OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS

CUSTOMS HOUSE, MP & SEZ

MUNDRA, KUTCH-GUJARAT - 370421

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सत्यमेव जयते

A	**FILE NO.** फ़ाइल संख्या	CUS/APR/5034/2026-Gr 3-O/o Pr Commr-Cus-Mundra
B	**OIO NO.** आदेश संख्या	MCH/ADC/ZDC/427/2026-27
C	**PASSED BY** जारीकर्ता	Dipak Zala, Additional Commissioner of Customs/अपर आयुक्त सीमा शुल्क, Custom House, Mundra/कस्टम हाउस, मुंद्रा।
D	**DATE OF ORDER** आदेश की तारीख	22-10-2026
E	**DATE OF ISSUE** जारी करने की तिथि	22-10-2026
F	**SCN No. & Date** कारण बताओ नोटिस क्रमांक	Waived.
G	**NOTICEE/ PARTY/ IMPORTER** नोटिसकर्ता/पार्टी/आयातक	M/s. JMV Enterprises (IEC:AUWPM9653R)

1. यहआदेश संबन्धित को नि:शुल्क प्रदान किया जाता है।
   This Order - in - Original is granted to the concerned free of charge.

2. यदि कोई व्यक्ति इस आदेश से असंतुष्ट है तो वह सीमाशुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमाशुल्क अधिनियम 1962 की धारा128 A के अंतर्गत प्रपत्र सीए- 1 में चार प्रतियों में नीचे बताए गए पते परअपील कर सकताहै-

   Any person aggrieved by this Order - in - Original may file an appeal under Section 128A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

"सीमाशुल्कआयुक्त) अपील(,

चौथी मंजिल, हुडको बिल्डिंग, ईश्वरभुवन रोड,

नवरंगपुरा,अहमदाबाद **380 009**"

"THE COMMISSIONER OF CUSTOMS (APPEALS),

HAVING HIS OFFICE AT 4TH FLOOR, HUDCO BUILDING, ISHWAR BHUVAN ROAD,

NAVRANGPURA, AHMEDABAD-380 009."

3. उक्तअपील यहआदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए।
Appeal shall be filed within sixty days from the date of communication of this order.

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5 -/रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-
Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must be accompanied by –

i. उक्त अपील की एक प्रति और A copy of the appeal, and
ii. इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची 1-के अनुसार न्यायालय शुल्क अधिनियम 1870-के मद सं° 6-में निर्धारित 5 -/रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।
This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.

5. अपील ज्ञापन के साथ ड्यूटि /ब्याज /दण्ड /जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।
Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo.

6. अपील प्रस्तुत करते समय, सीमाशुल्क) अपील (नियम, 1982और सीमाशुल्क अधिनियम,1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए।
While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.

7. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (A) के समक्ष मांग शुल्क का 7.5 %भुगतान करना होगा।

An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE:

M/s JMV Enterprise (IEC-AUWPM9653R), at N-10, Chanakya Place Part-2, Uttam Nagar, New Delhi-110059 (hereinafter referred to as *'Importer'* for the sake of brevity) have filed Z Type Bill of Entry No. 3617595 dated 07.09.2026 for import of Polyester Laminated Fabric as detailed in below table:

S No	Declared CTH	Declared description	Qty	UQC	Declared Assessable Value (Rs)	Declared Duty (Rs)
1	59039090	Polyester Laminated Fabric	80,856	SQM	8,85,676	2,48,875

2. The officers of SIIB section, CH Mundra, conducted the examination of the impugned goods stuffed into the container no. EGSU6229900 covered under the Z type Bill of Entry No. 3617595 dated 07.09.2026 under panchnama dated 14.09.2026 in presence of authorized representative of M/s. Fastrack CFS Pvt Ltd, APSEZ, Mundra and authorized representative of Importer.

3. INVESTIGATION:

3.1 During the examination it was found that container was fully stuffed with rolls of fabric of different colours. Subsequently, the cargo was destuffed and arranged in the warehouse of the SEZ Unit for detailed examination. On visual inspection it was observed that the fabric rolls were of different thickness and colors but appeared to be composed of same material. It was observed that total 1373 rolls were destuffed from the container. Selected rolls were examined in detail and it was observed that on one side of the fabric lamination was available but the composition of the material with which lamination was done could not be ascertained with naked eyes. Further, thickness of the rolls was not mentioned on the rolls and as the number of rolls was huge i.e 1373, therefore, measuring length of each roll was not possible. However, width of all rolls was found to be same i.e 1.5 metre. 3 rolls were randomly weighed and it was found that weight of 2 rolls was 20 Kg (approx..) and that of third roll was 14.6 Kg (apprx.). The details of the goods found during examination is mentioned

in the table below.

TABLE-A

Sr. No.	Type	No. of PP Bags	Lenth of each fabric roll	Width of Each Fabric Roll	Area of Fabric rolls as per CE Report	Total Weight (in Kgs)
1	Fabric	1373 rolls	Varied length	1.5 metre	1,27,881.55 SQM	28,070

3.2 The importer had declared the total quantity of goods imported under the Bill of Entry No. 3617595 dated 07.09.2026 as 80,856 SQM. However, the total quantity in SQM could not be calculated during examination as the thickness of all rolls was not same and the length of each roll was not mentioned on each roll. And the CE has reported the total quantity of fabric to be 1,27,881.55 SQM.

3.3 Further, for ascertaining the exact nature and composition of fabric, samples were drawn and sent to the lab CRCL, Kandla vide Test Memo No. 206/2026-27 dated 15.09.2026 for testing.

3.4 The CRCL, Kandla Lab vide their Lab report no. 3801/SIIB dated 24.09.2026 in respect of Test Memo No. 206/2026-27 dated 15.09.2026 has submitted the following observations-

The sample as received is in the form of a cut piece of dyed (black coloured) woven fabric having lamination (translucent film) on one side.

The base fabric is composed of Polyester filament yarn (textured) together with lycra and laminated film is composed of polymeric material based on polyurethane (PU).

GSM (as such) = 219.5

Width (selvedge to selvedge) = 150 cm.

% Composition: -

Polyester = 87.6 % by Wt.

Lycra = 7.44 % by weight

Laminating material= balance

It is laminated fabric, hence azo dye could not be ascertained.

4. Classification of the Goods

4 . 1 The importer had declared the imported goods to be "*Polyester laminate fabric*" under CTH 59039090 in the Z Type BE No. 3617595 dated 07.09.2026 and the CRCL test report has found the goods to be "laminated *dyed woven fabric made up on textured Polyester filament yarn (87.6 % by weight) and lycra-7.44% having lamination on one side with polymeric material based on polyurethane with GSM as 219.5*". In this regard, the relevant extract of CTH 5903 is reproduced as under:

5903 Textile Fabrics impregnated, coated, covered or laminated with plastic, other than those of heading 5902

590310	*-*	*With polyvinyl chloride:*
5903 10 10	*---*	*Imitation leather fabrics of cotton*
5903 10 90	*---*	*Other*
590320	*-*	*With polyurethane:*
5903 20 10	*---*	*Imitation leather fabrics, of cotton*
5903 20 90	*---*	*Other*
5903 90	*-*	*Other:*
5903 90 10	*---*	*Of cotton*
5903 90 20	*---*	*Polyethylene laminated jute fabrics*
5903 90 90	*---*	*Other*

4.2 Further, on examination of the CRCL test report, it appears that the imported fabric merits classification under CTH 59032090 since as per the CRCL report the imported fabric is "laminated *dyed woven fabric made up on textured Polyester filament yarn (87.6 % by weight) and lycra-7.44% having lamination on one side with polymeric material based on polyurethane*". Therefore, as the lamination is composed of material based on polyurethane, the declared CTH Classification of the importer "59039090" is incorrect and the imported fabric appears to correctly classifiable under CTH 59032090.

5 . Calculation of the quantity of the imported fabric: As already

mentioned in the Para 4.2 above, the correct CTH of the imported fabric in the instant case is 59032090. Further, the UQC for the CTH 59032090 is SQM and the duty calculation is required to be done per SQM. Moreover, during the examination it was found that all fabric rolls were not of same thickness and length of each roll was not mentioned on the rolls, therefore, measuring length of each roll was not possible. However, as per the weighment slip submitted by M/s Fastrack CFS Pvt. Ltd., APSEZ, Mundra the weight of the goods was 28,070 Kg and the GSM reported in the CRCL report dated 24.09.2026 is 219.5. Therefore, the number of SQM are calculated by dividing the weight (in grams) observed in the weighment slip of CFS by the GSM reported by the CFS and it is found that the number of SQM comes around 1,27,882 (2,80,70,000/219.5=1,27,881.55). Therefore, the number of SQM for the purpose of duty calculation have been taken as 1,27,882 SQM.

6. Valuation of the goods:

6.1 The imported goods were mis-declared by the importer in terms of quantity and description (CTH Classification being correct). The declared value appears to be for the declared description and the declared quantity. Therefore, the value of the goods also needs to be redetermined:

6.2 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. The 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. The 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"*. Whereas, 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. Whereas, the goods have been found to be mis-declared in terms of quantity and description, it appeared that, there is a reasonable doubt regarding the truth and accuracy of the declared value, and hence it appears liable to be rejected in terms of Rule 12 of the CVR, 2007.

6.3 Whereas, it appears that, if actual transaction value which means price paid or payable cannot be ascertained on the basis of Rule 3 of the CVR, 2007, the value shall be decided proceeding to subsequent rules. Thus, recourse is to be taken to the Rule 9 of the CVR, 2007 which provides for determination of value where the value of the imported goods cannot be determined under the provisions of the 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.

6.4 Whereas, it appears that, the value of the impugned goods could not be determined under Rule 4 and 5 ibid since the goods have been un-declared/mis-declared by means of description, the value of contemporaneous imports of identical and similar goods of same quality and composition was not found. Proceeding sequentially, it is stipulated under Rule 6 ibid that where the value is not determinable under Rule 3, 4 and 5, the value is to be determined under Rule 7 or when the value cannot be determined under that Rule, under Rule 8. Whereas, Rule 7 provides for 'Deductive Value' i.e. the value is to be determined on the basis of valuation of identical goods or similar imported goods sold in India, in the condition as imported at or about the time at which the declaration for determination of value is presented, subject to deductions stipulated under the rule. Whereas, for the reasons detailed above, the values also cannot be determined as per the said Rule 7 ibid. Likewise, for application of Rule 8 of the CVR, 2007, the cost of production or processing involved in the imported goods are not available. In the absence of requisite data, the value cannot be determined by taking recourse to these rules either.

6.5 Whereas, it appears that, the provisions of Rule 4 to 8 ibid, are not applicable in the instant case, the value of the impugned goods is required to be determined under the provisions of Rule 9 of the CVR 2007, which reads as under: -

> *"Rule 9: Residual method – (1) Subject to the provisions of Rule 3, where the value of the 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:"*

6.6 Whereas, as per the provisions of Rule 9 ibid, the assessable value of

the goods actually found during examination are required to be re-determined under Rule 9 ibid, i.e. as per the residual method. Whereas, the impugned goods were inspected by Sh. Ajayrajsinh B Jhala, Chartered Engineer & Government approved valuer, who submitted his report vide reference No. ABJ:INSP:CE:MUN:SIIB:26-27:05 dated 09.10.2026. Wherein, he has reported the value of the cargo as tabulated below:

TABLE-B

SR. NO.	DESCRIPTION OF GOODS	UNIT	Quantity (KGS)	GSM As per Test Report	Qty in SQM	Per Unit Average CIF Value – in USD (Approx.)	Total Average CIF Value Assessed by C.E. in USD (Approx.)
1	The base fabric is composed of polyester filament yarn (textured) with lycra and laminated film is composed of polymeric material based on Polyurethane (PU) GSM (as such)-219.5 % Polyester = 87.3 %h)-219.5 % Polyester = 87.3 % % Lycra= 7.44 % Laminating Material= Balance	SQM	28,070	219.5	1,27,881.55	0.14	17,903.417
TOTAL			**28,070**		**1,27,881.55**		

6.7 Whereas, the chartered engineer has valued the goods at Rs. 29,76,229/- ($17,903.417*95.25= Rs. 17,05,300), it appears that, the

assessable value of Rs. 8,85,676/- declared by the importer in the Z-Bill of Entry No. 3617595 dated 07.09.2026 is liable to be rejected in terms of Rule 12 of the CVR, 2007. Further it appears that, the assessable value of the cargo covered under said Bill of Entry are required to be determined as **Rs. 17,05,300/**- on the basis of valuation report submitted by the CE for the purpose of valuation under provisions of Rule 9 of the CVR, 2007 read with note 2 of the interpretative notes for Rule 9 of the CVR, 2007.

7. <u>Findings of Investigation:</u>

The findings of the investigation are summarized as below:

i. During the examination, it is found that there was total 1373 fabric rolls all of which were not of same thickness and the length of each roll was not mentioned on the rolls. The total weight of the goods comes to 28,070 Kgs.
ii. The importer had declared the quantity of goods to be 80,856 Sq Metre but the CE report has found the quantity to be 1,27,881.55 Sq. metre. Therefore, it appears that the importer had mis-declared the quantity of goods imported in order to evade the duty.
iii. From the test report received from CRCL Kandla, it appears that the fabric is "*Polyester Laminated Fabric with lycra"*.
iv. The importer had wrongly classified the goods under CTH 59039090 but as the laminating material is composed of polymeric material based on polyurethane, therefore the correct classification of the imported goods should be 59032090.
v. The importer had declared the value of the goods as Rs. 8,85,676/- in the Z type BE No. 3617595 dated 07.09.2026 but the chartered engineer has valued the goods at Rs. 17,05,300/-, it appears that, the importer had undervalued the goods with an intention to evade Customs duty. Therefore, the assessable value of Rs. 8,85,676/- declared by the importer in the Z-Bill of Entry No. 3617595 dated 07.09.2026 is liable to be rejected and the value of the cargo covered under said Bill of Entry are required to be determined as Rs. 17,05,300/-.

8. 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.

Section 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.

9. Relevant provisions of the Customs Act, 1962 related to filling Bill of Entry and confiscation and seizure of the imported goods are reproduced herein under:

Customs Act, 1962, as amended:

9.1 As per Section 2 (23), ***import***, *with its grammatical variations and cognate expressions, means bringing into India from a place*

outside India;

9.2 As per 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;*

9.3 As per 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*

9.4 Section 17 provides the provisions of the Assessment of duty as under:

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.***

(2) The proper officer may verify the entries made under section 46 or section 50 and the self-assessment of goods referred to in sub-section (1)] and for this purpose, examine or test any imported goods or export goods or such part thereof as may be necessary.

Provided that the selection of cases for verification shall primarily be on the basis of risk evaluation through appropriate selection criteria.]

(3) For the purposes of verification under sub-section (2), the proper officer may require the importer, exporter or any other person to produce any document or information, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and thereupon, the importer, exporter or such other person shall produce such document or furnish such information.]

(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.

(5) Where any re-assessment done under sub-section (4) is contrary to

the self-assessment done by the importer or exporter and in cases other than those where the importer or exporter, as the case may be, confirms his acceptance of the said re-assessment in writing, the proper officer shall pass a speaking order on the re-assessment, within fifteen days from the date of re-assessment of the bill of entry or the shipping bill, as the case may be.

9.5 Further, procedure of Entry of goods on importation are governed by the **Section 46** of the Act, *ibid* as under

(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:

Provided further that if the importer makes and subscribes to a declaration before the proper officer, to the effect that he is unable for want of full information to furnish all the particulars of the goods required under this sub-section, the proper officer may, pending the production of such information, permit him, previous to the entry thereof (a) to examine the goods in the presence of an officer of customs, or (b) to deposit the goods in a public warehouse appointed under section 57 without warehousing the same.

(2) Save as otherwise permitted by the proper officer, a bill of entry shall include all the goods mentioned in the bill of lading or other receipt given by the carrier to the consignor.

(3) The importer shall present the bill of entry under sub-section (1) before the end of the day (including holidays) preceding the day on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing:

Provided that the Board may, in such cases as it may deem fit, prescribe different time limits for presentation of the bill of entry, which shall not be later than the end of the day of such arrival:

Provided further that] a bill of entry may be presented 9[at any time not exceeding thirty days prior to] the expected arrival of the

aircraft or vessel or vehicle by which the goods have been shipped for importation into India:

Provided also that where the bill of entry is not presented within the time so specified and the proper officer is satisfied that there was no sufficient cause for such delay, the importer shall pay such charges for late presentation of the bill of entry as may be prescribed.

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

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

(a) the accuracy and completeness of the information given therein;

(b) the authenticity and validity of any document supporting it; and

(c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

(5) If the proper officer is satisfied that the interests of revenue are not prejudicially affected and that there was no fraudulent intention, he may permit substitution of a bill of entry for home consumption for a bill of entry for warehousing or vice versa.

9.6 Section 111 of the Act, prescribes the Confiscation of improperly imported goods, etc. as under

The following goods brought from a place outside India shall be liable for 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 transshipment, with the declaration for transshipment referred to in the proviso to sub-section

(1) of section 54.

9.7 Section 112 of the Act provides the penal provisions for improper importation of goods, etc. which read as under**:**

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 section111,

shall be liable, -

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

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

***Provided** that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined;]*

(iii) in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty not exceeding the difference between the declared value and the value thereof or five thousand rupees], whichever is the greater;

(iv) in the case of goods falling both under clauses (i) and (iii), to a penalty not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest;

(v) in the case of goods falling both under clauses (ii) and (iii), to a penalty not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees, whichever is the highest.

9.8 SECTION 124 prescribes the mandatory issuance of show cause notice before confiscation of goods, which read as under**:**

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

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

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

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

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

9.9 SECTION 125 provides the Option to pay fine in lieu of confiscation as under:

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

the said officer thinks fit:

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

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

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

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

10. In view of the above, it appears that in the imported goods as stated in Table-A of BE No. 3617595 dated 07.09.2026 are found to be mis-declared in terms of quantity, description and classification. The importer has contravened the provisions of Section 17 & 46 of the Customs Act, 1962. These acts of omission and commission on the part of importer has made these goods valued at **Rs. 17,05,300/**- liable for confiscation under Section 111 (l) and 111 (m) of the Customs Act 1962 and has thus rendered themselves liable for penal action under Section 112 (a) (ii) of the Customs Act, 1962.

11. In view of the above, the applicable duty on the imported goods is redetermined to Rs. **4,79,189/- (Duty calculation chart enclosed as Annexure-A).** It appears that the importer has short levied/not levied duty amounting to **Rs. 2,30,314/-**, which is required to be recovered from the importer.

12. The importer, vide email dated 16.10.2026, has accepted the value of the goods as redetermined by the Chartered Engineer and has requested

waiver of the Show Cause Notice (SCN) and Personal Hearing (PH) in the matter.

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

(i) The declared description, quantity and classification of goods in Z-Bill of Entry No. 3617595 dated 07.09.2026, filed by the Importer M/s. JMV Enterprises, are liable to be rejected and needs to be re-determined as above.

(ii) The total declared assessable value of Rs. 8,85,676/- for the goods under Z-Bill of Entry No. 3617595 dated 07.09.2026 is liable to be rejected and re-determined as Rs. 17,05,300/- as per the Chartered Engineer's valuation report (Ref. No. ABJ:INSP:CE:MUN:SIIB:26-27:05 dated 09.10.2026), under Rule 9 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, read with Section 14 of the Customs Act, 1962.

(iii) The goods valued at Rs. 17,05,300/- were found mis-declared in terms of description, quantity and classification, are liable for confiscation under Sections 111(l) and 111(m) of the Customs Act, 1962, as discussed in foregoing paras.

(iv) The said Z-Bill of Entry No. 3617595 dated 07.09.2026 is liable to be re-assessed accordingly under Section 17(4) of the Customs Act, 1962, as per foregoing paras.

(v) Penalty under Section 112 (a) (ii) and 114AA of Customs Act, 1962 is imposable upon the importer.

13.1 Accordingly, an investigation report no. 191/2026-27 dated 14.10.2026 has been issued by SIIB, Mundra Customs.

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WRITTEN SUBMISSION AND PERSONAL HEARING

14. The importer, M/s. JMV Enterprises, vide their letter dated 19.10.2026, has requested waiver of issuance of Show Cause Notice and grant of Personal Hearing in the matter and has requested to finalize the matter.

DISCUSSION AND FINDINGS

15. I have carefully gone through Investigation Report No. 191/2026-27 dated 14.10.2026 forwarded by SIIB, Custom House, Mundra, the relied upon documents and all other material available on record. Importer, M/s. JMV Enterprises vide their letter dated 19.10.2026, requested waiver of the Show Cause Notice and Personal Hearing and asked that the matter be finalised. I am satisfied that the principles of natural justice have been duly complied with. The matter is accordingly being disposed of on merits under the first proviso to Section 124 of the Customs Act, 1962.

15.1 On a careful perusal of the brief facts of the case, I find that the following main issues arise for consideration and determination in this case:

(i) Whether the declared description, classification and quantity of the goods covered under Z-Bill of Entry No. 3617595 dated 07.09.2026 are liable to be rejected and re-determined;

(ii) Whether the declared assessable value of Rs. 8,85,676/- (Rupees Eight Lakh Eighty-Five Thousand Six Hundred and Seventy-Six Only) is liable to be rejected under Rule 12 of the CVR, 2007 and re-determined as Rs. 17,05,300/- (Rupees Seventeen Lakh Five Thousand Three Hundred Only) under Rule 9 ibid, read with Section 14 of the Customs Act, 1962 [IR para 13(ii)];

(iii) Whether the Bill of Entry is liable to be re-assessed under Section 17(4) of the Customs Act, 1962;

(iv) Whether the goods are liable for confiscation under Sections 111(l) and 111(m) of the Customs Act, 1962; and

(v) Whether penalty is imposable on the importer under Sections 112(a)(ii) and 114AA of the Customs Act, 1962.

16. FIRST ISSUE — RE-DETERMINATION OF DESCRIPTION, CLASSIFICATION AND QUANTITY:

16.1 I find that M/s. JMV Enterprises filed Z-Bill of Entry No. 3617595 dated 07.09.2026 at M/s. Fast Track CFS Pvt. Ltd. (SEZ Unit), APSEZ, Mundra. The BE declared a single item, “Polyester Laminate Fabrics”, under CTH 59039090, with a quantity of 80,856 SQM at a unit price of USD 0.115/SQM and an assessable value of Rs. 8,85,676/-. The goods were shipped in Container No. EGSU6229900 against Invoice No. 2026KF-6 dated 25.07.2026 issued by M/s. Jiaxing Haiwo Import & Export Co.,

Ltd., China. The BE and the Bill of Lading declared 1,123 packages (rolls) with a gross weight of 27,900 kgs.

16.2 I find that the goods were examined under Panchnama dated 14.09.2026, and the container was found to contain **1,373 rolls** of fabric of different colours and thickness, each 1.5 metres wide. That is 250 rolls more than the 1,123 declared. As per the weighment slip of M/s. Fast Track CFS Pvt. Ltd., the goods weighed 28,070 kgs. A representative sample was drawn and forwarded to CRCL, Kandla vide Test Memo No. 206/2026-27 dated 15.09.2026.

16.3 Classification: I find that CRCL, Kandla, vide Lab Report No. 3801/SIIB dated 24.09.2026, reported the following:

- the sample is a dyed (black) **woven** fabric having lamination (translucent film) on one side;
- the base fabric is composed of textured polyester filament yarn together with lycra;
- the laminated film is composed of polymeric material based on **polyurethane (PU)**;
- GSM is 219.5, and width is 150 cm;
- composition is polyester 87.3% by weight and lycra 7.44% by weight, the balance being laminating material.

Heading 5903 covers textile fabrics impregnated, coated, covered or laminated with plastics, other than those of heading 59.02. Within that heading:

- sub-heading 5903 10 covers fabrics laminated with polyvinyl chloride;
- sub-heading 5903 20 specifically covers fabrics laminated with polyurethane;
- sub-heading 5903 90 (“Other”) is a residual entry.

I find that since the laminating material has been specifically identified as polyurethane, the goods fall under sub-heading 5903 20. Being polyester-based fabrics and not imitation leather fabrics of cotton, they are classifiable under CTH 59032090. The presence of lycra in the base fabric

does not alter this, because the classification within heading 5903 turns on the plastic used for lamination. The specific sub-heading must be preferred over the residual "Other" sub-heading in terms of Rules 1 and 6 of the General Rules for the Interpretation of the First Schedule to the Customs Tariff Act, 1975. I therefore hold that the declared CTH 59039090 is liable to be rejected and the goods are correctly classifiable under CTH 59032090.

16.4 I note that the effective rate of duty under CTH 59032090 (BCD 20%, SWS 10% of BCD and IGST 5%) is the same as that applied by the importer under the declared CTH 59039090. The re-classification therefore does not by itself result in differential duty. However, it is required for correct assessment and for the correctness of the declaration in the Bill of Entry. The short levy in the present case arises from mis-declaration of quantity and value, as discussed below.

16.5 Quantity: I find that the goods were declared in SQM. The rolls were of varying thickness and their lengths were not marked, so the quantity actually imported can be determined only from the weight and the GSM established by CRCL. Applying the formula Area (SQM) = [Weight (kg) × 1000] ÷ GSM to the weight of 28,070 kgs and the GSM of 219.5 reported by CRCL, the quantity works out to 1,27,881.55 SQM, i.e. 1,27,882 SQM. The CE has adopted the same quantity in the valuation report, and the importer has accepted it without objection. I accordingly accept the re-determined quantity as under:

Sr. No.	**Description**	**CTH**	**Total Weight (Kgs)**	**GSM**	**Re-determined Quantity (SQM)**
1	PU laminated woven polyester fabric with lycra	59032090	28,070	219.5	1,27,882

16.6 I find that the quantity actually imported, 1,27,882 SQM, exceeds the declared quantity of 80,856 SQM by **47,026 SQM**. The physical count of 1,373 rolls against the 1,123 rolls declared independently confirms that goods in excess of the declaration were imported. This excess quantity was not included in the entry made under Section 46 of the Customs Act, 1962.

16.7 In view of paras 16.3 to 16.6 above, I reject the declared description, classification and quantity. I hold that the goods are correctly described as

"PU laminated woven polyester fabric with lycra", classifiable under CTH 59032090, with a quantity of 1,27,882 SQM. The goods are freely importable on payment of applicable Customs duty, and no prohibition or restriction applies to their import under the Foreign Trade Policy.

17. SECOND ISSUE — REJECTION OF DECLARED VALUE AND RE-DETERMINATION OF ASSESSABLE VALUE:

17.1 I find that the declared assessable value of Rs. 8,85,676/- relates to only 80,856 SQM at USD 0.115/SQM. The goods actually imported are 1,27,882 SQM of PU laminated polyester fabric. The declared value therefore does not represent the price actually paid or payable for the goods actually imported, and it cannot be accepted as the transaction value under Rule 3(1) of the CVR, 2007. In view of the mis-declaration of quantity and description/classification, there is reasonable doubt about the truth and accuracy of the declared value. The importer has produced no evidence in support of the declared value and has instead accepted the CE's valuation. I accordingly reject the declared value under Rule 12 of the CVR, 2007.

17.2 I find that the goods are a lot of fabric rolls of varying colours and thickness. Contemporaneous import data for identical or similar goods of the same quality, composition and commercial level was not available, so the value could not be determined under Rules 4 and 5 of the CVR, 2007. There was also no data on resale prices in India or on cost of production, so the value could not be determined under Rules 7 and 8 ibid. The value is therefore required to be determined under Rule 9 (Residual Method) of the CVR, 2007, using reasonable means consistent with the principles and general provisions of the Rules.

17.3 I find that Er. Ajayrajsinh B. Jhala, Customs empanelled Chartered Engineer, inspected the goods on 06.10.2026. Vide Opinion Certificate/Valuation Report No. ABJ:INSP:CE:MUN:SIIB:26-27:05 dated 09.10.2026, he determined the CIF value of the goods as under:

Sr. No.	**Description**	**Quantity (SQM)**	**Unit CIF (USD/SQM)**	**Total CIF (USD)**	**Total CIF (Rs.) @ Rs. 95.25/USD**
1	PU laminated woven polyester fabric with lycra, GSM 219.5	1,27,881.55	0.14	17,903.42	17,05,300

17.4 I find that the importer has accepted the CE's valuation without any objection vide email dated 16.10.2026. I accordingly reject the declared assessable value of Rs. 8,85,676/- under Rule 12 of the CVR, 2007. I re-determine the assessable value at Rs. 17,05,300/- under Rule 9 of the CVR, 2007 read with Section 14 of the Customs Act, 1962.

18. THIRD ISSUE — RE-DETERMINATION OF DUTY AND RE-ASSESSMENT:

18.1 I find that on the basis of the re-determined classification and assessable value, the Customs duty leviable works out as under:

Particulars	**As declared (CTH 59039090) (Rs.)**	**As re-determined (CTH 59032090) (Rs.)**
Assessable Value	8,85,676	17,05,300
BCD @20%	1,77,135	3,41,060
SWS @10% of BCD	17,714	34,106
IGST @5%	54,026	1,04,023
Total Duty	**2,48,875**	**4,79,189**

18.2 I find that the differential duty accordingly works out to **Rs. 2,30,314/-** (Rupees Two Lakh Thirty Thousand Three Hundred and Fourteen Only).

18.3 I accordingly order re-assessment of Z-Bill of Entry No. 3617595 dated 07.09.2026 under Section 17(4) of the Customs Act, 1962, with the correct description, classification (CTH 59032090), quantity (1,27,882 SQM), assessable value and duty as discussed above.

19. FOURTH ISSUE — CONFISCATION OF GOODS:

19.1 I find that the imported goods are liable for confiscation on the following grounds:

(a) **Section 111(l):** The importer declared 80,856 SQM in 1,123 rolls. The goods actually imported are 1,27,882 SQM in 1,373 rolls. The excess quantity of 47,026 SQM consists of dutiable goods in excess of those included in the entry made under the Customs Act, 1962. It is therefore liable for confiscation under Section 111(l) of the Customs Act, 1962.

(b) **Section 111(m):** The goods do not correspond with the entry made under the Act in respect of value, quantity and other particulars:

- the declared value of Rs. 8,85,676/- is against a re-determined value of Rs. 17,05,300/-;
- the goods are PU laminated fabrics classifiable under CTH 59032090 and not under the declared CTH 59039090;
- the declared quantity is 80,856 SQM against 1,27,882 SQM actually found.

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

19.2 Accordingly, I find that the entire consignment of 1,373 rolls (1,27,882 SQM) of PU laminated polyester fabric covered under Z-Bill of Entry No. 3617595 dated 07.09.2026, in Container No. EGSU6229900, lying at M/s. Fast Track CFS Pvt. Ltd. (SEZ Unit), APSEZ, Mundra, having a re-determined assessable value of Rs. 17,05,300/-, is liable for confiscation under Sections 111(l) and 111(m) of the Customs Act, 1962.

19.3 As the impugned goods are found liable for confiscation, I find it necessary to consider whether a redemption fine under Section 125 of the Customs Act, 1962 is to be imposed in lieu of confiscation. Section 125 reads as under:

> *"Section 125. Option to pay fine in lieu of confiscation.— (1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods [or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit."*

19.4 I find that the imported goods are freely importable and are not prohibited goods. In the case of non-prohibited goods, Section 125(1) mandates that the adjudicating authority shall give the owner an option to pay a fine in lieu of confiscation. I accordingly give M/s. JMV Enterprises an option to redeem the said goods on payment of redemption fine under Section 125(1) of the Customs Act, 1962. In terms of Section 125(2) ibid, this is in addition to the applicable Customs duty and charges, including the differential duty, if any.

20. FIFTH ISSUE — PENALTIES:

20.1 Penalty under Section 112(a)(ii) of the Customs Act, 1962:

I find that M/s. JMV Enterprises mis-declared the quantity of the goods (80,856 SQM in 1,123 rolls declared, against 1,27,882 SQM in 1,373 rolls found), mis-declared their classification (CTH 59039090 instead of CTH 59032090), and undervalued them (Rs. 8,85,676/- declared against Rs. 17,05,300/- re-determined). These acts and omissions contravene Sections 46(4) and 46(4A) of the Customs Act, 1962. By them, the importer rendered the goods liable for confiscation under Sections 111(l) and 111(m) ibid, resulting in a short levy of duty of Rs. 2,30,314/-. The goods are dutiable goods and not prohibited goods. I accordingly find that M/s. JMV Enterprises has rendered itself liable for penalty under Section 112(a)(ii) of the Customs Act, 1962.

20.2 Penalty under Section 114AA of the Customs Act, 1962:

I find that M/s. JMV Enterprises filed the Bill of Entry themselves, without a Customs Broker. They made, signed and used Z-Bill of Entry No. 3617595 dated 07.09.2026 together with the supporting invoice and packing list. These documents were false and incorrect in the following material particulars:

(i) the number of rolls was declared as 1,123, whereas 1,373 rolls were actually imported;

(ii) the declared quantity of 80,856 SQM was about 63% of the 1,27,882 SQM actually imported;

(iii) the declared assessable value of Rs. 8,85,676/- was about half the re-determined value of Rs. 17,05,300/-; and

(iv) the goods were declared under the residual CTH 59039090, whereas they are PU laminated fabrics specifically covered under CTH 59032090.

The importer is the buyer who placed the order and paid for the goods, and cannot be unaware of the number of rolls and the quantity contracted for and shipped. An under-declaration of 250 rolls is a matter of simple count and cannot be attributed to an inadvertent or clerical error. The importer has also accepted the findings without contest. I therefore find that the false declarations were made knowingly in the transaction of business for the purposes of the Customs Act, 1962. M/s. JMV Enterprises has accordingly rendered itself liable for penalty under Section

114AA of the Customs Act, 1962.

21. In view of the aforesaid discussions and findings, I pass the following order:

ORDER

(i) I reject the declared description, classification (CTH 59039090) and quantity (80,856 SQM) of the goods covered under Z-Bill of Entry No. 3617595 dated 07.09.2026. I order that the goods be re-described as "PU laminated woven polyester fabric with lycra", re-classified under CTH 59032090 and re-quantified at 1,27,882 SQM.

(i i) I reject the declared assessable value of Rs. 8,85,676/- (Rupees Eight Lakh Eighty-Five Thousand Six Hundred and Seventy-Six Only) under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. I re-determine the assessable value at **Rs. 17,05,300/-** (Rupees Seventeen Lakh Five Thousand Three Hundred Only) under Rule 9 of the CVR, 2007 read with Section 14 of the Customs Act, 1962.

(iii) I order re-assessment of Z-Bill of Entry No. 3617595 dated 07.09.2026 under Section 17(4) of the Customs Act, 1962, as discussed above.

(iv) I order confiscation of the imported goods, i.e. 1,373 rolls (1,27,882 SQM) of PU laminated polyester fabric (CTH 59032090) having a re-determined value of Rs. 17,05,300/-, under Sections 111(l) and 111(m) of the Customs Act, 1962. However, I give M/s. JMV Enterprises an option to redeem the said goods on payment of a Redemption Fine of **Rs. 1,70,000/- (Rupees One Lakh Seventy Thousand Only)** under Section 125(1) of the Customs Act, 1962.

(v) I impose a penalty of **Rs. 23,000/- (Rupees Twenty-Three Thousand Only)** on M/s. JMV Enterprises (IEC: AUWPM9653R) under Section 112(a)(ii) of the Customs Act, 1962.

(vi) I impose a penalty of **Rs. 10,000/- (Rupees Ten Thousand Only)** on M/s. JMV Enterprises (IEC: AUWPM9653R) under Section 114AA of the Customs Act, 1962.

22. This Order-in-Original is issued without prejudice to any other action that may be taken against M/s. JMV Enterprises or any other person under the provisions of the Customs Act, 1962, or any rules,

regulations or notifications made thereunder, or under any other law for the time being in force.

Digitally signed by Dipakbhai Zala
Date: 22-10-2026 15:45:23

(DIPAK ZALA)
Additional Commissioner of Customs,
Mundra Customs

To,
M/s. JMV Enterprises (IEC: AUWPM9653R)
N-10, Chanakya Place Part-2,
Uttam Nagar, New Delhi – 110059

Copy to:

1. The Additional Commissioner (SIIB), Custom House, Mundra
2. The Dy./Asstt. Commissioner (RRA/TRC), Custom House, Mundra
3. The Dy./Asstt. Commissioner (EDI), Custom House, Mundra