

	<p>कार्यालय: प्रधान आयुक्त सीमाशुल्क, मुन्द्रा, सीमाशुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421 OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS: CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT- 370421. PHONE : 02838- 271426/271163 FAX :02838- 271425 e-mail id- siib- mundra@gov.in</p>	
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A	फा. सं./FILE NO.	CUS/APR/MISC/2318/2024-GR 4
B	मूल आदेश सं. ORDER-IN-ORIGINAL NO.	MCH/ADC/ZDC/93/2025-26
C	द्वारा पारित किया गया PASSED BY	Dipak Zala Additional Commissioner of Customs Custom House, Mundra.
D	आदेश की तिथि DATE OF ORDER	23.06.2025
E	जारी करने की तिथि DATE OF ISSUE	23.06.2025
F	कारण बताओ नोटिस सं. एवं तिथि Number & DATE OF SCN	Importer has sought waiver from SCN and PH
G	नोटिसी/पार्टी/ आयातक NOTICEE/ PARTY/ IMPORTER	M/s KMAX TRADING COMPANY (IEC ABCFK5650K)
H	डिन सं. DIN NUMBER	20250671MO000000DF39

1. A NCTC alert No. 2024-25/IMP/1874-dated 17.03.2025 was received to the effect of possibility of mis declaration and concealment against the import consignment covered under Z Type B/E No. 8893901 dated 15.03.2025 filed at APSEZ (INAJM6). As per Bill of lading No. SNKO03C250201303 dated 23.02.2025, the notify Party is Shoolin Trade Link LLP, APSEZ Mundra.

2. M/s KMAX TRADING COMPANY (IEC ABCFK5650K), (hereinafter referred to as 'the importer' for the sake of brevity) having address at 107, SR Compound, Lasudiya Mori, Indore, Madhya Pradesh - 453771 filed warehouse (Z Type) Bill of Entry No. 8893901 dated 15.03.2025 for import of item declared as "Metal Mount & Fittings". The Country of origin of the goods is CHINA. The details of the B/E are as follows:-

Table-I

B/E No . & date	Bill of Lading No. & Date	Declare d Goods	Declar ed HS	Declared Q uantity (Net)	Declar ed Unit	Declared Ass essable Valu	Declare d Duty (
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	Container No.	N Cod e	Weight)	Piece	Value (in Rs.)	Amount (in Rs.)
8893901 dated 15.03.2025	SNKO03C250 201303 dated 23.02.2025	Metal Mount & Fittings	830242 00	1100 PCS/ 22313 Kgs.	0.5343 97 US D/Kgs.	10,46,927/- 3,92,284/-
	SKHU6435827					
Total =					10,46,927/-	3,92,284/-

3. On the basis of NCTC alert, goods covered under Z Type B/E No. 8893901 dated 15.03.2025 was put on hold for SIIB examination purpose. The examination of the goods was carried out at Seabird Marine Services (Gujarat) Pvt. Ltd. CFS Mundra on dated 25.03.2025 in the presence of Shri Baliram B. Nemade, Asstt. Manager, Operations, Seabird CFS and Shri Pranjal Singh, authorized representative by the importer M/s KMAX TRADING COMPANY. The seal placed on the container was checked/verified and found intact and tally with the number mentioned in the Bill of lading.

4. Further, before beginning the examination, the weightment slip of the containers generated at CFS weighbridge are cross checked. The weight mentioned on the slips as well as Bills of Lading are as under:-

Table-II

Sr. No.	Bill of Entry & Date	Container No.	B/L Weight (Kgs.)	CFS Weight (Kgs.)	Difference
1	8893901 dated 15.03.2025	SKHU6435827	26250	26220	30

5. Further, Gate of container was opened for the examination of the goods. Upon opening the gate, it was found that goods packed in corrugated bags were stuffed into the container. Thereafter, entire cargo was de-stuffed in the warehouse from the container for the examination with the help of labour. Quantity of the boxes were tallied with invoice and packing list and same were found to be as per declaration. Further, goods appeared to be parts of three seater waiting chair in SKD condition.

6. During Examination, 03 metal seat of chair were found packed in one corrugated box, base pipe or cross bar on which seats will be mounted were found packed in other corrugated box and legs were found packed in another corrugated box.

7. Prima facie, it appears that all these components have essential characteristics of finished/ complete 03-seater waiting chair as all essential

elements i.e. seat, pipe, legs etc. are present there to form a complete 03-seater waiting chair. In this regard, Rule 2(a) of General Rules of Interpretation for Import Tariff is reproduced here for reference purpose which states that that –

“Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or failing to be classified as complete or finished by virtue of this Rule), presented unassembled or disassembled.”

8. Further, as per Explanatory notes of chapter 8302, the following products are included in Mountings, fittings and similar article suitable for furniture: -

- (i) Protective studs (with one or more points) for legs of furniture, etc.; metal decorative fittings; shelf adjusters for book-cases, etc.; fittings for cupboards, bedsteads, etc.; keyhole plates.
- (2) Corner braces, reinforcing plates, angles, etc.
- (3) Catches (including ball spring catches), bolts, fasteners, latches, etc. (other than key-operated bolts of heading 83.01).
- (4) Hasps and staples for chests, etc.
- (5) Handles and knobs, including those for locks or latches.

From the above, it is clear that metal mount and fittings covers parts of furniture not the complete furniture in unassembled condition. Further, the item found during examination are not covered during definition of Mountings, fittings and similar article suitable for furniture as defined in explanatory notes of chapter 8302.

9. From the above, *prima facie*, it appears that goods imported are 03 seater waiting chair in unassembled form which *prima facie* appears to be rightly classifiable under CTH 9403 instead of declared CTH 83024200. The CTH 9403 and 8302 reads as under :-

- 9403 Other furniture and parts thereof
- 940310 - Metal furniture of a kind used in offices
- 940320 - Other metal furniture:
- 94032010 --- of steel
- 94032090 --- other

From the plain reading of CTH 9403, it is clear that metal furniture to be used other than offices are classifiable under 940320. Since, 03 seater waiting chair can be used anywhere, hence, *prime*, it appears that goods are rightly classifiable under CTH 94032090 as there is 02nd triple dash (---) level entry under 2nd single dash (-) level entry.

10. Total leviable duty under CTH 83024200 is @ 37.470 % (BCD @15% + SWS @ 1.5 % + IGST @ 18%) however, total leviable duty under CTH 94032090 is @ 50.450% (BCD @ 25% + SWS @ 2.5 % + IGST @ 18%).

11. Since, During Examination, goods were found mis declared in terms of description and CTH, hence, the value declared by the importer in the Bill of Entry No. and invoices did not appear to be the true transaction value as importer has mis declared goods, hence, value declared by 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 and thus the same appear liable to be rejected in terms of Rule 12 of CVR, 2007. The value is required to be re-determined by sequentially proceeding in terms of Rules 4 to 9 of CVR, 2007. The relevant Rules of CVR, 2007 are reproduced hereunder: -

1 2 . Rejection of transaction value of the imported goods and determination of the value of the import goods

Since, the value of goods declared by the importer in the 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 rule 3 of the Customs Valuation (determination of Value of Imported Goods) Rules, 2007 and thus the same appear liable to be rejected in terms of Rule 12 of CVR, 2007. The value is required to be re-determined by sequentially proceeding in terms of Rules 4 to 9 of CVR, 2007. The relevant Rules of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 are reproduced here under: -

Rule 3. Determination of the method of valuation-

(1) *Subject to rule 12, the value of imported goods shall be the transaction value adjusted in accordance with provisions of rule 10;*

(2) *Value of imported goods under sub-rule (1) shall be accepted: Provided that -*

(a) *there are no restrictions as to the disposition or use of the goods by the buyer other than restrictions which -*

(i) *are imposed or required by law or by the public authorities in India;*

or

(ii) *limit the geographical area in which the goods may be resold;*

or

i. *do not substantially affect the value of the goods;*

(b) *the sale or price is not subject to some condition or consideration for which a value cannot be determined in respect of the goods being valued;*

(c) *no part of the proceeds of any subsequent resale, disposal or use of*

the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provisions of rule 10 of these rules; and

(d) the buyer and seller are not related, or where the buyer and seller are related, that transaction value is acceptable for customs purposes under the provisions of sub-rule (3) below.

(3) (a) Where the buyer and seller are related, the transaction value shall be accepted provided that the examination of the circumstances of the sale of the imported goods indicate that the relationship did not influence the price.

(b) In a sale between related persons, the transaction value shall be accepted, whenever the importer demonstrates that the declared value of the goods being valued, closely approximates to one of the following values ascertained at or about the same time.

(i) the transaction value of identical goods, or of similar goods, in sales to unrelated buyers in India;

(ii) the deductive value for identical goods or similar goods;

(iii) the computed value for identical goods or similar goods:

Provided that in applying the values used for comparison, due account shall be taken of demonstrated difference in commercial levels, quantity levels, adjustments in accordance with the provisions of rule 10 and cost incurred by the seller in sales in which he and the buyer are not related;

(c) substitute values shall not be established under the provisions of clause

(b) of this sub-rule.

(4) 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.

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;

Provided that such transaction value shall not be the value of the goods provisionally assessed under section 18 of the Customs Act, 1962.

(b) In applying this rule, the transaction value of identical goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the value of imported goods.

(c) Where no sale referred to in clause (b) of sub-rule (1), is found, the transaction value of identical goods sold at a different commercial level or in different quantities or both, adjusted to take account of the difference attributable to commercial level or to the quantity or both, shall be used, provided that such adjustments shall be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustments, whether such adjustment leads to an increase or decrease in the

value.

(2) Where the costs and charges referred to in sub-rule (2) of rule 10 of these rules are included in the transaction value of identical goods, an adjustment shall be made, if there are significant differences in such costs and charges between the goods being valued and the identical goods in question arising from differences in distances and means of transport.

(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 such transaction value shall not be the value of the goods provisionally assessed under section 18 of the Customs Act, 1962.

(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.

Further, as per Rule 6 of the CVR, 2007, if the value cannot be determined under Rule 3, 4 & 5, then the value shall be determined under Rule 7 of CVR, 2007.

Rule 7 of the CVR, 2007, stipulates that :-

(1) Subject to the provisions of rule 3, if the goods being valued or identical or similar imported goods are sold in India, in the condition as imported at or about the time at which the declaration for determination of value is presented, the value of imported goods shall be based on the unit price at which the imported goods or identical or similar imported goods are sold in the greatest aggregate quantity to persons who are not related to the sellers in India, subject to the following deductions : -

(i) either the commission usually paid or agreed to be paid or the additions usually made for profits and general expenses in connection with sales in India of imported goods of the same class or kind;

(ii) the usual costs of transport and insurance and associated costs incurred within India;

(iii) the customs duties and other taxes payable in India by reason of importation or sale of the goods.

(2) If neither the imported goods nor identical nor similar imported goods are sold at or about the same time of importation of the goods being valued, the value of imported goods shall, subject otherwise to the provisions of sub-rule (1), be based on the unit price at which the imported goods or identical or similar imported goods are sold in India, at the earliest date after importation but before the expiry of ninety days after such importation.

(3) (a) If neither the imported goods nor identical nor similar imported goods are sold in India in the condition as imported, then, the value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons who are not related to the seller in India.

(b) In such determination, due allowance shall be made for the value added by processing and the deductions provided for in items (i) to (iii) of sub-rule (1).

Rule 8 of the CVR, 2007, stipulates that:-

(1) Subject to the provisions of rule 3, the value of imported goods shall be based on a computed value, which shall consist of the sum of:-

(a) the cost or value of materials and fabrication or other processing employed in producing the imported goods;

(b) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to India;

(c) the cost or value of all other expenses under sub-rule (2) of rule 10.

Rule 9 of the CVR, 2007, stipulates that:-

(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.

13. As mentioned above, the declared assessable value of the goods Rs. 10,46,927/- of Bill of Entry No. 8893901 dated 15.03.2025 cannot be considered as assessable value of the goods and hence the same is liable to be rejected under Rule 12 of Customs Valuation Rules 2007 as there has been misdeclaration in terms of description and classification. In absence of credible data of import of similar/identical goods due to quality, quantity of 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 to be determined in terms of Rule 9 of said rules.

13.1 Therefore, opinion of the empaneled Chartered Engineer was sought for determination of the value of the imported goods. The Chartered Engineer vide his Report No. ABJ: INSP: CE: SIIB:MA:25-26:25 dated 09.06.2025 has suggested the value of the imported goods as USD 13750/- as detailed below: -

Table-III

(Exchange Unit Price: - 1 USD = Rs. 87.8)

Sr. No.	Description of Goods- As per Invoice & Bill of Entry	Description of Goods- As found after examination	Total Quantity (No. of Sets)	Total Weight (In Kgs)	Unit C.I.F Value Declared- As Per Invoice & BE (in USD)	Total CIF Value Declared- As Per Invoice & BE (in USD)	Suggestive Unit Per Piece Average A. I.F. Value in USD	Total Suggestive Average C.I.F. Value in USD
1	Metal Mount & Fittings	Three waiting Chair in SKD Condition	1100 sets	26220	10.84	11924	12.50	13750
	TOTAL			26220		11924 USD		13750 USD

13.2 As mentioned above, the transaction value of Rs. 10,46,927/- declared

by the importer while filing Bill of Entry No. 8893901 dated 15.03.2025 is liable to be rejected under Rule 12 of Customs Valuation Rules 2007. Since the declare value of the subject goods is liable to be rejected under Rule 12 of the Customs Valuation (Determination of value of imported goods) Rules, 2007, therefore the same is required to be re-determined under Section 14 of the Customs Act, 1962 under Rule 9 of Customs Valuation (Determination of value of imported goods) Rules, 2007 as Rs. 12,07,250/- (Rupees Twelve Lacs Seven Thousand Two Hundred Fifty).

13.3 On the basis of re determined value in above table, duty leviable on goods imported vide B/E No. 8893901 dated 15.03.2025 is being re calculated which is as under: -

Table-IV

(Exchange Rate :- 1 USD = Rs.87.8)

B/E No	Redetermined CTH	Revised Total Assesable Value in Rs.	BCD @ 25%	SWS @ 2%	IGST @ 18%	Total redetermined duty	Duty paid by importer	Difference
8893901 dt. 15.03.2025	94032090	1207250	301812	30181	277064	609058	392284	216774

14. In view of above, *prima facie*, it appears that importer has tried to clear the goods covered under B/E No. 8893901 dated 15.03.2025 by mis declaring them as Metal Mount & Fitting instead of actual description i.e. 03-seater waiting chair in unassembled form and mis classifying them under 83024200 instead of 94032090 wherein leviable duty is @ 50.450% in order to bypass duty payment on higher side. These acts of omission and commission on the part of importer has made the goods imported vide B/E No. liable for confiscation under Section 111 (m) of the Act, *ibid* and has thus rendered themselves liable for penal action under Section 112 (a) (ii) of the Customs Act, 1962. Furthermore, it appears that by mis declaring and mis classifying the goods, the importer has also short-declared the duty amounting to Rs. 1,35,891/- (Rs. One Lacs Thirty-Five Thousand Eight Hundred Ninety-One). Hence, impugned goods imported vide B/E No. 8893901 dated 15.03.2025 were Seized vide Seizure Memo dated 29.04.2025 under section 110(1) of the Customs Act, 1962, and goods were handed over to the custodian i.e. M/s Shoolin CFS vide Supurtanama dated 29.04.2025 and in compliance of Board Instruction No. 02/2024- Customs dated 15.02.2024, Incident report no. 05/2025-26 dated 30.04.2025 was issued accordingly.

15. Further, statement of Shri Pranjal Singh, authorised representative of M/s KMAX TRADING COMPANY was recorded on 19.05.2025 wherein he interalia stated that: -

- Yes, it is true that goods were found mis declared. Goods found are 03-seater waiting chair in SKD Condition.
- In CTH 83024200, mounting, fittings and similar articles suitable for furniture are classified. Hence, they classified the goods under 83024200.
- Yes, they do agree with proposed classification 9403.
- this is first time import of these items by M/s KMAX Trading Company.

- Order was placed over phone. No purchase order was sent.
- They have made payment against this shipment. In proof of the same, he submitted copy of payment proof.
- He further stated that he thinks he has shared all relevant information regarding which he was updated and desired by you. Further, they do not want any Show Cause Notice or Personal Hearing in this matter. Kindly decide the matter on merit basis.

16. 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:-*

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

.....

.....

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 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 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: -

--

(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, -

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),
shall be liable, -

.....

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:

17. Further, it is found that, the importer has failed to declare true and correct description and CTH of the impugned goods. Thus, 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 transshipment, 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:

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

- i. The declared description i.e. Metal Mount & Fittings of the goods imported vide impugned B/E No. 8893901 dated 19.03.2025 is liable to be rejected and required to be re-determined as 03 Seater Waiting chair in unassembled form.
- ii. The declared CTH 83024200 is liable to rejected and required to redetermined as 94032090 as discussed in paras supra.
- iii. The declared assessable value i.e. Rs. 10,46,927/- (Rs. Ten Lacs Forty-Six Thousand Nine Hundred Twenty-Seven) is liable to rejected and same is redetermined to Rs. 1207250 /- (Rs. Twelve Lacs Seven Thousand Two Hundred Fifty) under rule 9 of Customs Valuation Rules, 2007.
- iv. The Bill of Entry no. 8893901 dated 19.03.2025 is liable to be reassessed accordingly under Section 17(4) of the Customs Act, 1962.
- v. The goods imported vide impugned Bill of Entry no. 8893901 dated 19.03.2025 by way of mis declaration and mis classification are liable for confiscation under Section 111(m) of the Customs Act, 1962.
- vi. The importer M/s KMAX TRADING COMPANY (IEC No. ABCFK5650K) is liable for Penalty under Section 112(a)(ii) of the

Customs Act, 1962.

19. Personal Hearing and Submission

19.1 The importer vide his letter dt. 23.05.2025 has made following submissions:

We would like to inform you that we have imported Metal Mount & Fittings under BL No. SNKO03C250201303 and file above mentioned BOE, further consignment was examined by good office.

In this regard we request to your good office that we don't want any SCN or PH in this regard and request you kindly decide the matter on merits and we will abide by the decision taken by your good office.

Your lenient view in this regard will be highly appreciable.

20. Discussion and Findings

20.1 I have carefully gone through the case records and applicable provisions of Law. I find that the Importer vide their letter dated 23.05.2025 has submitted that they do not want Show Cause Notice and Personal Hearing, thus, the condition of Principles of Natural Justice under Section 122A of the Customs Act, 1962 has been complied with. Hence, I proceed to decide the case on the basis of facts and documentary evidences available on records.

21. The main issues before me are to decide are:

- i. Whether the declared description i.e. Metal Mount & Fittings of the goods imported vide impugned B/E No. 8893901 dated 19.03.2025 is liable to be rejected and required to be re-determined as 03-Seater Waiting chair in unassembled form.
- ii. Whether the declared CTH 83024200 is liable to rejected and required to redetermined as 94032090 as discussed in paras supra.
- iii. Whether the declared assessable value i.e. Rs. 10,46,927/- (Rs. Ten Lacs Forty- Six Thousand Nine Hundred Twenty-Seven) is liable to rejected and same is redetermined to Rs. 1207250 /- (Rs. Twelve Lacs Seven Thousand Two Hundred Fifty) under rule 9 of Customs Valuation Rules, 2007.
- iv. Whether the Bill of Entry no. 8893901 dated 19.03.2025 is liable to be re-assessed accordingly under Section 17(4) of the Customs Act, 1962.
- v. Whether the goods imported vide impugned Bill of Entry no. 8893901 dated 19.03.2025 by way of mis declaration and mis classification are

liable for confiscation under Section 111(m) of the Customs Act, 1962.

vi. Whether the importer M/s KMAX TRADING COMPANY (IEC No. ABCFK5650K) is liable for Penalty under Section 112(a)(ii) of the Customs Act, 1962.

22. I find that M/s KMAX TRADING COMPANY (IEC ABCFK5650K), filed warehouse (Z Type) Bill of Entry No. 8893901 dated 15.03.2025 for import of item declared as "Metal Mount & Fittings". The Country of origin of the goods is CHINA having declared value of Rs. 10,46,927/-.

23. I find that based on intelligence received from NCTC, goods covered under Z Type B/E No. 8893901 dated 15.03.2025 was put on hold for SIIB examination purpose. The examination of the goods was carried out at Seabird Marine Services (Gujarat) Pvt. Ltd. CFS Mundra on dated 25.03.2025 in the presence of Shri Baliram B. Nemade, Asstt. Manager, Operations, Seabird CFS and Shri Pranjal Singh, authorized representative by the importer M/s KMAX TRADING COMPANY. During the examination difference of 30kg was found during weighment. The details are as follows:

Table-V

Sr. No.	Bill of Entry & Date	Container No.	B/L Weight (Kgs.)	CFS Weight (Kgs.)	Difference
1	8893901 dated 15.03.2025	SKHU6435827	26250	26220	30

24. I further find that during Examination, 03 metal seat of chair were found packed in one corrugated box, base pipe or cross bar on which seats will be mounted were found packed in other corrugated box and legs were found packed in another corrugated box.

24.1. I find that the investigation has unravelled that all these components have essential characteristics of finished/ complete 03-seater waiting chair as all essential elements i.e. seat, pipe, legs etc. are present there to form a complete 03-seater waiting chair. In this regard, Rule 2(a) of General Rules of Interpretation for Import Tariff is reproduced here for reference purpose which states that that –

"Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this Rule), presented unassembled or disassembled."

24.2 In view of the result of the examination and general rules of interpretation discussed at para above I find that the declared description i.e. Metal Mount & Fittings of the goods imported vide impugned B/E No. 8893901 dated 19.03.2025 is liable to be rejected and liable to be re-determined as 03-Seater Waiting chair in unassembled form.

25. Classification of the goods.

25.1 I find that as per Explanatory notes of chapter 8302, the following products are included in Mountings, fittings and similar article suitable for furniture: -

- (1) Protective studs (with one or more points) for legs of furniture, etc.; metal decorative fittings; shelf adjusters for book-cases, etc.; fittings for cupboards, bedsteads, etc.; keyhole plates.
- (2) Corner braces, reinforcing plates, angles, etc.
- (3) Catches (including ball spring catches), bolts, fasteners, latches, etc. (other than key-operated bolts of heading 83.01).
- (4) Hasps and staples for chests, etc.
- (5) Handles and knobs, including those for locks or latches.

25.2 It is evident from the above, that metal mount and fittings covers parts of furniture not the complete furniture in unassembled condition. Further, the item found during examination are not covered during definition of Mountings, fittings and similar article suitable for furniture as defined in explanatory notes of chapter 8302.

25.3 I find that goods imported are 03-seater waiting chair in unassembled form which are rightly classifiable under CTH 9403 instead of declared CTH 83024200. The CTH 9403 and 8302 reads as under: -

- 9403 Other furniture and parts thereof
- 940310 - Metal furniture of a kind used in offices
- 940320 - Other metal furniture:
- 94032010 --- of steel
- 94032090 --- other

25.4 In view of the above, discussion I find that the declared CTH 83024200 is liable to rejected and the goods are rightly classifiable under CTH 94032090 as there is 02nd triple dash (---) level entry under 2nd single dash (-) level entry. and the BE no. 8893901 dated 15.03.2025 is liable to be reassessed under section 17(4) of the Customs Act, 1962.

26. Valuation and calculation of duty of the goods:

26.1 I find that during Examination, goods were found mis declared in terms of description and CTH, hence, the value declared by the importer in the Bill of Entry No. and invoices did not appear to be the true transaction value as importer has mis declared goods, hence, value declared by 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 and thus the same appear liable to be rejected in terms of Rule 12 of CVR, 2007. The value is required to be re-determined by sequentially proceeding in terms of Rules 4 to 9 of CVR, 2007. The relevant Rules of CVR, 2007.

26.2 I find that the declared assessable value of the goods Rs. 10,46,927/- of Bill of Entry No. 8893901 dated 15.03.2025 cannot be considered as assessable value of the goods and hence the same is liable to be rejected under Rule 12 of Customs Valuation Rules 2007 as there has been misdeclaration in terms of description and classification. In absence of credible data of import of similar/identical goods due to quality, quantity of 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 to be determined in terms of Rule 9 of said rules.

26.3 Therefore, opinion of the empanelled Chartered Engineer was sought for determination of the value of the imported goods. The Chartered Engineer vide his Report No. ABJ: INSP: CE: SIIB:MA:25-26:25 dated 09.06.2025 has suggested the value of the imported goods as USD 13750/- as detailed below: -

Table-VI

(Exchange Unit Price: - 1 USD = Rs. 87.8)

Sr. No.	Description of Goods- As per Invoice & Bill of Entry	Description of Goods- As found after examination	Total Quantity (No. of Sets)	Total Weight (In Kgs)	Unit C.I.F Value Declared- As Per Invoice & BE (in USD)	Total CIF Value Declared- As Per Invoice & BE (in USD)	Suggestive Unit Per Piece Average C.I.F. Value in USD	Total Suggestive Average C.I.F. Value in USD
1	Metal Mount & Fittings	Three waiting Chair in SKD Condition	1100 sets	26220	10.84	11924	12.50	13750
	TOTAL			26220		11924 USD		13750 USD

26.4 As mentioned above, the transaction value of Rs. 10,46,927/- declared by the importer while filing Bill of Entry No. 8893901 dated 15.03.2025 is liable to be rejected under Rule 12 of Customs Valuation

Rules 2007. Since the declare value of the subject goods is liable to be rejected under Rule 12 of the Customs Valuation (Determination of value of imported goods) Rules, 2007, therefore the same is required to be re-determined under Section 14 of the Customs Act, 1962 under Rule 9 of Customs Valuation (Determination of value of imported goods) Rules, 2007 as Rs. 12,07,250/- (Rupees Twelve Lacs Seven Thousand Two Hundred Fifty).

26.5 It is pertinent to discuss that total leviable duty under CTH 83024200 is @ 37.470 % (BCD @15% + SWS @ 1.5 % + IGST @ 18%) however, total the same under CTH 94032090 is @ 50.450% (BCD @ 25% + SWS @ 2.5 % + IGST @ 18%).

26.6 On the basis of re determined value in above table, duty leviable on goods imported vide B/E No. 8893901 dated 15.03.2025 under CTH 94032090 is being re calculated which is as under: -

Table-VII
(Exchange Rate :- 1 USD = Rs.87.8)

B/E No	Redetermined CTH	Revised Total Assesable Value in Rs.	BCD @ 25%	SWS @ 2%	IGST @ 18%	Total redetermined duty	Duty paid by importer	Difference
8893901 dt. 15.03.2025	94032090	1207250	301812	30181	277064	609058	392284	2,16,774

27. Confiscation of the goods

27.1 The IR has proposed confiscation of the goods under section 111(m) of the Customs act,1962.

27.2 The section 111(m) of the Customs Act, 1962 provides for the following:

111. Confiscation of improperly imported goods, etc.

- The following goods brought from a place outside India shall be liable to confiscation: -

111(a).....

111(b)

111(c)

.....

.....
111(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]

27.3 It is evident that the importer has attempted to clear 03-seater waiting chair classifiable under CTH 94032090 by mis-declaring the same as Metal Mount & Fittings classifiable under CTH 83024200 for evading duty of Rs. 1,35,891/-as detailed at the table -VI. Therefore, I find that the goods imported vide BE No. 8893901 dated 15.03.2025 are liable for confiscation under section 111(m) of the Customs Act,1962. Further I also find that since the goods are not prohibited in nature, I find that the same are eligible for clearance under section 125 of the Customs Act, 1962.

28. Penalty under section 112(a) (ii) od the Customs Act,1962

28.1 The section 112 (a) (II) of the Customs Act, 1962 provides for the following:

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).....

(i).....

(ii) in the case of dutiable goods, other than prohibited goods, to a penalty [not exceeding the duty sought to be evaded on such goods or five thousand rupees,] whichever is the greater;

28.2 As discussed at the para 25.3 above, the importer's attempt to evade the duty by means of mis-declaring the goods has held the goods liable for confiscation under section 111(m) of the Customs Act, 1962 and for his act of omission and commission the importer is liable for penalty under Section 112(a) of the Customs Act, 1962. The same is confirmed under section 112(a)(ii) of the Customs Act, 1962.

29. On the basis of the above discussion and findings, I pass following order:

ORDER

- i. I order that the declared description i.e. Metal Mount & Fittings of the goods imported vide impugned B/E No. 8893901 dated 19.03.2025 is rejected and be re-determined as 03-Seater Waiting chair in unassembled form.

- ii. I order for rejection of the declared CTH 83024200 and the same be redetermined as 94032090 as discussed in paras supra.
- iii. I reject the declared assessable value i.e. Rs. 10,46,927/- (Rs. Ten Lacs Forty- Six Thousand Nine Hundred Twenty-Seven) order for redetermination of the same to Rs. 12,07,250 /- (Rs. Twelve Lacs Seven Thousand Two Hundred Fifty) under rule 9 of Customs Valuation Rules, 2007.
- iv. I order that the Bill of Entry no. 8893901 dated 19.03.2025 be re-assessed accordingly under Section 17(4) of the Customs Act, 1962.
- v. I order for confiscation of the goods imported vide impugned Bill of Entry no. 8893901 dated 19.03.2025 by way of mis declaration and mis classification under Section 111(m) of the Customs Act, 1962. However, I give the importer an option under provision of Section 125(1) of the Customs Act, 1962, to redeem the said goods on payment of redemption fine of **Rs. 1,20,000/- (Rupees One Lakh Twenty Thousand Only)**.
- vi. I impose penalty of **Rs. 20,000 (Rupees Twenty Thousand only)** on the importer M/s KMAX TRADING COMPANY (IEC No. ABCFK5650K) under Section 112(a)(ii) of the Customs Act, 1962.

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

Additional Commissioner of Customs,
Import Assessment,
Customs House, Mundra.

To,
M/s KMAX TRADING COMPANY (IEC ABCFK5650K),
107, SR Compound, Lasudiya Mori, Indore,
Madhya Pradesh - 453771

Copy to:

1. The Asst./Dy. Commissioner of Customs (SIIB), CH, Mundra
2. The Asst./Dy. Commissioner of Customs (Review Cell), CH, Mundra.
2. The Asst./Dy. Commissioner of Customs (EDI), CH, Mundra.
3. The Asst./Dy. Commissioner of Customs (TRC), CH, Mundra.
4. Office Copy.