

Outward No.-4399

		<p style="text-align: center;"><b>कार्यालय: प्रधान आयुक्त सीमा शुल्क, मुन्द्रा,</b>  <b>सीमा शुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421</b></p> <p style="text-align: center;"><b>OFFICE OF THE COMMISSIONER OF CUSTOMS, CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT- 370421.</b></p>
<b>A</b>	<b>FILE NO.</b> फ़ाइल संख्या	CUS/APR/INV/530/2025-Gr 5-6-O/o Pr Commr-Cus-Mundra
<b>B</b>	<b>OIO NO.</b> आदेश संख्या	MCH/ADC/ZDC/242/2025-26
<b>C</b>	<b>PASSED BY</b> जारीकर्ता	Dipak Zala, Additional Commissioner of Customs/अपर आयुक्त सीमा शुल्क, Custom House, Mundra/कस्टम हाउस, मुन्द्रा।
<b>D</b>	<b>DATE OF ORDER</b> आदेश की तारीख	10.09.2025
<b>E</b>	<b>DATE OF ISSUE</b> जारी करने की तिथि	10.09.2025
<b>F</b>	<b>SCN No. &amp; Date</b> कारण बताओ नोटिस क्रमांक	Waived.
<b>G</b>	<b>NOTICEE/ PARTY/ IMPORTER</b> नोटिसकर्ता/पार्टी/आयातक	M/s. Hindustan Overseas (IEC: 0516928678)
<b>H</b>	<b>DIN/दस्तावेज़ पहचान संख्या</b>	<b>20250971MO0000924149</b>

1. यहआदेश 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 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 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.

#### **BRIEF FACTS OF THE CASE**

M/s. Hindustan Overseas (IEC: 0516928678) (hereinafter referred to as 'the importer' for the sake of brevity) having address at H.NO.-61 KH. NO.-11/17/1 & 11/24, T-BLK, ARJUN NAGAR, NIHAL VIHAR, NANGLOI, WEST DELHI, NEW DELHI-110041, had filed Bill of Entry (for SEZ Import Z-Type) No. 2797292 dtd. 21.06.2025 for import of the following declared goods weighing 24993 Kgs, (G.Wt.) 1492 CTN, through Container No. BSIU8494191:

**Table-A**

Exchange Rate: 1 USD = 87.65 INR

As per Bill of Entry (for SEZ Import Z Type) No. 2797292 dtd. 21.06.2025							
Item Sr. No. in the BE	CTH	Description of Goods	Unit Price (in USD)	Quantity	Amount (in USD)	Assessable Value (inRs.)	Duty (in Rs.)
1	94051900	LED LIGHTING CHAINS (R-41113859)	3.5/DOZ	4147.50 DOZ	14516.25	12,72,349/-	5,59,325/-

2. On the basis of Alert received for the subject consignment, container no. BSIU8494191 was put on hold by SIIB, Custom House, Mundra for 100% examination. Subject consignment was examined by SIIB, Custom House, Mundra at M/s. OWS Warehouse Services LLP (A Unit in Adani Port SEZ, Mundra) on 03.07.2025 in the presence of Shri Anil Kumar, Operation Executive, M/s OWS Warehouse Services LLP, Mundra and Shri Harshit Tiwari authorized representative of the Importer. Shri Harshit Tiwari provided relevant import documents i.e. BE, BL, BIS Related Documents, Purchase Invoice, Packing list, Weight Slip and other related documents. Net Weight of the Cargo on Weight Slip is 24760 Kg and Cargo Gross Weight in BE shows 24993 Kgs.

**2.1.** Container no. and seal no. were verified and thereafter, seal cutting was allowed and goods were 100% destuffed from the containers and goods were placed in open area in the warehouse M/s OWS Warehouse Services LLP.

**2.2.** On visual inspection of the goods after destuffing it was found that LED Lighting Chains (with different colors and length) in small Boxes were stuffed in White Color Corrugated boxes having description of the model of LED Lighting Chains, Model No, QTY i.e. No. of Pcs with brand name Hexcilia, R-41113859

made in P.R.C (People's Republic of China). On opening of White Color Corrugated boxes it was found that white color corrugated boxes were further stuffed with 50/40/30/20 small boxes. On further opening of small boxes, it was found that small boxes were having LED Lighting Chains of majorly white/black color with minute LED bulbs of different colors and also having small white/black remote/controller of lighting chains. During Examinations goods were found as below :-

**Table-B**

<b>S.N o</b>	<b>Description of packages</b>	<b>Description of Goods</b>	<b>Goods Found During Examination</b>	<b>No. of Carto ns</b>	<b>No of Quanti ty in One Carton</b>	<b>Total LED Chains/P cs</b>
1	Model No CL-109	LED Lighting Chains	LED Lighting Chains	91	50	4550
2	Model No CL-140	LED Lighting Chains	LED Lighting Chains	537	40	21480
3	Model No CL-180	LED Lighting Chains	LED Lighting Chains	646	30	19380
4	Model No CL-200	LED Lighting Chains	LED Lighting Chains	218	20	4360
		Total		1492		49,770

**3.** In view of the examination conducted, goods appear to be as per declaration. Further, no quantity (in dozens) mis-match has been found and declared CTH appear to be appropriate and import policy for the declared goods is free. However, value of the goods appears to be low given the quality of the goods. Hence, value declared by the importer does not appear to be true transaction value under the provisions of Section 14 of the Customs Act, 1962 read with the provisions of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR, 2007) and thus, the same is liable to be rejected in terms of Rule 12 of CVR, 2007.

**4. Rejection of transaction value of the imported goods and determination of the value of the import goods**

**4.1.** Since the value of goods declared by importer in the subject Bill of Entry did not appear to be the true transaction value under the provisions of Section 14 of the Customs Act, 1962 read with the provisions of the CVR, 2007 and thus, the same is liable to be rejected in terms of Rule 12 of CVR, 2007.

**4.2.** As per Rule 3(4) of CVR, 2007, if the value cannot be determined under the provisions of sub-rule (1), the value shall be determined by proceeding sequentially through Rule 4 to 9. The subject consignment comprises unbranded items of China origin and in absence of credible data of import of similar/identical goods due to upper quality of goods and other constraints, the value of these goods cannot be determined under Rule 4 to 8 of CVR, 2007. Hence, the value is to be determined under Rule 9 (Residual method) of CVR, 2007 which is reproduced as under:

**“9. Residual method.-**

(1) *Subject to the provisions of rule 3, where the value of imported goods cannot be determined under the provisions of any of the preceding rules, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules and on the basis of data available in India;*

*Provided that the value so determined shall not exceed the price at which such or like goods are ordinarily sold or offered for sale for delivery at the time and place of importation in the course of international trade, when the seller or buyer has no interest in the business of other and price is the sole consideration for the sale or offer for sale.*

(2) *No value shall be determined under the provisions of" this rule on the basis of-*

- (i) the selling price in India of the goods produced in India;*
- (ii) a system which provides for the acceptance for customs purposes of the highest of the two alternative values;*
- (iii) the price of the goods on the domestic market of the country of exportation;*
- (iv) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of rule 8;*
- (v) the price of the goods for the export to a country other than India;*
- (vi) minimum customs values; or*
- (vii) arbitrary or fictitious values."*

**4.3.** Therefore, opinion of the Empanelled Chartered Engineer Er. Ajayraj sinh B. Jhala, was sought for valuation purpose. The Chartered Engineer vide CE Opinion Certificate Ref:- ABJ:INSP:CE:SIIB:HIN:25-26:04 dated 04.08.2025 has provided the valuation of the declared goods as detailed below:

**Table-C**  
**(Valuation Table by CE)**

Sr. No.	Description of Goods - As found after examination - As per test report.	Total Quantity of goods in PCS - As found after examination (in PCS)	Per Unit Declared C.I.F. Bill Of Entry Value of the Goods in USD	Total Declared C.I.F. Bill Of Entry Value of the Goods in USD	Per Unit Average Suggestive C.I.F. Value of the Goods in bulk quantity in USD (Approx.)	Total Average Suggestive C.I.F. Value of the Goods in bulk quantity in USD (Approx.)
1	LED LIGHTING CHAINS (MODEL NO - CL 109)	4550		14516.25 USD	0.32 USD	1456.00 USD
2	LED LIGHTING CHAINS (MODEL NO - CL 140)	21480			0.35 USD	7518.00 USD
3	LED LIGHTING CHAINS (MODEL NO - CL 180)	19380			0.37 USD	7170.60 USD
4	LED LIGHTING CHAINS (MODEL NO - CL 200)	4360	3.5/DOZEN		0.38 USD	1456.80 USD
<b>TOTAL AVERAGE :</b>		49770 PCS		14516.25 USD		20517.86 USD

**4.4.** The above said CE Opinion Certificate was shared with the importer and the same has been accepted by them vide their email dated 29.08.2025 and they have further submitted that they don't want any Show Cause Notice and Personal Hearing in the matter.

**5.** As per the above said CE Opinion Certificate, Total Suggestive CIF value of

the imported goods is 20517.86 USD (Rs. 17,98,390/-) instead of declared assessable value of 14516.25 USD (Rs. 12,72,349/-) at the exchange rate of 1 USD=87.65 INR. Hence, there is difference of Rs. 5,26,041/- between the re-determined assessable value and the declared assessable value.

**5.1.** In view of above said CE Opinion Certificate, total duty payable in respect of goods covered under the subject Bill of Entry comes to Rs. 7,90,573/- as calculated below:

**Table-D**

Sr. No.	Item Description	Total Re-determined Assessable Value (in Rs.)	BCD @20% (in Rs.)	SWS @1% (in Rs.)	IGST @18% (in Rs.)	Total Re-determined Duty (in Rs.)	Declared Duty (in Rs.)	Differential Duty (in Rs.)
1	LED Lighting Chains	17,98,390/-	3,59,678/-	35,968/-	3,94,927/-	7,90,573/-	5,59,325/-	2,31,248/-

**6.** Further, during the examination, the authorized representative of the importer produced BIS Certificate and its renewal issued in the name of M/s. Linhai Shuangping Lightings Co. Ltd., Zhejiang Province, China for the product: LED Lighting Chains and Authorization Letter from the supplier mentioning that M/s. Linhai Shuangping Lightings Co. Ltd., Zhejiang Province, China have manufactured goods on behalf of the above said supplier. It is mentioned in the above said BIS Certificate that Mr. Alok Gupta, New Delhi, is the authorized Indian representative of M/s. Linhai Shuangping Lightings Co. Ltd., Zhejiang Province, China. A letter dated 19.07.2025 and email dated 04.08.2025 was sent to Mr. Alok Gupta to verify whether the goods have been manufactured by the above said BIS holder. Mr. Alok Gupta vide his email dated 04.08.2025 has confirmed that the goods imported vide above Bill of Entry has been manufactured by the above said BIS holder.

**7.** In view of the foregoing paras and investigation conducted in the matter, it is noticed that the impugned goods viz. LED Lighting Chains have been mis-declared by the importer in terms of valuation. Therefore, it appears that the importer has contravened the provisions of Section 17 and Section 46 of the Customs Act, 1962 in as much as they have failed to make correct and true declaration/information in the subject Bill of Entry. These acts of omission and commission on the part of importer has made the impugned goods having re-determined assessable value of Rs. 17,98,390/- liable for confiscation under Section 111(m) of the Customs Act, 1962 and hence, rendered the importer liable for penal action under Section 112(a)(ii) of the said Act. Furthermore, it appears that by mis-declaring the value of the subject goods under import, the importer has also short declared the duty amounting to Rs. 2,31,248/-.

**7.1.** Further, in terms of Section 46(4) of the Customs Act, 1962, the importer is required to make a declaration as to the truth of the contents of the Bill of Entry submitted for assessment of Customs duty. In the present case, it appears that the importer has tried to clear the goods by way of undervaluation in order to avoid duty on higher assessable value. Hence, it appears that the importer had knowingly involved themselves in the suppression of the material facts and also indulged in mis-statement of facts. These acts of omission and commission on part of the importer have rendered them liable for penalty under Section 114AA of the Customs Act, 1962.

## **8. RELEVANT LEGAL PROVISIONS:**

**(A) RELEVANT PROVISIONS OF THE SEZ ACT, 2005 AND RULES MADE THEREUNDER:**

**SEZ ACT, 2005**

**Section 2. Definitions.**— In this Act, unless the context otherwise requires,

.....  
(o) “import” means—

(i) bringing goods or receiving services, in a Special Economic Zone, by a Unit or Developer from a place outside India by land, sea or air or by any other mode, whether physical or otherwise; or

(ii) receiving goods, or services by a Unit or Developer from another Unit or Developer of the same Special Economic Zone or a different Special Economic Zone;

**Section 21. Single enforcement officer or agency for notified offences.—**

(1) The Central Government may, by notification, specify any act or omission made punishable under any Central Act, as notified offence for the purposes of this Act.

(2) The Central Government may, by general or special order, authorise any officer or agency to be the enforcement officer or agency in respect of any notified offence or offences committed in a Special Economic Zone.

(3) Every officer or agency authorised under sub-section (2) shall have all the corresponding powers of investigation, inspection, search or seizure as is provided under the relevant Central Act in respect of the notified offences.

**Section 22. Investigation, inspection, search or seizure.—**

The agency or officer, specified under section 20 or section 21, may, with prior intimation to the Development Commissioner concerned, carry out the investigation, inspection, search or seizure in the Special Economic Zone or in a Unit if such agency or officer has reasons to believe (reasons to be recorded in writing) that a notified offence has been committed or is likely to be committed in the Special Economic Zone:

Provided that no investigation, inspection, search or seizure shall be carried out in a Special Economic Zone by any agency or officer other than those referred to in sub- section (2) or sub-section (3) of section 21 without prior approval of the Development Commissioner concerned:

Provided further that any officer or agency, if so authorised by the Central Government, may carry out the investigation, inspection, search or seizure in the Special Economic Zone or Unit without prior intimation or approval of the Development Commissioner

**SEZ RULES, 2006**

**Rule 47(5).** Refund, Demand, Adjudication, Review and Appeal with regard to matters relating to authorised operations under Special Economic Zones Act, 2005, transactions, and goods and services related thereto, shall be made by the Jurisdictional Customs and Central Excise Authorities in accordance with the relevant provisions contained in the Customs Act, 1962, the Central Excise Act, 1944, and the Finance Act, 1994 and the rules made there under or the notifications issued there under.

**NOTIFICATION NO. 2665(E) AND 2667(E) DATED 05.08.2016**

**S.O. 2665(E).**—In exercise of the powers conferred by sub-section (1) of section

21 of the Special Economic Zones Act, 2005 (28 of 2005) (hereinafter referred as the Act), the Central Government hereby, notifies the offences contained in the under-mentioned sections of the Customs Act, 1962 (52 of 1962), the Central Excise Act, 1944 (1 of 1944) and the Finance Act, 1994 (32 of 1994) as offences under the Act:-

<b>The Customs Act, 1962</b>	
1.	Section 28, 28AA and 28AAA
2.	Section 74 and 75
3	Section 111
4.	Section 113
5.	Section 115
6.	Section 124
7.	Section 135
8.	Section 104

.....

.....

**S.O. 2667(E).**—In exercise of the powers conferred by section 22 of the Special Economic Zones Act, 2005 (28 of 2005) (hereinafter referred as the Act), the Central Government authorises the jurisdictional Customs Commissioner, in respect of offences under the Customs Act, 1962 (52 of 1962) and Commissioner of Central Excise in respect of offences under the Central Excise Act, 1944 (1 of 1944) and the Finance Act, 1994 (32 of 1994) and notified under the Act, for the reasons to be recorded in writing, to carry out the investigation, inspection, search or seizure in a Special Economic Zone or Unit with prior intimation to the Development Commissioner, concerned.

## **(B) RELEVANT PROVISIONS OF THE CUSTOMS ACT, 1962:**

### **Section 2. Definitions-**

In this Act, unless the context otherwise requires,

**(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;

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

**(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;

**(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;

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

### **Section 11A. Definitions-**

In this Act, unless the context otherwise requires,

**(a)** "illegal import" means the import of any goods in contravention of the provisions of this Act or any other law for the time being in force.

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

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

....

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

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

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

....

**(4)** The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, and other such documents relating to the imported goods as may be prescribed.

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

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

#### **Section 111. Confiscation of improperly imported goods, etc. –** The following goods brought from a place outside India shall be liable to confiscation:-

.....

**(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;

#### **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)** .....

**(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:

**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.

**9. Summary of Investigation Conducted:**

**9.1.** The importer M/s. Hindustan Overseas (IEC: 0516928678) had filed Bill of Entry (for SEZ Import Z-Type) No. 2797292 dtd. 21.06.2025 at APSEZ (INAJM6) for import of goods declared as LED Lighting Chains under CTH: 94051900 (4147.5 Dozens) having declared assessable value of Rs. 12,72,349/- and declared duty of Rs. 5,59,325/-. The assessable value of the subject consignment has been re-determined as Rs. 17,98,390/-on the basis of CE Opinion Certificate dated 04.08.2025 in view of Rule 9 of the CVR, 2007, on which applicable duty comes to Rs. 7,90,573/- as detailed in Table-D above resulting in differential duty of Rs. 2,31,248/-.

**9.2.** The importer has thus contravened Section 17 and Section 46 of the Customs Act, 1962 and the CVR, 2007 in as much as they failed to make correct declarations in the subject Bill of Entry filed by them and correctly assess their duty liability. It further appears that the importer has tried to clear the goods by way of undervaluation in order to avoid duty on higher assessable value. Hence, it appears that the importer had knowingly involved themselves in the suppression of the material facts and also indulged in mis-statement of facts. These acts of omission and commission on the part of importer has made the subject goods having re-determined assessable value of Rs. 10,85,243/- liable for confiscation under Section 111(m) of the Custom Act, 1962 and rendered the importer liable for penal action under Section 112(a)(ii) and 114AA of the said Act.

**10.** The importer M/s. Hindustan Overseas their email dated 29.08.2025 has accepted the valuation report submitted by the CE and also submitted that they don't want any Show Cause Notice and Personal Hearing in the matter.

**11. In view of the above facts, it appears that –**

- i. The declared assessable value of the goods in Bill of Entry (for SEZ Import Z-Type) No. 2797292 dtd. 21.06.2025 i.e. Rs. 12,72,349/- is liable to be rejected under Rule 12 of the CVR, 2007 and the same is required to be re-determined as Rs. 17,98,390/-as opined in the CE Opinion Certificate dated 04.08.2025 in view of Rule 9 of the CVR, 2007;
- ii. The above said Bill of Entry is liable to be re-assessed accordingly under Section 17(4) of the Customs Act, 1962;
- iii. The impugned goods imported by way of undervaluation and having re-determined assessable value of Rs. 17,98,390/-,are in contravention of Section46 of the Customs Act, 1962 and therefore,liable for confiscation under Section 111(m) of the Customs Act, 1962;
- iv. The importer M/s. Hindustan Overseas (IEC: 0510322) is liable for penalty under Section 112(a)(ii) and/or Section 114AA of the Customs Act, 1962.

## **DISCUSSION AND FINDINGS:**

**12.** I have carefully gone through the facts of the case, Investigation Report and noticees submissions both, in written and in person. I observed that the Importer during the investigation already waived the right of Show Cause Notice and personal hearing. I find that the condition of Principles of Natural Justice under Section 122A of the Customs Act, 1962 has been complied. Considering this scenario, I find it appropriate to proceed with the adjudication proceedings in terms of merit of the case.

**13.** I noticed that the Importer had filed Bill of Entry No. 2797292 dtd. 21.06.2025 (Z TYPE) for the clearance of goods as mentioned in Table-A, however the goods were found mis-declared in respect of valuation during the examination of the goods.

**14.1** I find that the goods were mis-declared in respect of the value and the same charges have been accepted by the authorised person of the Noticee during the Investigation. I find that the Importer during the investigation, in principal, agreed with the valuation suggested by the Chartered Engineer. Thus, the declared value cannot be accepted as transaction value and merits rejection in terms of Section 14 of Customs Act, 1962 read with Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. The value is required to be re-determined by sequentially proceeding in terms of Rules 4 to 9 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. I find that Rule 3(1) of Rules 2007 provides that "*subject to rule 12, the value of imported goods shall be the transaction value adjusted in accordance with provisions of rule 10*". Rule 3(4) ibid states that "*if the value cannot be determined under the provisions of sub-rule (1), the value shall be determined by proceeding sequentially through rule 4 to 9 of Custom Valuation Rules, 2007*".

**14.2** I state that "Value" has been defined under Section 2(41) of the Customs Act, 1962 as "Value", in relation to any goods, means the value thereof determined in accordance with the provisions of sub-section (1) or sub-section (2) of section 14".

**14.3** The Section 14 ibid provides, *inter alia*, that the value of the imported goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such their conditions as may be specified in the rules made in this behalf. Further, its proviso provides that such transaction value in the case of imported goods shall include, in addition to the price as aforesaid, any amount paid or payable for costs and services, including commissions and brokerage, engineering, design work, royalties and license fees, costs of transportation to the place of importation, insurance, loading, unloading and handling charges to the extent and in the manner specified in the rules made in this behalf. I find that as per the above provision value of any imported goods is the price actually paid or payable for the goods plus the components of other incidental charges to the extent mentioned in proviso to Section 14 ibid and in the manner specified in the Rules made under Section 14 ibid.

**14.4** I find that Rule 4 (1) (a) of Rules 2007 stipulates determination of value of goods on the basis of value of identical goods. Rule 5, providing for transaction

value of similar goods. I observed that the imported goods were found in different variety, description, specification and quality, so, it was not possible to find and compare the same with other goods having identical/similar description, brand, make, model, quantity and Country of Origin. As the import data extracted with respect to contemporaneous imports was general in nature and contemporaneous data for imports of identical/similar goods was not available/available, therefore, the value cannot be determined under Rules 4 and 5 of CVR, 2007. As per Rule 6 ibid, if the value cannot be determined under Rules 3, 4 and 5 same shall be determined under the provisions of Rule 7 or when same cannot be determined under that rule then under Rule 8. I also noticed that no exact sales values and data required for quantification of the deductions was available, hence, rule 7 cannot be invoked. Further, computed value, as provided under Rule 8, cannot be calculated in the absence of quantifiable data relating to cost of production, manufacture or processing of import goods. In such scenario, I find it appropriate to invoke the provisions of Rule 9 i.e. residual method for determining the value of the impugned import goods. Rule 9 provides for determination of value using reasonable means consistent with the principles and general provisions of these rules.

**14.5** I find that in absence of credible data of import of similar goods and other constraints the value of these goods cannot be determined in terms of Rule 4, 5, 6, 7, 8 of Customs Valuation Rules 2007. Hence, the value is required to be determined in terms of Rule 9 of said rules. Accordingly, goods were examined for the valuation purpose by the Government empanelled Chartered engineer/valuer for determination of the value and description of goods imported under the subject bill of entry. The Chartered Engineer/valuer vide his report ref no. ABJ:INSP:CE:SIIB:HIN:25-26:04 dated 04.08.2025 has suggested the valuation of the goods as per below table:

Sr. No.	Description of Goods - As found after examination - As per test report.	Total Quantity of goods in PCS - As found after examination (in PCS)	Per Unit Declared C.I.F. Bill Of Entry Value of the Goods in USD	Total Declared C.I.F. Bill Of Entry Value of the Goods in USD	Per Unit Average Suggestive C.I.F. Value of the Goods in bulk quantity in USD (Approx.)	Total Average Suggestive C.I.F. Value of the Goods in bulk quantity in USD (Approx.)
1	LED LIGHTING CHAINS (MODEL NO - CL 109)	4550	3.5/DOZEN	14516.25 USD	0.32 USD	1456.00 USD
2	LED LIGHTING CHAINS (MODEL NO - CL 140)	21480			0.35 USD	7518.00 USD
3	LED LIGHTING CHAINS (MODEL NO - CL 180)	19380			0.37 USD	7170.60 USD
4	LED LIGHTING CHAINS (MODEL NO - CL 200)	4360			0.38 USD	1456.80 USD
<b>TOTAL AVERAGE :</b>		49770 PCS		14516.25 USD		20517.86 USD

In view of the above, I find that the valuation as provided by the Chartered Engineer has to be considered as the basis for arriving assessable value of these goods. Therefore, I hold that the declared value in respect to aforementioned goods is liable to be rejected under Rule 12 of the CVR, 2007 and to be re-determined under Section 14 of the Customs Act, 1962 readwith Rule 9 of the CVR, 2007. Thus, I find it appropriate to consider the value suggested by the Chartered Engineer/valuer for the present shipment and the re-determined the same at **Rs. 17,98,390/-, (Rupees Seventeen Lakhs Ninety-Eight Thousand Three Hundred Ninety only).**

## 15. CONFISCATION OF THE GOODS UNDER SECTION 111(m) OF THE CUSTOMS ACT, 1962:

**15.1** It is alleged that the goods are liable for confiscation under Section 111(m) of the Customs Act, 1962. In this regard, I find that as far as confiscation of goods are concerned, Section 111 of the Customs Act, 1962, defines the Confiscation of improperly imported goods. The relevant legal provisions of Section 111 of the Customs Act, 1962 are reproduced below: -

(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;"

**15.2** I find that goods imported in the present shipment have been found mis-declared in respect of valuation. Upon examination it has been found that the declared value did not represent the true transaction value, hence, the doubt was raised upon the declared value. The value suggested during the investigation has been accepted by the authorised representative of the firm during the record of statement. Thus, it is evident that value has not been correctly declared in the import documents and Manifest. Thus, there is no doubt that the goods are liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962.

**15.3.** As the impugned goods are found to be liable for confiscation under Section 111(m) of the Customs Act, 1962, I find it necessary to consider as to whether redemption fine under Section 125 of Customs Act, 1962, is liable to be imposed in lieu of confiscation in respect of the impugned goods. The Section 125 ibid 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 1/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."**

**15.3.1** A plain reading of the above provision shows that imposition of redemption fine is an option in lieu of confiscation. It provides for an opportunity to owner of confiscated goods for release of confiscated goods by paying redemption fine where there is no restriction on policy provision for domestic clearance. Accordingly, I observed that there is no adverse has been detected by the investigating agency other than the valuation angle, hence, an option to the Importer may be given for clearance of the goods for home consumption on payment of redemption fine.

**16.1** From the above, it is evident that the importer has mis-declared the goods in respect of valuation. Thus, by these act, the Importer has rendered the subject goods liable for confiscation and also rendered themselves liable for penalty under Section 112(a) (ii) of the Customs Act, 1962

**16.2** As regards the penalty on the Importer under Section 114AA of the Customs Act, 1962 is concerned, Section 114AA mandates penal action for intentional

usage of false and incorrect material against the offender. From the investigation and other material particulars, it is observed that the Importer has dealt with incorrect documents while filing bill of entry for the said shipment. The Importer had knowingly and intentionally made/signed/used and/or caused to be made/signed/used the import documents and other related documents which were false or incorrect in material particular such as description, value etc., with mala-fide intention, and therefore, the Importer is liable to penalty under Section 114AA of the Customs Act, 1962.

**17.** With respect to the applicability of duty rate mentioned above, I confirm the same and hold that the same should be levied at the time of re-assessment.

**18. In view of foregoing discussion and findings, I pass the following order:**

**ORDER**

- i. I order to reject the declared assessable value of Rs 12,72,349/- and order to re-determine the same as Rs. 17,98,390/-, (Rupees Seventeen Lakhs Ninety-Eight Thousand Three Hundred Ninety only) under Rule 9 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with Section 14 of the Customs Act, 1962. I also order to re-assess the Bill of Entry accordingly.
- ii. I order for confiscation of the goods having assessable value of Rs. 17,98,390/- under Section 111(m) of the Customs Act, 1962. However, I give an option to the Importer to redeem the same on payment of redemption fine of **Rs. 1,80,000/- (Rupees One Lakh Eighty Thousand only)**.
- iii. I impose a penalty of **Rs. 22,000/- (Rupees Twenty Two Thousand only)** upon the Importer under Section 112(a)(ii) of the Customs Act, 1962.
- iv. I impose a penalty of **Rs. 30,000/- (Rupees Thirty Thousand only)** upon the Importer under Section 114AA of the Customs Act, 1962.

**19.** 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. Hindustan Overseas (IEC: 0516928678),  
H.NO.-61 KH. NO.-11/17/1 & 11/24,  
T-BLK, ARJUN NAGAR, NIHAL VIHAR,  
NANGLOI, WEST DELHI, NEW DELHI-110041.

**Copy to:**

1. The Deputy/Assistant Commissioner (SIIB), Customs House, Mundra.
2. The Dy./Asstt. Commissioner (Review Cell), Customs House, Mundra.

3. The Dy./Asstt. Commissioner (RRA/TRC), Customs House, Mundra.