 4110247982 dated 08.01.2025); that the Consignee/importer paid Rs 30,986.80/- against local charges that include Documentation charges, THC (terminal handling charges) and container protection charges (receipt no. 4220242985 dated 16.01.2025) and so they issued NOC for amendment in place of delivery. He further submitted the copy of receipts mentioned above and respective invoices raised by our firm, M/s. Maersk Line India Pvt. Ltd. to M/s. Dhamija Trading Co., Panipat.

3.3 Further, Summons dated 03.04.2025 & 24.04.2025 were issued to M/s. Shivoy Enterprise, New Delhi, under Section 108 of the Customs Act, 1962. However, no one appeared for recording of statement in the subject matter.

### **Classification and Import Policy**

4. It appears that importer has not filed Bill of Entry for imported goods and not classified the goods under any chapter as Customs Tariff of India in any import documents (e.g. Bill of lading). No one came forward to claim the cargo. Therefore, the classification decided on the basis of documents and goods available in the matter. It appears from the examination report dated 03.01.2025 and CE report dated 23.01.2025, that imported goods are 'old and used clothes'. Also, the labelling on the packing material read as "second hand clothes" Therefore, the imported goods are classifiable under CTH 63090000, as under -

### **63090000 WORN CLOTHING AND OTHER WORN ARTICLES**

4.1 As per DGFT Notification no. 07/2004-09 dated 27.10.2004, Import policy of the goods of CTH 63090000 with item description as 'Worn clothing and other worn articles' are put under 'Restricted' category for import. It appears that the importer has imported the restricted goods without valid import licence. Therefore, it appears that goods become prohibited for import

purpose.

4.2 As importer had imported Restricted goods without valid import licence, therefore, the subject goods are liable to be confiscated under Section 111 (d) of the Customs Act, 1962. Therefore, they are liable for penal action as per Section 112(a)(i) of the Act.

4.3 Further, the importer failed to correctly provide description/classification of the goods in import document (Bill of lading) and failed to follow the import policy, hence imported restricted goods without valid licence. Hence, importer has rendered themselves liable for penal action under Section 114AA of the Customs Act, 1962.

## **5 Legal provisions**

**5.1 Section 2(22):** "goods" includes (a) vessels, aircrafts and vehicles; (b) stores; (c) baggage; (d) currency and negotiable instruments; and (e) any other kind of movable property;

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

**5.3 Section 2(25):** "imported goods", means any goods brought into India from a place outside India but does not include goods which have been cleared for home consumption;

**5.4 Section 2(26):** "importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes [any owner, beneficial owner] or any person holding himself out to be the importer;

**5.5 Section 2(33)** of the Customs Act, 1962 'Prohibited goods' means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect, of which the conditions subject to which the goods are permitted to be imported or exported have been complied with.

### **5.6 Section 111. Confiscation of improperly imported goods, etc. -**

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

*(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of*

*being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;*

*(m) any goods which do not correspond, in respect, of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under Section 77 in respect, thereof or in the case of goods under transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54.*

### **5.7 SECTION 112. Penalty for improper importation of goods, etc.-**

Any person, -

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

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

*shall be liable, -*

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

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

### **5.8 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.]*

### **5.9 Section 124. Issue of show cause notice before confiscation of goods, etc.**

*No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person -*

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

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

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

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

### **Outcome of the investigation**

6. From above investigation, it is clear that the subject consignment, put on hold as per NCTC alert, remained unclaimed by the importer, M/s Dhamija Trading Co., as no Bill of entry was filed and also no one appeared for examination or claim the cargo. Further, on examination under panchnama dated 03.01.2025 and CE report dated 23.01.2025, it is confirmed that goods were “old and used clothes”.

6.1 In the absence of import documents providing a declared value, the goods were valued at Rs. 24,64,200/- based on the Chartered Engineer's report dated 23.01.2025.

6.2 Further, the goods found as “old and used clothes” are classifiable

under CTH 63090000 i.e. Worn Clothing and other worn articles. Further, as per DGFT Notification no. 07/2004-09 dated 27.10.2004, the goods' Worn clothing' comes under "restricted" category. The importer failed to file a Bill of Entry or provide correct classification/description, and crucially, did not possess a valid license for importing restricted goods. This rendered the goods "prohibited."

6.3 Summons dated 04.02.2025, 20.03.2025 & 03.04.2025 were issued to the importer M/s Dhamija Trading Co., however no one appeared for recording of the statement.

6.4 Further, Summons dated 21.03.2025 & 03.04.2025 were issued to Shipping Line M/s. Maersk Line India Pvt. Ltd., and accordingly statement of Shri Rohit Anjaria, employee of M/s. Maersk Line India Pvt. Ltd, was recorded on 03.04.2025. From the documents submitted by Shri Rohit Anjaria, it is clear that on request letter dated 06.01.2025 of the supplier M/s. MS Group FZC and letter dated 06.01.2025 of the importer M/s. Dhamija Trading Co., to amend the destination from 'Mundra' to 'ICD Patli' in IGM, they issued NOC from IGM Amendment. Further, M/s. Shivoy Enterprise, New delhi, approached for the said amendment in IGM.

6.5 The subject consignment which were initially destined to Mundra Port, were place on hold and examined under panchnama dated 03.01.2025, thereafter, the importer made IGM amendment to amend destination port from 'Mundra' to 'ICD Patli'.

6.6 Further, Summons dated 03.04.2025 & 24.04.2025 were issued to M/s. Shivoy Enterprise, New Delhi, under Section 108 of the Customs Act, 1962. However, no one appeared for recording of statement in the subject matter.

6.7 In view of the above investigation, as the imported goods are restricted as per import policy and without a valid import license goods become prohibited. Also, the goods found during examination are "old & used clothes" the same was not declared in the Bill of lading. Therefore, the imported goods are liable for confiscation under Section 111(m) and 111(d) of the Customs Act, 1962. Hence, importer M/s Dhamija Trading Co. rendered themselves liable for penal action under Section 112 (a)(i) and 114AA of the Customs Act, 1962.

7. Now, therefore, M/s. Dhamija Trading Co. (CNKPR4728K), Khasra No.4373, Barsat Road, Bichpari Chowk, Narayan Chetna School, 2 Jyoti Colony, Panipat, Haryana, 132103, is hereby called upon to show cause within thirty days from the date of receipt of this notice to the Additional Commissioner of Customs, Customs House Mundra, First Floor, Port User Building, Custom House Mundra, Kutch, Gujarat-370421, as to why: -

- (i) The goods found as 'Old and used clothes' should not be classified under the CTH 63090000.
- (ii) the value of the goods should not be determined as Rs. 24,64,200/-, as evaluated by Charter Engineer report dated 23.01.2025.
- (iii) the goods should not be confiscated under Section 111 (d) and (m) of the Customs Act, 1962,
- (iv) Penalty should not be imposed under section 112 (a)(i) of the Customs Act, 1962 on the importer.
- (v) Penalty should not be imposed under section 114AA of the Customs Act, 1962 on the importer.

### **Submissions and Personal Hearing**

8. A personal hearing in the case was fixed on **25.09.2025, 17.10.2025 and 17.12.2025**, but none appeared on behalf of the importer on the scheduled date.

### **Discussion and Findings**

9. I find that the principles of natural justice have been duly complied with in this case. Personal hearing in the case was scheduled on multiple dates, but the importer did not appear. In view of this, sufficient opportunity was provided to the importer, and the case is being decided on the basis of the available records and submissions on record. Therefore, I proceed further to decide the case on merits.

9.1 I have carefully gone through the case records, the Show Cause Notice, and the submissions on record. On examination of the facts and circumstances, I find the following key issues arise for determination in the present case:

- (i) Whether the goods found as 'Old and used clothes' should be classified under the CTH 63090000.
- (ii) Whether the value of the goods should be determined as Rs. 24,64,200/-, as evaluated by Charter Engineer report dated 23.01.2025.
- (iii) Whether the goods should be confiscated under Section 111 (d) and (m) of the Customs Act, 1962,
- (iv) Whether the penalty should be imposed under section 112 (a)(i) of the Customs Act, 1962 on the importer.
- (v) Whether the penalty should be imposed under section 114AA of the Customs Act, 1962 on the importer.

10. After deciding the key issues to be determined, I proceed further to discuss the case in detail.

10.1 I find that the investigation was initiated based on an alert from the National Customs Targeting Centre (NCTC), which identified the shipment as risky for potential concealment of prohibited or restricted items. The container TCKU7576107, arriving under Bill of Lading No. MAEU247194470 dated 28.11.2024 from Jebel Ali, UAE, was placed on hold for Special Intelligence and Investigation Branch (SIIB) examination. Notably, no Customs House Agent (CHA) or representative of the importer, M/s. Dhamija Trading Co., came forward to claim the cargo or file a Bill of Entry, despite the consignment's arrival at Mundra Port. This unclaimed status further raised suspicions, leading to a detailed examination under Panchnama dated 03.01.2025.

10.2 During the examination conducted on 03.01.2025 in the presence of independent witnesses, the container was de-stuffed at the Container Freight Station (CFS) warehouse. The goods were found to consist of 61 bales of compressed clothing items, tied with metal wires. Random opening of bales revealed old and used clothes, some of which were tattered and worn out. The labelling on the packing material explicitly read "Second Hand Clothes," confirming the nature of the goods as second-hand or worn articles.

10.3 To further ascertain the nature and value of the goods, a government-empANELLED Chartered Engineer (CE) was engaged. The CE's report dated 23.01.2025, based on physical and visual inspection, described the goods as a "mix different variety of old and used clothes" valued at Rs. 24,64,200/-. This valuation was determined in the absence of any importer-provided documents, relying on market rates for similar second-hand clothing imports. The report emphasized the worn-out quality, with no evidence of the goods being industrial wipers as declared. This independent assessment corroborated the Panchnama findings, establishing the goods as old and used clothing rather than purpose-specific wipers.

10.4 A comparison between the declared details in the Bill of Lading and the actual findings reveals significant mismatches. The Bill of Lading declared the goods as "6 Bales Jeans Wipers-3273 kgs, 30 Bales Sweaters Wipers and 25 Bales Wipers Textiles Mix 11503 kg," totaling 27,280 kgs across 61 bales. However, the examination and CE report confirmed all 61 bales contained old and used clothes, not specialized wipers. The declared weights for individual categories were inconsistent internally, as the sum of specified weights (3,273 kg + 11,503 kg) does not account for the full 27,280 kg, suggesting incomplete or erroneous declaration. The quality was declared as wipers (implying rags or cleaning clothes), but the goods were intact wearable clothing items, some tattered but not processed into wipers. No samples were sent for forensic testing, as the visual and physical examination sufficed to establish the mismatch, but the labelling as "Second Hand Clothes" provided direct evidence against the declaration.

The following table summarizes the key discrepancies:

<b>Aspect</b>	<b>Declared in Bill of Lading</b>	<b>Actual Findings from Examination and CE Report</b>
Description	Jeans Wipers, Sweaters Wipers, Textiles Mix Wipers	Old and used clothes (mixed varieties, second-hand)
Quantity	61 bales (6 + 30 + 25)	61 bales confirmed, but contents

<b>Aspect</b>	<b>Declared in Bill of Lading</b>	<b>Actual Findings from Examination and CE Report</b>
		mismatched
Weight	27,280 kg (partial breakdowns: 3,273 kg + 11,503 kg)	Approximately 27,280 kg (no discrepancy in total weight, but category weights inconsistent)
Quality/Condition	Implied as new or processed wipers	Worn, tattered at places, second-hand clothing
Value	Not declared	Rs. 24,64,200/- (based on market valuation for used clothes)

10.5 Regarding classification, the goods do not correspond to any standard tariff heading for wipers but align with CTH 63090000 - "Worn Clothing and Other Worn Articles." This heading covers second-hand clothes, as per the Customs Tariff Act. The import policy under DGFT Notification No. 07/2004-09 dated 27.10.2004 places such items in the 'Restricted' category, requiring a valid import license from the DGFT. No such license was produced or referenced by the importer, and checks with DGFT databases (via NIDB alerts) confirmed no authorization for this shipment. The country of origin, UAE, is a common transshipment point for used clothing from various sources, but no certificates of origin were provided, raising potential issues with re-exports of restricted goods.

10.6 Evidence of deliberate misdeclaration is established through multiple strands. The importer did not file a Bill of Entry, which is mandatory under Section 46 of the Customs Act, 1962, for declaring accurate details. Summons issued to the importer on 04.02.2025, 20.03.2025, and 03.04.2025 went unresponded, with no appearance for statement recording under Section 108. This non-cooperation suggests awareness of irregularities. Further, the statement of Shri Rohit Anjaria from M/s. Maersk Line India Pvt. Ltd., recorded on 03.04.2025, revealed that the importer paid amendment fees (Rs. 11,800/- on 08.01.2025) and local charges (Rs. 30,986.80/- on 16.01.2025) to change the destination from Mundra to ICD

Patli after the container was held and examined on 03.01.2025. This post-examination amendment attempt, facilitated through M/s. Shivoy Enterprise (who also ignored summons dated 03.04.2025 and 24.04.2025), indicates an effort to divert the goods away from scrutiny at Mundra.

10.7 Additional reliance is placed on the IGM data from the ICES system, which initially listed Mundra (INMUN1) as the port of discharge, later amended to ICD Patli (INPTL6). The supplier, M/s. MS Group FZC in Dubai, booked the container, but no direct communication or invoices from them were provided by the importer. Past import behavior of M/s. Dhamija Trading Co. was reviewed via DGOV/NIDB alerts, showing no prior imports of similar goods, which could indicate a first-time attempt at misdeclaration. While no brand confirmation or forensic tests (e.g., fabric analysis) were conducted due to the straightforward nature of the goods, the cumulative evidence from Panchnama, CE report, statements, and unclaimed status solidly establishes intent to misdeclare to evade restrictions.

10.8 The investigation also considered potential linkages to broader patterns, such as smuggling of used clothing under the guise of industrial rags, a known modus operandi flagged in NCTC alerts. The goods' packaging in compressed bales with metal ties is typical for bulk used clothing shipments, not specialized wipers. No evidence of tampering with the container seal was found, but the misdeclaration in the Bill of Lading itself points to pre-shipment planning. The importer's GST and IEC details (06CNKPR4728K1ZF and CNKPR4728K) were verified, confirming their registration, but no supporting import documents like invoices, packing lists, or contracts were submitted, further highlighting the lack of transparency.

10.9 I find that the goods imported under the present shipment found mis-declared in respect of description, classification, valuation and other particulars during the examination of the goods. I find that the goods were found mis-declared in terms of classification, description, valuation, import policy etc. and items found during the examination were found to be not declared in the import documents. The importer during the investigation has

not disputed the findings of the investigation. Goods declared in the Bill of Lading and actual goods found during the examination of the goods are already mentioned in foregoing paras and there is no need to repeat them here for the sake of brevity. The above findings clearly establish that the importer failed to make a true and correct declaration of the imported goods as mandated under Section 46 of the Customs Act, 1962.

11. I find that the importer, M/s. Dhamija Trading Co., did not file a Bill of Entry and thus did not declare any specific Customs Tariff Heading (CTH) for the imported goods. However, the description in the Bill of Lading as "Jeans Wipers, Sweaters Wipers, and Wipers Textiles Mix" implies an attempt to classify the goods as rags or wiping clothes, which would typically fall under CTH 63101000 (Used or new rags, scrap twine, cordage, rope and cables and worn out articles of twine, cordage, rope or cables, of textile materials - Sorted). This heading covers mutilated or cut textile materials intended for industrial cleaning or wiping purposes. In contrast, the Show Cause Notice proposes classification under CTH 63090000 (Worn clothing and other worn articles), based on the physical examination revealing old and used intact clothing items, not processed into rags. This discrepancy forms the basis of a classification dispute, as the declared description does not align with the actual nature of the goods, which are second-hand clothes showing signs of wear but still suitable for use as apparel rather than as disposable wipers.

11.2 The classification of goods under the Customs Tariff Act, 1975, is governed by the General Rules for the Interpretation (GIR) of the Harmonized System, as adopted in the First Schedule to the Act. GIR 1 mandates that classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes, with titles of Sections, Chapters, and Sub-Chapters used only for ease of reference. Chapter 63 of the Customs Tariff, which covers "Other made up textile articles; sets; worn clothing and worn textile articles; rags," includes specific Notes that are directly applicable. Note 3 to Chapter 63 stipulates that Heading 6309 applies only to articles of textile materials showing signs of appreciable wear, such as clothing, clothing accessories, blankets, household linen, and articles for

interior furnishing, typically imported in bulk, bales, sacks, or similar packing. Note 4 further clarifies that Heading 6310 covers used or new rags, which are textile fabrics cut into pieces and no longer suitable for their original purpose without significant processing. GIR 2(a) extends classification to incomplete or unfinished articles as if they were complete, but here it is not directly relevant as the goods are finished items. GIR 3(a) applies the rule of specificity, where the heading providing the most specific description (worn clothing under 6309 vs. general rags under 6310) shall be preferred. In this case, the specific characteristics of the goods—intact, wearable, and labeled as "Second Hand Clothes"—align more precisely with 6309, overriding any implied general classification as wipers.

11.3 In view of above, I find that the implied declared classification under CTH 63101000 is incorrect because the goods, as established by the Panchnama dated 03.01.2025 and the Chartered Engineer's report dated 23.01.2025, are not mutilated rags or processed wipers but intact old and used clothing items, some tattered yet suitable for wear after cleaning, packaged in bales labeled "Second Hand Clothes." This does not meet the criteria for 6310, which requires goods to be cut or scrapped beyond use as apparel. The proposed CTH 63090000 is correct, as it precisely covers worn textile articles showing appreciable wear, imported in bulk, in accordance with GIR 1, Chapter Note 3, and HSN Explanatory Notes. The importer's failure to provide evidence of mutilation or processing further confirms this classification, rendering the goods restricted under DGFT Notification No. 07/2004-09 without a valid license.

12. In the absence of a filed Bill of Entry, the importer did not declare any value for the goods, as noted in para 10.4. The SCN proposes a value of Rs. 24,64,200/-, determined solely based on the Chartered Engineer's (CE) report dated 23.01.2025 (RUD-3), which was obtained due to the lack of supporting documents such as invoices or payment records from the importer.

12.1 The valuation of imported goods is governed by Section 14 of the Customs Act, 1962, read with the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR, 2007). Rule 3 of CVR, 2007, provides that the value shall be the transaction value, adjusted in accordance with Rule 10, where such value is available and acceptable. However, no transaction value could be established here, as the importer failed to provide any evidence of purchase price, commercial invoice, or payment details, rendering Rule 3 inapplicable.

12.2 Subsequent rules under CVR, 2007, were considered sequentially. Rules 4 (transaction value of identical goods) and 5 (transaction value of similar goods) require contemporaneous import data for comparison, but no such NIDB data or evidence of identical/similar imports was referenced in the investigation or Show Cause, as the goods remained unclaimed and no comparative imports were identified. Rule 6 and Rule 7 are not feasible without cost or production data, which were unavailable. Rule 8 allows flexibility but must follow the principles of the earlier rules. Ultimately, Rule 9 (residual method) was applied, permitting valuation based on reasonable means consistent with GATT principles, including expert opinion. The CE's report, derived from physical inspection and market rates for old and used clothing, aligns with this residual approach, as corroborated in paras 10.3 and 10.4.

12.3 I find that the declared value (effectively nil due to non-declaration) is rejected under Rule 12 of CVR, 2007, on grounds of incompleteness and lack of supporting documents. The assessed value of Rs. 24,64,200/- is correct and reasonable, based on the CE's expert assessment of market rates for similar second-hand clothing, consistent with the established nature of the goods under CTH 63090000 (as discussed in para 11.4). This valuation stands unchallenged by the importer.

13. The Show Cause Notice alleges that the imported goods are liable for confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962. In this regard, I find that Section 111 of the Customs Act, 1962 defines the

confiscation of improperly imported goods. The relevant provisions are reproduced below:

*(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;*

*(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54;*

13.1 In view of the facts and material evidence on record, as discussed in paras 10.1 to 10.9, it is clearly established that the goods imported in the present shipment have been mis-declared in respect of description, classification, valuation, and other material particulars. Although no Bill of Entry was filed by the importer, the declaration in the Bill of Lading and IGM constitutes the import declaration for the purpose of assessment and clearance. The goods were intended for importation into India, as evidenced by the importer's payment of amendment fees and local charges to facilitate delivery, until the container was held for examination.

13.2 I find that the goods, correctly classifiable under CTH 63090000 as "Worn Clothing and Other Worn Articles" (as held in paras 11.1 to 11.3), fall under the 'Restricted' category as per the prevailing Import Policy under Chapter 63 of ITC(HS), 2022 (aligned with DGFT Notification No. 07/2004-09 dated 27.10.2004 and subsequent policies). Import of such items requires a specific import license from DGFT, which was neither produced nor evidenced in the records. No authorization was found in DGFT/NIDB databases, as noted in para 10.5. Consequently, the import was contrary to the prohibition imposed under the Foreign Trade (Development and Regulation) Act, 1992, rendering the goods prohibited for importation in the

absence of a valid license. Therefore, the goods are liable to confiscation under Section 111(d) of the Customs Act, 1962.

13.3 Further, the mis-declaration in the Bill of Lading in respect of description (declared as wipers instead of old and used clothes), quality/condition, and implied classification brings the goods within the ambit of Section 111(m) of the Customs Act, 1962, as the goods do not correspond in material particulars with the import declaration. The valuation could not be based on any declared transaction value, leading to adoption of the CE-assessed value (as held in paras 12.1 to 12.3), further establishing non-correspondence in valuation particulars.

13.4 Accordingly, I hold that the imported goods, consisting of 61 bales of old and used clothes valued at Rs. 24,64,200/-, are liable for confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962.

14. With regard to the penalty, from the above discussions in paras 10.1 to 13.4, it is evident that the importer has mis-declared the goods in respect of description, classification, valuation, and other particulars. The goods, being old and used clothing classifiable under CTH 63090000, are restricted for import under the prevailing Foreign Trade Policy, requiring a specific license which was not possessed by the importer. Thus, by these acts and omissions, including non-filing of Bill of Entry, non-response to summons, and attempt to amend destination post-examination, the importer has rendered the subject goods liable for confiscation and also rendered themselves liable for penal action under the provisions of Section 112(a)(i) of the Customs Act, 1962.

14.1 In respect of the restricted goods imported without valid license (thereby rendering them prohibited), I find that the importer, M/s. Dhamija Trading Co., is liable for penalty under Section 112(a)(i) of the Customs Act, 1962.

14.2 As regards the penalty on the importer under Section 114AA of the Customs Act, 1962 is concerned, Section 114AA provides for penal action for

use of false or incorrect material in import declarations or documents. From the investigation and material on record, including the mis-declaration in the Bill of Lading (as detailed in paras 10.4, 10.6, and 10.9), it is observed that the importer has knowingly and intentionally caused the use of import documents (Bill of Lading and related declarations) which were false or incorrect in material particulars such as description (wipers instead of old and used clothes), quality/condition, and classification. The non-cooperation during investigation further indicates mala-fide intent to evade import restrictions. Therefore, the importer is liable to penalty under Section 114AA of the Customs Act, 1962.

15. As the impugned goods have been found liable to confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962 (as discussed in paras 13 to 13.4), it becomes necessary to examine whether redemption fine under Section 125 of the said Act is imposable in lieu of confiscation. The statutory provision reads as under:

*“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.”*

15.1 A plain reading of the above provision reveals that the imposition of redemption fine serves as an alternative to confiscation, providing the owner of the goods an opportunity to redeem them on payment of a fine. The use of "may" for goods whose import is prohibited confers discretion on the adjudicating authority, while "shall" makes it mandatory for non-prohibited goods.

15.2 In the instant case, the goods are restricted under the Foreign Trade Policy for CTH 63090000 (Worn Clothing and Other Worn Articles), requiring a specific import license from DGFT. In the absence of such license, they are treated as prohibited for importation purposes, attracting confiscation under Section 111(d).

15.4 I find that there is no request from the importer/owner for redemption of the goods even for re-export purpose on payment of redemption fine, offering an option to pay fine for re-export purpose in lieu of confiscation would serve no practical purpose and would be an empty formality. Following the principles of natural justice and purposive interpretation of Section 125(1), where the party concerned has not sought the benefit of redemption and has effectively abandoned any claim over the goods by not opting for the same, the adjudicating authority is not obliged to extend the option mechanically.

15.5 Accordingly, as discussed above, as the goods are prohibited, I find goods covered under Bill of Lading No. MAEU247194470 dated 28.11.2024, having re-determined assessable value of Rs. 24,64,200/- are liable for absolute confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962. No option to pay redemption fine in lieu of confiscation is extended, and no facility for re-export is offered.

16. In view of the above findings, I conclude that the importer mis-declared the goods in respect of description, quality/condition, classification, and other material particulars, and imported restricted goods without a valid DGFT license (thereby rendering them prohibited for importation), rendering the goods liable to confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962, and making the importer liable to penalty under Section 112(a)(i) and Section 114AA of the Customs Act, 1962. Further, goods are absolutely confiscated with no option of re-export.

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

**Order**

(i) I order that the imported goods covered under Bill of Lading No. MAEU247194470 dated 28.11.2024 (Container No. TCKU7576107/40 Feet) are classifiable under CTH 63090000 of the Customs Tariff Act, 1975.

(ii) I hold that the value of the imported goods is determined as Rs. 24,64,200/- (Rupees Twenty Four Lakh Sixty Four Thousand Two Hundred only) in terms of the Chartered Engineer's report dated 23.01.2025, read with Section 14 of the Customs Act, 1962 and the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

(iii) I order for absolute confiscation of the imported goods covered under Bill of Lading No. MAEU247194470 dated 28.11.2024, having assessed value of Rs. 24,64,200/- (Rupees Twenty-Four Lakh Sixty-Four Thousand Two Hundred only), under Sections 111(d) and 111(m) of the Customs Act, 1962.

(iv) I impose a penalty of Rs.6,00,000/- (Rupees Six Lakh only) upon M/s. Dhamija Trading Co. under Section 112(a)(i) of the Customs Act, 1962.

(v) I impose a penalty of Rs. 50,000/- (Rupees Fifty Thousand only) upon M/s. Dhamija Trading Co. under Section 114AA of the Customs Act, 1962.

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

Additional Commissioner,  
Customs House, Mundra

To,  
M/s. Dhamija Trading Co. (CNKPR4728K),  
Khasra No.4373, Barsat Road, Bichpuri Chowk,

Narayan Chetna School, 2 Jyoti Colony,  
Panipat, Haryana, 132103

Copy to:-

1. The Dy. Commissioner of Customs, SIIB, Mundra
2. The Dy. Commissioner of Customs, EDI, Mundra
3. Guard File