



**OFFICE OF THE PRINCIPAL COMMISSIONER OF
CUSTOMS, CUSTOMS HOUSE, MP & SEZ
MUNDRA, KUTCH-GUJARAT -370421
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A	File No.	CUS/APR/INV/276/2024-Gr.3-O/o Pr. Commr-Cus-Mundra
B	OIO No.	MCH/ADC/AK/67/2024-25
C	Date of Order	11.06.2024
D	Passed by	Arun Kumar, Additional Commissioner, Import Assessment, Custom House, Mundra.
E	SCN/IR No. & Date	CUS/SIIB/47/2024-SIIB Dt. 05.04.2024
F	Noticee / Party / Importer	M/s. Rice Venture, (IEC-ABGFR0717A) Flat No. 301, Bhumi Plus, Khalapur, Khopoli Raigad Maharashtra - 410203
G	DIN	20240671MO0000444CB8

1. The Order – in – Original is granted to concern free of charge.
2. Any person aggrieved by this Order – in – Original may file an appeal under Section 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. 1 to

The Commissioner of Customs (Appeal), MUNDRA,
Office at 7th floor, Mridul Tower, Behind Times of India,
Ashram Road, Ahmedabad-380009
3. Appeal shall be filed within Sixty days from the date of Communication of this Order.
4. Appeal should be accompanied by a Fee of Rs. 5/- (Rupees Five Only) under Court Fees Act it must accompanied by (i) copy of the Appeal, (ii) 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. Proof of payment of duty / interest / fine / penalty / deposit should be attached with the appeal memo.
6. While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respect.
7. 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 or Penalty are in dispute, where penalty alone is in dispute.

*Relevant
Amul
12-6-22
(Amul P. Patel)
(M/F)
8108313034*

1. Brief facts of the Case:

1.1. An intelligence was gathered by the officers of SIIB Section, Custom House, Mundra that the cargo imported under SEZ warehouse Bill of Entry No. 1000144 dated 03.01.2024 (hereinafter referred to as '*the said BE*') filed by M/s. Fast Track CFS Private Limited, Plot No. 3, Block-C, Sector-11, APSEZ Ltd., Mundra-370421, Gujarat for and on behalf of its client M/s. Rise Ventures, Flat No. 301, Bhoomi Plus, Khalapur, Khopoli, Raigad, Maharashtra-410203 holding IEC No: ABGFR0717A (hereinafter referred to as '*the importer*'), through their Customs Broker, M/s. Aum Shipping and Logistic (hereinafter referred to as '*the CB*') at Mundra SEZ port for import of 'Cotton Woven Dyed Fabric' (CTH-52083290) has possible mis-declaration in respect of in respect of quantity and nature, composition & description. Hence, the container no. BMOU5211630 was put on hold for detailed examination of the goods by the SIIB section, Custom House, Mundra in view of the suspicion.

2. Action taken: –

2.1. Based on the above suspicion, examination of the said consignment was carried out by the officers of SIIB section in the presence of representative of the CB. On being asked, the representative of the CB provided copies of the said BE and other import documents viz. Bill of Lading No. 143351891082 dated 14.12.2023, Invoice No. RIL/2324/- 11101 dated 12.12.2023 and concerned Packing List. As per the said BE, the cargo is imported from M/s. Raj International Limited, Hongkong, the declared imported goods is 'Cotton Woven Dyed Fabric' (CTH 52083290). The declared quantity of the imported goods is 600 Bales, gross weight 26571 Kgs, 132855 square meter, total assessable value is Rs. 13,35,990/- and total duty is Rs. 2,21,106/-.

2.2. During the course of examination, CFS weight of the cargo is found as 26570 Kgs which is 1 Kg short from the declared gross weight i.e. 26571 Kgs. Further, during the course of examination, total 600 PKGs of different types of fabric were found stuffed into the said container, which is found 'as declared' in the import documents. The details of those packages found during the course of examination are as under:

S. No.	Code Mentioned on the packing	No. of Packages
1	Morocco	139 corrugated box
2	Jerroti	262 corrugated box

3	IQ-SS24-3647/3650/3688/3691	39 Bales
4	IQ-SS24-3661/3678	74 Bales
5	IQ-SS24-3696/ 3755/ 3756/ 3796/ 3796/3795	67 Bales
6	IQ-SS24-3757/3760	19 Bales
Total Packages		600 Packages

3. Investigations Conducted:-

3.1. During the course of examination, quantity of the imported goods was found as declared in respect of number of PKGs i.e. 600. Further, as per weighment conducted at the warehouse, the weight of imported goods is found 1 Kg short from the declared weight. In view of the same, the first doubt in respect of excess quantity is dispelled. However, on visual examination, actual nature, composition and description of the goods could not be ascertained, therefore, representative samples were drawn and forwarded to the CRCL, Kandla for testing purpose vide Test Memo No. 856 to 861 all dated 19.01.2024 issued from F.No. S/43-149/Fabric/SIIB-B/CHM/2023-24. The CRCL Kandla has reported as under:

- i. TM No. 856 (report dated 01.02.2024): the sample as received is in the form of cut piece of yarn dyed woven fabric. It is made of Polyester textured filament yarn on one side & other side made of Polyester filament yarn twisted with Viscose spun yarn.

GSM (as such) = 141.46
 Polyester = 75.15%
 Viscose = Balance

It is other than Cotton fabric.

- ii. TM No. 857 (report dated 05.02.2024): the sample as received is in the form of cut piece of yarn dyed woven fabric having selvage on both side. It is composed of Polyester multi filament yarns and blended spun yarns of Polyester and Viscose.

GSM (as such) = 197.3
 % of Composition:
 Polyester = 85.26% by wt.
 Viscose = Balance

It is other than Cotton fabric.

(iii) TM No. 858 (report dated 01.02.2024): the sample as received is in the form of cut piece of dyed (brown coloured) woven fabric having selvage on both sides. It is composed of Polyester multi filament together with Lycra on both sides.

GSM (as such) = 219.0

% of Polyester = 96.88% by wt.

% of Lycra = Balance

It is other than Cotton fabric.

(iv) TM No. 859 (report dated 06.02.2024): the sample as received is in the form of cut piece of dyed (green coloured) woven fabric having embroidery design. It is composed of cotton.

GSM (as such) = 112.6

(v) TM No. 860 (report dated 07.02.2024): the sample as received is in the form of a cut piece of maroon coloured net type fabric (selvedge on both sides) having decorative work and plastic sequins. It is composed of Polyester multifilament yarn.

GSM (as such) = 295.13

(vi) TM No. 861 (report dated 02.02.2024): the sample as received is in the form of a cut piece dyed (yellow coloured) woven fabric. It is composed wholly of cotton.

GSM (as such) = 186.5

3.1.1. All the aforementioned test reports were subsequently conveyed to the importer also by SIIB letter dated 12.02.2024 issued from F. No. S/43-149/Fabric/SIIB-B/CHM/2023-24.

3.2. Classification of the imported goods: The test reports received from the CRCL, Kandla as discussed above have been examined with respect to the declaration made by the importer to determine the correct and proper CTH of the imported goods. It is

pertinent to mention that principles for the classification of goods are governed by the Harmonized Commodity Description and Coding System (Harmonized System or HSN) issued by the World Customs Organization, Brussels and the General Rules for Interpretation specified there under. The General Rules for the Interpretation (GIR) specified in the Import Tariff are in accordance with the GIR specified in the HSN. In terms of GIR 3A of the HSN and the import Tariff- 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. Further, GIR 6 of the HSN and the import Tariff specifies that - the classification of goods in the subheadings of a heading shall be determined according to the terms of those sub-headings and any related sub-heading notes.

3.3. TM No. 856: The goods covered under Test Memo Number 856 were found mis-declared in terms of description of the goods as the goods were declared as “Cotton Woven Dyed Fabric”, however, as per test report the goods are other than “Cotton Fabric”. Therefore, the correct Classification of the goods is required to be ascertained. It is apparent that as far as the entries at heading level are concerned, heading 5407 of the Import Tariff specifically include “Woven Fabric of synthetic filament yarn, including woven fabrics obtained from materials of heading 54.04”. Accordingly, impugned goods are appropriately classifiable under the heading 5407. The said Heading covers goods classifiable under the following sub-headings at the single dash (-) level:

- i. Woven fabrics obtained from high tenacity yarn of nylon or other polyamides or of polyesters;
- ii. Woven fabrics obtained from strip or the like;
- iii. Fabrics specified in Note 9 to Section XI;
- iv. Other woven fabrics, containing 85% or more by weight of filaments of nylon or other polyamides;
- v. Other woven fabrics, containing 85% or more by weight of textured polyester filaments;
- vi. Other woven fabrics, containing 85% or more by weight of polyester filaments;

- vii. Other woven fabrics, containing 85% or more by weight of synthetic filaments;
- viii. Other woven fabrics, containing less than 85% by weight of synthetic filaments, mixed mainly or solely with cotton;
- ix. Other woven fabrics.

3.3.1. All the subheadings from (i) to (viii) above has been ruled out as their composition/specifications do not meet the test results and therefore, the merit subheading of the impugned goods appear to be under (ix), i.e. "Other woven fabrics". The relevant Tariff item at the double dash (--) level:

- i. Unbleached or Bleached;
- ii. Dyed;
- iii. Of yarns of different colours;
- iv. Printed.

3.3.2. The sub-heading (i), (iii) & (iv) above have been ruled out and as per test results therefore, the merit subheading of the impugned goods appear to be under (ii), i.e. "Dyed". Therefore, as per test result under TM No. 856 (report dated 01.02.2024), the concerned imported goods appear to be classifiable under CTH 54079200 wherein the applicable rate of duty is 20% or Rs.40 per square meter, whichever is higher (BCD) + 0% (SWS) + 5% (IGST). Hence, it is observed that importer has misclassified the subject goods under CTH 52083290 instead of correct CTH 54079200 with an intention to evade payment of the applicable Customs duty. Consequently, the subject goods are found liable to be assessed at the rate of 20% or Rs.40 per square meter, whichever is higher (BCD) + 0% (SWS) + 5% (IGST). In the detail packing list, quantity of these goods have been declared as 6821.300 KGs and accordingly, net quantity in square meter of these goods keeping the GSM=141.46 as reported by the CRCL lab comes to 48220.69 square meter [= (6821.300/141.46) x 1000].

3.3.3. As per contemporaneous import data available on NIDB, the rate of Woven Fabric of synthetic filament yarn having similar nature, composition and description is ranging from Rs.102.35 to Rs.170.28 per square meter. Accordingly, the assessable value of 48221 square meter of these imported goods is required to be re-determined as Rs.49,35,388/- (= 48220.69 x 102.35) instead of total assessable of Rs.13,35,990/- as declared in the said BE. Accordingly, BCD@40 per square meter comes to Rs.19,28,828/- which is found on higher side of Rs.9,87,078/- i.e. 20% ad-valorem of

Rs.49,35,388/-.

3.4. TM No. 857 and 858: The goods covered under both Test Memo Numbers 857 and 858 were found mis-declared in terms of description of the goods as the goods were declared as “Cotton Woven Dyed Fabric”, however, as per test report the goods are other than “Cotton Fabric”. Therefore, the correct Classification of the goods is required to be ascertained. It is apparent that, as far as the entries at heading level are concerned, heading 5407 of the Import Tariff specifically include “Woven Fabric of synthetic filament yarn, including woven fabrics obtained from materials of heading 54.04”, accordingly impugned goods are appropriately classifiable under the heading 5407. The said Heading covers goods classifiable under the following sub-headings at the single dash (-) level:

- i. Woven fabrics obtained from high tenacity yarn of nylon or other polyamides or of polyesters;
- ii. Woven fabrics obtained from strip or the like;
- iii. Fabrics specified in Note 9 to Section XI;
- iv. Other woven fabrics, containing 85% or more by weight of filaments of nylon or other polyamides;
- v. Other woven fabrics, containing 85% or more by weight of textured polyester filaments;
- vi. Other woven fabrics, containing 85% or more by weight of polyester filaments;
- vii. Other woven fabrics, containing 85% or more by weight of synthetic filaments;
- viii. Other woven fabrics, containing less than 85% by weight of synthetic filaments, mixed mainly or solely with cotton;
- ix. Other woven fabrics.

3.4.1. All the subheading from (i) to (v) and (vii) to (ix) above has been ruled out as their composition/specifications do not meet the test results and therefore, the merit subheading of the impugned goods appear to be under (vi), i.e. “Other woven fabrics, containing 85% or more by weight of polyester filaments”. The relevant Tariff item at the double dash (--) level:

- i. Containing 85% or more by weight of non-textured polyester filaments;
- ii. Other;

3.4.2. As per test results, the merit subheading of the impugned goods in respect of both Test Memo Numbers 857 and 858 appear to be under (i) i.e. “Containing 85% or more by weight of non-textured polyester filaments” and hence, sub-heading (ii) above has been ruled out. Therefore, as per test results in respect of both Test Memo Numbers 857 and 858, the concerned imported goods appear to be classifiable under CTH 54076190 wherein the applicable rate of duty wherein the applicable rate of duty is 20% or Rs.150 per Kgs., whichever is higher (BCD) + 0% (SWS) + 5% (IGST). Hence, it is observed that importer has mis-classified the goods in respect of both Test Memo Numbers 857 and 858 under CTH 52083290 instead of correct CTH 54076190 with an intention to evade payment of the applicable Customs duty. Consequently, the subject goods are found liable to be assessed at the rate of 20% or Rs.150 per Kgs., whichever is higher (BCD). In the detail packing list, quantity of these goods have been declared as 13642 and 2170 KGs respectively and accordingly, net quantity in square meter of these goods keeping the GSM=197.3 and 219.0 respectively as reported by the CRCL lab comes to 69143 $\{(13642/197.3) \times 1000\}$ and 9609 $\{(2170/219.0) \times 1000\}$ square meters respectively.

3.4.3. As per contemporaneous import data available on NIDB, the rate of Woven Fabric of synthetic filament yarn having similar nature, composition and description is ranging from Rs.671.14 to Rs.780.50 per KGs. Accordingly, the assessable value of 13642 and 2170 KGs of these imported goods is required to be re-determined as Rs.91,55,692/- ($=13642 \times 671.14$) and Rs.14,56,374/- ($=2170 \times 671.14$) instead of total assessable of Rs.13,35,990/- as declared in the said BE. Accordingly, BCD@150 per KGs comes to Rs.20,46,300/- ($=13642 \times 150$) and 3,25,500/- ($=2170 \times 150$) which is found on higher side of Rs.18,31,138/- ($=91,55,692 \times 20\%$) and Rs.2,91,275/- ($=14,56,374 \times 20\%$) respectively.

3.5. TM No. 859 and 861: In respect of the goods in respect of Test Memo No. 859 and 861 as detailed at Para 3.1 above, nothing adverse has been found in the test report of the CRCL lab. Accordingly, impugned goods are appropriately classifiable under the heading 5208 covering “Woven fabrics of cotton, containing 85% or more by weight of cotton, weighing not more than 200g/m²”. The said Heading covers goods classifiable under the following sub-headings at the single dash (-) level:

- i. Unbleached;
- ii. Bleached;
- iii. Dyed;
- iv. Of yarns of different colours;

v. Printed.

3.5.1. All the subheading from (i), (ii), (iv) and (v) above has been ruled out as their composition/specifications do not meet the test results and therefore, the merit subheading of the impugned goods appear to be under (iii), i.e. "Dyed". The relevant Tariff item at the double dash (--) level:

- i. Plain weave, weighing not more than 100g/m²;
- ii. Plain weave, weighing more than 100g/m²;
- iii. 3-thread or 4-thread twill, including cross twill;
- iv. Other fabric.

3.5.2. All the subheading from (i), (iii) and (iv) above has been ruled out as their composition/specifications do not meet the test results and therefore, the merit subheading of the impugned goods appear to be under (ii), i.e. "Plain weave, weighing more than 100g/m²". The relevant Tariff item at the triple dash (---) level are:

- i. Lungi;
- ii. Saree;
- iii. Shirting fabrics;
- iv. Casement;
- v. Bedticking domestic;
- vi. Cambrics (including madapollam and jaconet) and voils (excluding leno fabrics);
- vii. Coating (including suiting);
- viii. Furnishing fabrics other than pile and chenille fabrics;
- ix. Other.

3.5.3. All the subheading from (i) to (viii) above have been ruled out as their composition/specifications do not meet the test results and therefore, the merit subheading of the impugned goods appear to be under (ix), i.e. "Other". Accordingly, it is found that, the goods covered under TM No. 859 and 861 are rightly classified under CTH 52083290 and there is no need of re-determination of the classification of those goods. Furthermore, there appears no reason to doubt the truth or accuracy of the rate & value declared in relation to these imported goods. Accordingly, taking transaction value rate of the entire consignment i.e. Rs.10.06 (=Rs.13,35,990/132855) per sqm, the assessable value of these goods comes to Rs.1,20,270/- and Rs.59,204/- respectively.

3.6. TM No. 860: The goods covered under Test Memo Number 860 were found mis-declared in terms of description of the goods as the goods were declared as “Cotton Woven Dyed Fabric”, however, as per test report, the goods are “net type fabric composed of polyester multifilament yarn”. Therefore, the correct Classification of the goods is required to be ascertained. It is apparent that, as far as the entries at heading level are concerned, heading 5804 of the Import Tariff specifically include “Tulles and other net fabrics, not including woven, knitted or crocheted fabrics, Lace in the piece, in strips or in motifs, other than fabrics of heading 60.02 to 60.06”, accordingly, impugned goods are appropriately classifiable under the heading 5804. The said Heading covers goods classifiable under the following sub-headings at the single dash (-) level:

- i. Tulles and other net fabrics;
- ii. Mechanically made lace;
- iii. Hand-made lace.

3.6.1. The subheading (ii) and (viii) above has been ruled out as their composition/specifications do not meet the test results and therefore, the merit subheading of the impugned goods appear to be under (i), i.e. “Tulles and other net fabrics”. There is no sub-heading at the double dash (--) level and the relevant Tariff item at the double dash (---) level are:

- i. Of cotton;
- ii. Other.

3.6.2. The sub-heading (i) above have been ruled out and as per test results therefore, the merit subheading of the impugned goods appear to be under (ii), i.e. “Other”. Therefore, as per test result under TM No. 860, the concerned imported goods appear to be classifiable under CTH 58041090 wherein the applicable rate of duty is 10% or Rs.200 per KG, whichever is higher (BCD) + 0% (SWS) + 12% (IGST). Hence, it is observed that importer has mis-classified the subject goods under CTH 52083290 instead of correct CTH 58041090 with an intention to evade payment of the applicable Customs duty. Consequently, the subject goods are found liable to be assessed at the rate of 10% or Rs.200 per KGs, whichever is higher (BCD) + 0% (SWS) + 12% (IGST). In the detail packing list, quantity of these goods have been declared as 1582.0 KGs and 9799 square meter. As per contemporaneous import data available on NIDB, the rate of net fabric having similar nature, composition and description is

ranging from Rs.183.33 to Rs.838.27 per KGs. Accordingly, the assessable value of 1582.0 KGs of these goods is required to be re-determined as Rs.2,90,028/- (=1582 x 183.33) instead of total assessable of Rs.13,35,990/- as declared in the said BE. Accordingly, BCD@200 per KGs comes to Rs.3,16,400/- (=1582 x 200) which is found on higher side of Rs.29,003/- i.e. 10% ad-valorem of AV Rs.2,90,028/-.

3.7. All the above test results may be summarised as under:

Name of the importer	Cargo declared	CTH Declared	TM	Test results	Correct CTH
M/s Rise Ventures	Cotton Woven Dyed Fabric	5208 3290	856	Textured polyester filament yarn other than cotton fabric	5407 9200 (mis-declared)
	Cotton Woven Dyed Fabric	5208 3290	857	Dyed woven, polyester multifilament yarn. Polyester-85.26, Viscose-balance, GSM-197.3	5407 6190 (mis-declared)
	Cotton Woven Dyed Fabric	5208 3290	858	Polyester multifilament yarn other than cotton fabric	5407 6190 (mis-declared)
	Cotton Woven Dyed Fabric	5208 3290	859	Dyed woven fabric having embroidery design Composed of cotton, GSM-112.6	5208 3290 (as declared)
	Cotton Woven Dyed Fabric	5208 3290	860	Polyester multifilament yarn net type fabric maroon coloured	5804 1090 (mis-declared)
	Cotton Woven Dyed Fabric	5208 3290	861	Dyed woven fabric, Cotton GSM-186.5	5208 3290 (as declared)

3.8. Rejection of declared value & Redetermination of Assessable Value: Rule 3 of the Customs Valuation (Determination of Price of Imported Goods) Rules, 2007 (hereinafter referred to as “*the CVR, 2007*”) provides the method of valuation. Rule 3(1) of the CVR, 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 CVR, 2007". It appears that transaction value in terms of Rule 3 of the CVR, 2007, is to be accepted only where there are direct evidences with regard to the price actually

paid or payable in respect of the imported goods by the importer. In the present case, it appears that, there is reasonable doubt regarding the truth and accuracy of the declared value, and hence is liable to be rejected in terms of Rule 12 of the CVR, 2007.

3.9. The assessable value of the cargo is required to be re-determined as per the contemporary import data available on NIDB, in respect of the identical/ similar goods sold for export to India (from China) and imported at or about the same time in view of Rule 4 & 5 of the CVR, 2007. Further it appears that the value of the imported goods could not be determined under Rule 4 ibid since the value of contemporaneous imports of identical goods of same nature, composition and description could not be found on NIDB. Proceeding sequentially, to Rule 5 ibid, as per contemporaneous import data available on NIDB, the rate of fabrics having similar nature, composition and description is having different ranges as discussed at para-supra. Further, sub-rule (3) of the said Rule 4 of CVR, 2007 states that in applying these rules, if more than one transaction value of similar goods is found, the lowest such value shall be used to determine the value of imported goods. Further, sub-rule (2) of the said Rule 5 of CVR, 2007 states that the provisions of clauses (b) and (c) of sub-rule (1), sub-rule (2) and sub-rule (3), of Rule 4 shall, *mutatis mutandis*, also apply in respect of similar goods. Accordingly, the assessable values of the imported goods have been re-determined taking the lowest of such values available on NIDB import data of the similar goods as discussed at para-supra.

3.10. Total Customs duty on the imported goods comes to Rs.57,11,907/- instead of Rs.2,21,106/- as self-assessed by the importer in the said BE as calculated under:

TM	Correct CTH as per test results	Wt	Sq Mtr	Ass. Value	Duty Rate	BCD	SWS @0%/10%	IGST @5/12%	Total Duty
856	5407 9200	6821.3	48221	4935388	40 /sqm	19,28,828	0	3,43,211	22,72,039
857	5407 6190	13642	69143	9155692	150 /kgs	20,46,300	0	5,60,100	26,06,400
858	5407 6190	2170	9909	1456374	150 /kgs	3,25,500	0	89,094	4,14,594
859	5208 3290	1346.7	11960	120270	10%	12,027	1203	6,675	19,905
860	5804 1090	1582	9799	290028	200 /kgs	3,16,400	0	72,771	3,89,171
861	5208 3290	1008	5887	59204	10%	5,920	592	3,286	9,798

Total	26570	154919	1,60,16,956	46,34,975	1,795	10,75,136	57,11,906
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Sr. No.	Duty calculated during the investigation	Amount (Rs./Kgs)	Duty calculated by the importer in BE	Amount (Rs./Kgs)	Difference (Rs./Kgs)
1	Net weight	26570 kgs		26571 Kgs	(-) 1 Kg
2	Value	1,60,16,956/-	Value	13,35,990/-	1,46,80,966/-
3	BCD	46,34,975/-	BCD @10% ad-valorem	1,33,599/-	45,01,376/-
4	SWS @0%	1,795/-	SWS @10%	13,360/-	(-)11,565/-
5	Taxable Value for IGST (2+3+4)	2,06,53,726/-	Taxable Value for IGST (2+3+4)	14,82,949/-	1,91,70,777/-
6	IGST	10,75,136/-	IGST @5%	74,147/-	10,00,989/-
7	TOTAL duty (3+4+6)	57,11,906/-	TOTAL duty (3+4+6)	2,21,106/-	54,90,800/-

3.10.1. Accordingly, there appears non/short levy of Customs duty amounting to Rs.54,90,800/- as calculated under:

3.11. The importer vide letter dated 20.03.2024 has informed that they have filed warehouse bill of entry no. 1000144 dated 03.01.2024 for import of cotton woven dyed fabric; that the said consignment was examined by the SIIB, Mundra and it was revealed that the cargo is found other than the ordered goods; that they contacted to the shipper and informed them about the cargo; that the shipper have informed that they have sent wrong consignment instead of actual cargo. The importer further requested to give permission to re-export the cargo. The imported also assured that all necessary documentation and procedures will be followed by them to ensure compliance with Customs requirements. The importer further submitted that they are ready to pay fine and penalty in the matter and they do not want any SCN/PH in the matter.

3.12. A statement of Shri Tushar Bhanji Bhanushali, Partner and Authorised Person of the importer was recorded on 20.03.2024, wherein he submitted copies of the import documents viz. BE, BL, Invoice, Packing List etc. He also perused Examination Report dated 17.01.2024, Test Reports in respect of all TM Nos. from 856 to 861 all dated 19.01.2024, Seizure Memo and Supratnama dated 29.02.2024 and

agreed with the same. He interalia stated that:

- M/s. Rise Ventures, Raigad, Maharashtra (IEC: ABGFR0717A) is a partnership firm engaged in trading/wholesaling of various types of fabrics. They are registered with GSTN and having GSTIN 27ABGFR0717A1ZN.
- they procure their trading goods i.e. various types of fabrics and garments mostly by way of imports from other countries especially from China.
- they are in the business of trading/wholesale of various types of fabrics from last 7-8 months only and have taken GSTIN only in Apr-2023 and IEC in Jun-2023.
- they started importing these goods at Mundra port in this financial year 2023-24 only; that they import mostly from Hong-Kong /China based suppliers; that they are not old & regular importer and as such, they are not fully aware of the Customs rules and procedures; that, they file BE and clear imports from Customs with the help of their Custom House Agents only.
- they were not aware of such mis-declaration in respect of nature, composition and description of the imported goods earlier and came to know about such mis-declaration only after the examination by the SIIB as well as testing of the imported goods.
- the Shipper sent them wrong consignment which was not ordered by them; therefore, they want to re-export the consignment to the Shipper.
- they do not wish any personal hearing and show cause notice in the matter; that they are ready to pay applicable fine and penalty imposed by the department; that they will not file any appeal and will not claim any refund in this matter in future as well.

4. RELEVANT LEGAL PROVISIONS:

(A) RELEVANT PROVISIONS OF SEZ ACT, 2005:

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

Notification Nos. 2665(E) and 2667(E) dated 05.08.2016:

1. *In exercise of the powers conferred by section 22 of the Special Economic Zones Act, 2005 (28 of 2005), the Central Government by Notification No. 2667(E) dated 05.08.2016 issued by the Ministry of Commerce & Industry, has authorized the jurisdictional Customs Commissioner, in respect of offences under the Customs Act, 1962 (52 of 1962) to be the enforcement officer(s) in respect of any notified offence or offences committed or likely to be committed in a Special Economic Zone. The enforcement officer(s), for the reasons to be recorded in writing, may carry out the investigation, inspection, search or seizure in a Special Economic Zone or Unit with prior intimation to the Development Commissioner, concerned. Under Section 21(1) of the SEZ Act, 2005, 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, by the Notification 2665(E) dated 05.08.2016 has notified offences contained in Sections 28, 28AA, 28AAA, 74, 75, 111, 113, 115, 124, 135 and 104 of the Customs Act, 1962 (52 of 1962) as offences under the SEZ Act, 2005.*

B. RELEVANT PROVISIONS OF SPECIAL ECONOMIC ZONES RULES, 2006:

47(4) *Valuation and assessment of the goods cleared into Domestic Tariff Area shall be made in accordance with Customs Act and rules made there under.*

47 (5) *Refund, Demand, Adjudication, Review and Appeal with regard to matters relating to authorise 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, Central Excise Act, 1944, and the Finance Act, 1994 and the rules made thereunder or the notifications issued thereunder.*

(C) RELEVANT PROVISIONS OF CUSTOMS ACT, 1962:

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;

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

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;

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;

Section 2(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: “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 46. Entry of goods on importation:

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

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

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

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

--

(l) any dutiable or prohibited 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;

(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:*

(D) Relevant Provisions of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007:

“Rule 4. Transaction value of identical goods. - (1) (a) *Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued;*

.....

(3) *In applying this rule, if more than one transaction value of identical goods is found, the lowest such value shall be used to determine the value of imported goods.*

“Rule 5. Transaction value of similar goods. - (1) *Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of similar goods sold for export to India and imported at or about the same time as the goods being valued:*

Provided that

(2) *The provisions of clauses (b) and (c) of sub-rule (1), sub-rule (2) and sub-rule (3), of rule 4 shall, mutatis mutandis, also apply in respect of similar goods.*

Rule 12. 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 imported goods, he may ask the importer 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 importer, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such imported goods cannot be determined under the provisions of sub-rule (1) of rule 3.*

5. Summary of Investigations Conducted:

5.1. M/s. Fast Track CFS Private Limited, had filed SEZ warehouse Bill of Entry No. 1000144 dated 03.01.2024 for and on behalf of its client M/s. Rise Ventures (IEC No: ABGFR0717A) through their Customs Broker M/s. Aum Shipping and Logistic at Mundra SEZ port for import of ‘Cotton Woven Dyed Fabric’ (CTH-52083290) in the

container no. BMOU5211630. Furthermore, the said goods have been brought into the APSEZ, Mundra i.e. a place in India from a place outside India by sea. Hence, the same falls under the definition of 'import' as provided in the SEZ Act, 2005.

5.2. On the basis of the examination report, test reports and investigation carried out in this regard, the quantity in respect of number of packages is found 'as declared' and the weight is found short (1 kg only) from the declared weight and hence, the doubt in respect of excess quantity is dispelled. However, part consignments of the imported goods are found mis-declared in respect of nature, composition and description (cotton woven dyed fabric) and CTH (52083290) as declared in the said BE. The imported goods are in fact found to be other than cotton fabric and are rightly classifiable under different CTH 54079200, 54076190 and 58041090 including 52083290. These facts have also been admitted by the importer in their letter dated 20.03.2024 as well as in the statement dated 20.03.2024 of the Partner and Authorized Person of the importer. It appears that the importer has failed to declare true and correct description, CTH as well as assessable values of the goods imported vide the said BE. Further, the imported goods are also found undervalued in view of the contemporary import data available on NIDB and hence, are required to be re-assessed on the basis of NIDB data for the similar goods in view of Rule 5 of the CVR, 2007.

5.3. Accordingly, the assessable value of the imported goods is re-determined as Rs. 1,60,16,956/- as discussed at para-supra and summarized at Para 3.10 above. Total Customs duty on these imported goods comes to Rs. 57,11,906/- instead of Rs.2,21,106/- as self-assessed by the importer in the said BE. Thus, there appears non/short levy of Customs duty amounting to Rs. 54,90,800/- as discussed at Para 3.10.1 above. Hence, by the act of omission and commission at the level of importer, it appears that the importer has contravened the provisions of Section 46 and Section 17 of the Customs Act, 1962, in as much as, they failed to make correct and true declaration and information to the Customs Officer in the form of Bill of Entry and also failed to assess their duty liability correctly. The relevant portion of said provisions is as under:

Section 17. Assessment of duty. –

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

..

(4) Where it is found on verification, examination or testing of the goods or

otherwise that the self-assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.

Section 46. Entry of goods on importation. –

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

5.4. The importer vide letter dated 20.03.2024 has submitted that they have filed warehouse Bill of Entry No. 1000144 dated 03.01.2024 for import of cotton woven dyed fabric; that the said consignment was examined by the SIIB, Mundra and it was revealed that the cargo is found other than the ordered goods; that they contacted to the shipper and informed them about the cargo; that the shipper have informed that they have sent wrong consignment instead of actual cargo. The importer further requested to give permission to re-export the cargo. The imported also assured that all necessary documentation and procedures will be followed by them to ensure compliance with customs requirements. The importer further submitted that they are ready to pay fine and penalty in the matter and they do not want any SCN/PH in the matter.

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

- i. The classification of the goods i.e. 52083290 as declared by the importer in the SEZ warehouse Bill of Entry No. 1000144 dated 03.01.2024 is liable to be rejected and the goods are liable to be re-classified under different CTH in accordance with the CRCL lab test reports as detailed at Para 3.7 above.
- ii. The total assessable value of the imported goods is liable to be re-determined as Rs.1,60,16,956/- (instead of Rs.13,35,990/- as declared in the BE) under Rule 5 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with Section 14 of the Customs Act, 1962.
- iii. Total Customs duty involved in the imported goods comes to Rs.57,11,906/- (Rupees Fifty Seven Lacs Eleven Thousand Nine Hundred and Six only) instead of Rs.2,21,106/- (Rupees Two Lacs Twenty One Thousand One Hundred and Six only) as declared in the BE.

- iv. The said Bill of Entry No. 1000144 dated 03.01.2024 is liable to be re-assessed accordingly under Section 17(4) of the Customs Act, 1962.
- v. The goods have been imported by way of mis-declaration in contravention of Section 46 of the Customs Act, 1962 and are therefore liable for confiscation under Section 111 (m) of the Customs Act, 1962.
- vi. The importer M/s Rise Ventures, Flat No. 301, Bhoomi Plus, Khalapur, Khopoli, Raigad, Maharashtra-410203 holding IEC No: ABGFR0717A are liable for Penalty under Section 112(a)(ii) of the Customs Act, 1962.

WAIVER OF SHOW CAUSE NOTICE AND PERSONAL HEARING

7. The importer vide their letter dated 20.03.2024 has submitted that they do not want any Show Cause Notice/ Personal Hearing in the matter.

DISCUSSION AND FINDINGS

8. I have carefully gone through Investigation Report No. 04/2024-25 dated 05.04.2024 issued by Deputy Commissioner of Customs (SIIB), Custom House, Mundra. I find that following issues needs to be decided in the present proceedings-

- i. Whether declared classification needs to be rejected and imported goods are liable to be reclassified or otherwise.
- ii. Whether declared value of goods is liable to be rejected and redetermined or otherwise.
- iii. Whether importer is liable for penalty under section 112(a)(ii) of the Customs act, 1962 or otherwise.

9. I note that vide letter dt. 20.03.2024, importer has already requested not to issue SCN and they don't want personal hearing. I find that principles of Natural justice have been complied with. Thus I proceed to decide the matter.

10. I find that an intelligence was gathered by the officers of SIIB Section, Custom House, Mundra that the cargo imported under SEZ Warehouse Bill of Entry No. 1000144 dated 03.01.2024 filed by M/s. Fast Track CFS Private Limited, APSEZ Ltd., Mundra for and on behalf of its client M/s. Rise Ventures, Raigad holding IEC No: ABGFR0717A through their Customs Broker M/s. Aum Shipping and Logistic at Mundra SEZ port for import of 'Cotton Woven Dyed Fabric' (CTH-52083290) has possible mis-declaration in respect of quantity and nature, composition & description.

Accordingly, the container no. BMOU5211630 was put on hold for detailed examination of the goods by the SIIB section, Custom House, Mundra in view of the suspicion. The said goods have been brought into the APSEZ, Mundra i.e. a place in India from a place outside India by sea. Hence, the same falls under the definition of 'import' as provided in the SEZ Act, 2005.

11. I find that based on the above suspicion, examination of the said consignment was carried out by the officers of SIIB section in presence of representative of the CB who provided copies of the said BE and other import documents as per which, the cargo is imported from M/s. Raj International Limited, Hongkong and the declared imported goods is 'Cotton Woven Dyed Fabric' (CTH 52083290). The declared quantity of the imported goods is 600 Bales, gross weight 26571 Kgs, 132855 square meter, total assessable value is Rs.13,35,990/- and total duty is Rs.2,21,106/-.

10.1. I find that during the course of examination, quantity of the imported goods was found as declared in respect of number of PKGs i.e. 600. Further, as per weighment conducted at the warehouse, the weight of imported goods is found only 1 Kg short from the declared weight. In view of the same, the first doubt in respect of excess quantity is dispelled. However, on visual examination, actual nature, composition and description of the goods could not be ascertained, therefore, representative samples were drawn and forwarded to the CRCL, Kandla for testing purpose vide Test Memo Nos. 856 to 861 all dated 19.01.2024 issued from F.No. S/43-149/Fabric/SIIB-B/CHM/2023-24.

12. I have gone through the Test Results discussed in Para 3 above and find that the importer has mis-classified the imported goods under CTH 52083290 instead of correct CTHs as detailed in Para 3.7 above, with an intention to evade payment of the applicable Customs duty. Consequently, the imported goods are found liable to be re-classified under different CTHs arrived on the basis of lab test results, as discussed in Para 3 above, and are also liable to be re-assessed accordingly.

13. I find that Rule 3 of the CVR, 2007 provides the method of valuation. Rule 3(1) of the CVR, 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 CVR, 2007". It appears that transaction value in terms of Rule 3 of the CVR, 2007, is to be

accepted only where there are direct evidences with regard to the price actually paid or payable in respect of the imported goods by the importer. In the present case, it appears that, there is reasonable doubt regarding the truth and accuracy of the declared value, and hence is liable to be rejected in terms of Rule 12 of the CVR, 2007.

13.1. I find that the assessable value of the cargo is required to be re-determined as per the contemporary import data available on NIDB, in respect of the identical/similar goods sold for export to India (from China) and imported at or about the same time in view of Rule 4 & 5 of the CVR, 2007. Further it appears that the value of the imported goods could not be determined under Rule 4 *ibid* since the value of contemporaneous imports of identical goods of same nature, composition and description could not be found on NIDB. Proceeding sequentially, to Rule 5 *ibid*, as per contemporaneous import data available on NIDB, the rate of fabrics having similar nature, composition and description is having different ranges as discussed at para-supra. Further, sub-rule (3) of the said Rule 4 of CVR, 2007 states that in applying these rules, if more than one transaction value of similar goods is found, the lowest such value shall be used to determine the value of imported goods. Further, sub-rule (2) of the said Rule 5 of CVR, 2007 states that the provisions of clauses (b) and (c) of sub-rule (1), sub-rule (2) and sub-rule (3), of Rule 4 shall, *mutatis mutandis*, also apply in respect of similar goods. Accordingly, the assessable values of the imported goods have been re-determined taking the lowest of such values available on NIDB import data of the similar goods as discussed at para-supra.

13.2. I find that the re-determined assessable value of the imported goods comes to Rs.1,60,16,956/- instead of total assessable of Rs.13,35,990/- as declared in the said BE and total Customs duty thereupon comes to Rs.57,11,906/- instead of Rs.2,21,106/- as self-assessed by the importer in the said BE, as calculated in Para 3.10 and 3.10.1 above. Hence, there is non/short levy of Customs duty amounting to Rs.54,90,800/-.

14. I find that the importer vide letter dated 20.03.2024 has informed that they have filed warehouse bill of entry no. 1000144 dated 03.01.2024 for import of cotton woven dyed fabric; that the said consignment was examined by the SIIB, Mundra and it was revealed that the cargo is found other than the ordered goods; that they contacted the shipper and informed them about the cargo; that the shipper have informed that they have sent wrong consignment instead of actual cargo. The importer further requested to give permission to re-export the cargo. The importer also assured

that all necessary documentation and procedures will be followed by them to ensure compliance with Customs requirements. The importer further submitted that they are ready to pay fine and penalty in the matter and they do not want any SCN/PH in the matter.

14.1. A statement of Shri Tushar Bhanji Bhanushali, partner and authorised person of the importer was recorded on 20.03.2024, as detailed in Para 3.12 above, wherein he submitted copies of the import documents viz. BE, BL, Invoice, Packing List, etc. and perused Examination Report dated 17.01.2024, Test Reports in respect of TM Nos. from 856 to 861 all dated 19.01.2024, Seizure Memo and Supratnama dated 29.02.2024 and agreed with the same. He has also stated in his statement that they want to re-export the consignment to the shipper and do not wish any personal hearing and show cause notice in the matter.

15. I find that the importer, by the act of omission and commission, has contravened the provisions of Section 46 and Section 17 of the Customs Act, 1962, in as much as, they failed to make correct and true declaration and information to the Customs Officer in the form of Bill of Entry and also failed to assess their duty liability correctly. Therefore, the importer has rendered the goods liable for confiscation under Section 111(m) of the Customs Act, 1962 and is, therefore, liable for penalty under section 112(a)(ii) of the Customs Act, 1962.

16. Section 125(1) of the Customs Act, 1962 provides that:

"(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, [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.

16.1. I find that the said provision makes it mandatory to grant an option to the owner of confiscated goods to pay fine in lieu of confiscation in case the goods are not prohibited. Considering the facts of the case, I find it appropriate to grant an option to the importer to pay fine in lieu of confiscation for re-export to the same supplier/shipper as requested by the importer, within a period of 120 days from the date of receipt of this order. Having held that goods can be redeemed on payment of Redemption fine and considering the fact that importer has agreed to re-export the goods, I deem it fit not to subject the impugned case through the rigors of redemption fine. Since goods are being re-exported and not allowed to be cleared for home consumption, this prohibits the importer from deriving any benefits out of domestic sale. Further, the importer is bound to incur expenditure on arranging re-export of the goods. In such circumstances I am of the opinion that a lenient view may be taken while imposing redemption fine.

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

ORDER

i. I reject the classification of the goods i.e. 52083290 as declared by the importer in the SEZ Warehouse Bill of Entry No. 1000144 dated 03.01.2024 and order to re-classify the goods under different CTHs as mentioned at Para 3.7 above, in accordance with the CRCL Kandla Test Reports.

ii. I re-determine the total assessable value of the imported goods as 1,60,16,956/- (instead of Rs.13,35,990/- as declared in the BE) under Rule 5 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with Section 14 of the Customs Act, 1962.

iii. I order to re-assess the said Bill of Entry No. 1000144 dated 03.01.2024 accordingly under Section 17(4) of the Customs Act, 1962.

iv. I order to confiscate the goods imported by way of mis-declaration in contravention of Section 46 of the Customs Act, under Section 111 (m) of the Customs Act, 1962. However, considering facts of the case and provisions of the

Section 125 of the Customs Act, 1962, I give an option to the importer to re-deem the same on payment of Redemption Fine of Rs.13,50,000/- (Rs. Thirteen Lakh Fifty Thousand Only) in lieu of confiscation for re-export purpose only as requested by the importer. The re-export is to be made to the same supplier/shipper within a period of 120 days from the date of receipt of this order.

v. I impose penalty of Rs. 1,75,000/- (Rs. One Lakh seventy Five thousand Only) on the importer M/s. Rise Ventures, Raigad holding IEC No: ABGFR0717A under Section 112(a)(ii) of the Customs Act, 1962.

18. This order is issued without prejudice to any other action which may be contemplated against the importer or any other person under provisions of the Customs Act, 1962 and rules/regulations framed thereunder or any other law for the time being in force in the Republic of India.

Signed by
Arun Kumar
Date: 10-06-2024 20:12:13
Arun Kumar
ADDITIONAL COMMISSIONER
ADC/JC-II-O/o Pr Commissioner-Customs-Mundra

To,
M/s. Rise Ventures,
Flat No. 301, Bhoomi Plus, Khalapur,
Khopoli, Raigad, Maharashtra-410203.

Copy to:

1. The Deputy Commissioner of Customs (SIIB), CH, Mundra.
2. The Assistant Commissioner of Customs (RRA), CH, Mundra.
3. The Assistant Commissioner of Customs (TRC), CH, Mundra
4. The Assistant Commissioner of Customs (EDI), CH, Mundra.
5. Office Copy.