



प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद
 “सीमा शुल्क भवन,” पहली मंजिल, पुराने हाई कोर्ट के सामने, नवरंगपुरा,
 अहमदाबाद – 380 009.

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DIN: 20250671MN000000F4B3

PREAMBLE

A	फाइल संख्या / File No.	:	VIII/10-226/ICD-SANAND/O&A/HQ/2024-25
B	कारण बताओ नोटिस संख्या – तारीख / Show Cause Notice No. and Date	:	CUS/SIIB/SZRE/256/2024-PREV-O/o PR COMM-R-CUS-AHMEDABAD dated 28.10.2024
C	मूल आदेश संख्या / Order-In-Original No.	:	54/ADC/SR/O&A/2025-26
D	आदेश तिथि / Date of Order-In-Original	:	20.06.2025
E	जारी करने की तारीख / Date of Issue	:	23.06.2025
F	द्वारा पारित / Passed By	:	SHRAVAN RAM, Additional Commissioner, Customs, Ahmedabad.
G	आयातक का नाम और पता / Name and Address of Importer / Noticee	:	1) M/S GKR TRADERS PVT LTD OFFICE NO. 1006-A, 10TH FLOOR, PLOT DG-ITL TOWER, NETAJI SUBHASH PLACE, NEW DELHI – 110034 2) SHRI ASHWANI KUMAR, DIRECTOR OF M/S GKR TRADERS PVT LTD, S/O RAMESHWAR DAYAL TYAGI, HOUSE NO 189, PO KANAUJ, GHAZIABAD, UP-201205 3) SHRI RANADEEP SARMA, DIRECTOR OF M/S GKR TRADERS PVT LTD RESIDENT OF BLOCK A /4A UTTARAYAN, 40 DUMDUM ROAD, PO MOTJHEEL, DISTRICT NORTH 24 PRAGANAS, WEST BENGAL -70074 4) M/S. MATHURADAS NARANDAS & SONS FORWARDERS LTD, AHMEDABAD OFFICE – A- 1303, SUN WEST BANK, OPPOSITE: VALLABH SADAN, ASHRAM ROAD, AHMEDABAD
(1)	यह प्रति उन व्यक्तियों के उपयोग के लिए निःशुल्क प्रदान की जाती है जिन्हें यह जारी की गयी है।		
(2)	कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्ति की तारीख के 60 दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क) अपील(, चौथी मंजिल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।		
(3)	अपील के साथ केवल पांच) 5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए और इसके साथ होना चाहिए:		

(i)	अपील की एक प्रति और;
(ii)	इस प्रति या इस आदेश की कोई प्रति के साथ केवल पांच) 5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए।
(4)	इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को 7.5 % (अधिकतम 10 करोड़) शुल्क अदा करना होगा जहां शुल्क या इयूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने में असफल रहने पर सीमा शुल्क अधिनियम, 1962 की धारा 129 के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।

BRIEF FACTS OF THE CASE

M/S GKR TRADERS PVT. LTD (IEC - **AAICG1612P**) having registered office at 1006-A, 10th Floor Plot DG-ITL Tower, Netaji Subhash Place, New Delhi – 110034 have filed two Warehouse Bills of Entry No. 3260739 (**RUD-1 to SCN**) & 3260738 (**RUD-2 to SCN**) both dated 29.04.2024 at ICD Sanand, Ahmedabad for import of carpets from M/s. M Queen Import and Export Ltd., Hong Kong, through their Customs Broker M/s. Mathuradas Narandas & Sons forwarders Limited, Ahmedabad (CHA Licence No. **AAACM3488KCH0085**). The details of Bills of Entry are as per Table-1 below:-

Table-1

Sr. No .	Warehouse Bill of Entry no. & date	Description of goods	Qty (Sq. Mtr)	Rate (USD/ Sq. Mtr.)	Declared Assessable Value (Rs.)	Self-Assessed Basics Customs Duty (Rs.)
1	3260739 dated 29.04.2024	Carpets CTH 57033920	1930.40	1505	24,79,61,806/-	4,95,92,361/-
2	3260738 dated 29.04.2024	Carpets CTH 57033920	2574	1108	24,34,16,091/-	4,86,83,218/-

2. At the time of appraisement of the goods imported under the aforesaid Bills of Entry, it was observed by the proper officer that the declared goods were very high valued. Based on the observation, the examination proceeding of goods imported under the aforesaid Bills of Entry was conducted in presence of independent Panchas/Witnesses, Govt. Approved Valuer and G-Card Holder of concerned Customs Broker under Panchnama dated 18.05.2024 (**RUD-3 to SCN**). The proper Officer in presence of the independent panchas opened the containers covered under the aforesaid Bills of Entry, de-stuffed the containers and goods were found 'Carpets' as declared in Bills of Entry. However the goods appeared to be mis declared in respect of its value and its country of origin, as it is also found during examination that-

- the Bar Code on the carpets suggest the Country of Origin as 'Austria',
- the Label show delivery at 'Brazil' and
- Language of the pasted sticker is 'Portuguese'.

3. As the declared value of the goods appeared to be unusually high, the services of empanelled Chartered Engineer were availed to determine the composition and rate of the imported goods. The empanelled Chartered Engineer Shri B. G Bhatt submitted his report (**RUD-4 to SCN**) as per Table-2:-

Table-2

BOE No.	Description	No. of carpets	Qty. in Sq. Mtr.	Declared value in Us (As per invoice)	Estimated Assessed Value in US \$
3260739 dated 29.04.2024	Various types & size of carpets composed of POLYPROPYLENE (Upto 70%) with average GSM of 2500	730	1930.40	29,05,252/-	72,522/-
3260738 dated 29.04.2024	Various types & size of carpets POLYPROPYLENE (Upto 70%) with average GSM of 1650	1150	2574	28,51,992/-	64,350/-

3.1 As per Chartered Engineer's report the carpets are made from POLYPROPYLENE (Upto 70%) Composite Adhesive (Olefin-synthetic material). Further the material used for piles and for carpets is manmade microfibers named as Olefin fibre which is a synthetic fibre made from a polyolefin, such as polypropylene or polyethylene. It is used in wallpaper carpeting, ropes, and vehicles interiors.

3.2 It appeared that the goods covered under the Bills of Entry No 3260739 dated 29.04.2024 were also mis-declared in respect of 'Country of Origin' since as per the Chartered Engineer report and also found during examination, the Bar Code on the imported Carpets suggested the Country of Origin as 'Austria', the label show delivery at 'Brazil', whereas the Country of Origin declared in the Bill of entry is 'China' (**RUD-5 to SCN**).

3.3 The assessable value of the imported goods under both the Bills of Entry, estimated by the empanelled charted engineer is detailed as per Table-3 below (**RUD-6 to SCN**):-

Table-3

S. No.	BE number and date	Declared Value in USD (As per invoice)	Estimated Assessed Value in USD (by CE)	Declared value higher vis-a vis Estimated value
1	3260739 dated 29.04.2024	28,51,992/-	64,350/-	44.32 times
2	3260738 dated 29.04.2024	29,05,252/-	72,522/-	40.06 times

4. Samples were drawn from both the containers covered under aforesaid the Bills of Entry and were sent to the Textile Committee, Mumbai for testing purpose vide letter dated 18.05.2024 (**RUD-7 to SCN**) to find out the actual nature, description and value of the goods. The Textiles Committee Lab, Mumbai has sent the test report of both the samples vide letter dated 05.07.2024 (**RUD-8 to SCN**). The details are as under:-

(I) The test report of sample covered under Bill of entry no. 3260738 dated 29.04.2024

- a) Azo dyes, which are prohibited in accordance with the Environment Protection Act, 1986 read with Environment Protection Rules, 1986 were not detected in the material.
- b) Identification of fibre (IS 667)

{Pile, Layer -I – Knitted, Layer -II-Non woven}: Polyester; {Layer – III – One & other direction} :Polyester+cotton.

- c) Fibre blend composition: Polyester: 94.0, Cotton 6.0.
- d) Weight per square meter (g) 1851.3
- e) Layer I: Knitted, Layer – II: Non-woven, Layer – III: Woven
- f) Layer I & II: Dyed, Layer III: Yarns of different colours.
- g) Layer is having pile
- h) Not Knotted, not tufted.

(II) The test report of sample covered under Bill of entry no. 3260739 dated 29.04.2024

- a) Azo dyes, which are prohibited in accordance with the Environment Protection Act, 1986 read with Environment Protection Rules, 1986 were not detected in the material.
- b) Identification of fibre (IS 667)

{Pile, Layer -I – Knitted, Layer -II-Non woven}: Polyester; {Layer – III – One & other direction}: Polyester+cotton.

- c) Fibre blend composition: Polyester: 94.8, Cotton 5.2.
- d) Weight per square meter (g) 1647.1
- e) Layer I: Knitted, Layer – II: Non-woven, Layer – III: Woven
- f) Layer I & II: Dyed, Layer III: Yarns of different colours.
- g) Layer is having pile
- h) Not Knotted, not tufted.

4.1 From, the test results, it appeared that the major constituent material of the goods under import is polyester and therefore taking into account of the price of the constituent material, the declared value of USD 1108 per Sq. mtr. and 1505 Sq. mtr. appeared to be unusually high. Also, the test report has indicated that the subject carpets are not tufted, however, the importer has declared the goods under Customs Tariff Sub-heading 5703 which is for “tufted carpets and other textile floor coverings” (**RUD-9 to SCN**). The correct classification of the said goods as per Custom Tariff Act 1975 should be 5704 which is for “carpets and other textile floor coverings, of felt, not tufted or flocked”.

5. Since the goods appeared to be grossly overvalued and mis-declared w.r.t. ‘Country of Origin’, hence the said consignment was seized under Section 110 of the Customs Act, 1962 vide Seizure Memo dated 18.05.2024 (**RUD-10 to SCN**) under Panchnama dated 18.05.2024 on a reasonable belief that the said goods are liable for confiscation under Section 111 of the Customs Act, 1962. The case was then transferred to Preventive Section, Ahmedabad Customs, for further investigation in the matter.

6. During investigation, Officers of Preventive Section, Customs Ahmedabad have issued summons of even number dated 21.08.2024, 06.09.2024, 20.09.2024 & 03.10.2024 (**RUD-11 to SCN**) to M/s GKR Traders Pvt. Ltd having registered Office at 1006-A, 10th floor Plot GD-ITL Tower, Netaji Subhash Place, New Delhi – 110034 to produce required documents & to give an statement. However, the importer did not respond to any of the summons issued.

6.1 It was noticed that both the Bill of Entries were filed by Custom Broker M/s. Mathuradas Narandas & Sons forwarders limited, Ahmedabad. During Investigation, summons were issued to CHA firm to tender statement and submit documents related to M/s. GKR Traders Private Limited, New Delhi, however the Customs broker failed to appear or submit any reply to the custom authorities in the first 02 summons.

6.2 In this connection statement of Shri Kuldeep B Thaker, Age 41, Assistant Manager of shipping line M/s OOCL (India) Private limited, Room No. 1, Ground Floor, Port User Complex, Pipavav Port, Rajula, District- Amreli, Gujarat - 365560 was recorded under Section 108 of the Customs Act, 1962 on 13.09.2024 (**RUD-12 to SCN**). On being asked, he informed that he was not aware about Panchnama dated 18.05.2024 drawn at ICD Sanand, Ahmedabad regarding imports made by M/s GKR Traders Pvt. Ltd. On being asked, he informed that he is not in direct contact with the importer or the exporter. Further, he stated that as a shipping line they are in contact only with the Customs Broker in respect of delivery order of the containers and not with the importer or the exporter. On being asked, he provided a copy of documents submitted by M/s. Mathuradas Narandas & Sons Forwarders Ltd, Ahmedabad with regards to the said import i.e. IEC Copy, GST copy, Pan Card, Ad code declaration, Aadhar card & MOA.

6.3 A statement of Shri Amit L. Prajapati, Age 31, Operation Manager (G- Card Holder- G/10/21) of M/s. Mathuradas Narandas & Sons Forwarders Ltd, Ahmedabad office at A- 1303, Sun west Bank, Opposite: Vallabh Sadan, Ashram Road, Ahmedabad, Gujarat, was recorded under Section 108 of the Customs Act, 1962 on 04.10.2024 (**RUD-13 to SCN**) wherein he inter alia stated that:-

- he is authorized representative of M/s Mathuradas Narandas & Sons Forwarders Ltd., A/1, Shiv Ganga Apartment, Zaver Road, Mulund, West Mumbai – 400080 to appear before Customs relating to matters of M/s. GKR Traders Pvt. Ltd.
- He perused the Panchnama dated 18.05.2024 drawn at ICD Sanand, Ahmedabad in respect of imports made by M/s GKR Traders Private limited (IEC – AAICG1612P), New Delhi and put his dated signature on its last page as a token of having seen and agreeing with the contents mentioned therein. He stated that he was aware about panchnama dated 18.05.2024 drawn at ICD Sanand, Ahmedabad in respect of imports made by M/s GKR Traders Pvt. Ltd. The same was drawn in his presence.
- He stated that he is working for last 06 years at Ahmedabad branch of CHA Firm, M/s. Mathuradas Narandas & Sons Forwarders Ltd having Head office at Mumbai. M/s. Mathuradas Narandas & Sons Forwarders Ltd has branches at Ahmedabad, Pune and Gandhidham.
- He further, stated that he was contacted over phone by Shri Deepak, a staff of M/s GKR Traders Pvt. Ltd who enquired him about clearance of imported Carpets at ICD Sanand, Ahmedabad. Shri Deepak asked him to work as their Customs Broker on behalf of M/s GKR Traders for custom clearance of imported goods

from ICD Sanand. Further, he stated that he received KYC documents from M/s GKR Traders Pvt. Ltd through email i.e. gkrtradersp@gmail.com.

- Further, he agreed that as per declaration received from M/s GKR Traders Pvt. Ltd, New Delhi, the Country of Origin is China and same informed by M Queen Import and Export Limited vide letter dated 22.03.2024.
- Further agreed that from the test results that the major constituent material of the goods under import is polyester and therefore, taking into account the price of the constituent material, the declared value of USD 1108 Per Sq. mtr and 1505 per Sq. Mtr appeared to be unusually high.
- On being asked, he agreed that carpets are not tufted, however importer has declared the goods under Customs Tariff Sub-heading 5703 which is for tufted carpets and other textile floor covering.
- On being asked, he agreed with the Chartered Engineer report regarding valuation of the imported carpets that declared value are 44.32 times & 40.06 times higher than declared value in Bill of Entry No. 3260738 dated 29.04.2024 & 3260739 dated 29.04.2024 respectively.
- Further, he agreed that as per Chartered engineer, the bar code suggest the country of origin as Austria, the label show delivery at Brazil and language of the pasted sticker is Portuguese.
- He received the summons dated 03.10.2024 (**RUD-14 to SCN**) issued to M/s GKR Traders Pvt. Ltd, New Delhi vide for appearing on 10.10.2024 to hand over the same to M/s. GKR Traders Pvt. Ltd, New Delhi within time.
- On being asked about documents submitted by M/s GKR Traders Pvt. Ltd, he provided the copy of KYC documents submitted to them by M/s GKR Traders Pvt. Ltd namely IEC copy of Importer, Company PAN Card, GST Certificate, AD code letter from Axis bank, Aadhar card, ROC certificate issued by Ministry of Corporate Affairs., Company MOA.

6.4 Since the importer, M/s GKR Traders Pvt. Ltd, failed to respond to any of the summons issued by the Custom Authorities therefore to verify the existence and business credentials of the company, a letter dated 15.10.2024 (**RUD-15 to SCN**) was written addressed to the Additional Commissioner of Customs, Preventive, New Delhi to conduct search at the premise M/s GKR Traders Pvt. Ltd (IEC - AAICG1612P) situated at 1006-A, 10th Floor Plot DG-ITL Tower, Netaji Subhash Place, New Delhi. In this regard, vide a letter dated 21.10.2024 issued by the Customs Preventive, New Delhi informed to this office that there is no firm in the name of M/s. GKR Traders Private Limited at the given address. The given registered address of the importer was found closed and there was no sign board of the company available there. In this regard, all proceeding were recorded under Panchnama dated 18.10.2024 (**RUD-16 to SCN**). As per the Panchanama dated 18.10.2024 submitted by Delhi Customs Official "the given address of M/s GKR Traders Pvt. Ltd was found shut and locked and there was no sign board of M/s GKR Traders Private Limited available at the said address. The Customs officers tried to contact persons present nearby at that time and asked about the firm M/s GKR Traders Private Limited who informed that they are not aware of any such

company operating there and said that the premise has remained locked for more than 06 months. Since, the Premise was found locked, search proceedings under Section 105 of the Customs Act, 1962 could not be carried out by officers.”

6.5 Further, since the importer appeared to be fictitious, again summons was issued to the CHA M/s. Mathuradas Narandas & Sons Forwarders Ltd, Ahmedabad, and in response to the summons, a statement of their authorised representative Shri Amit L. Prajapati, Operation Manager (G- Card Holder- G/10/21) was recorded on 24.10.2024 (**RUD-17 to SCN**) under section 108 of the Customs Act, 1962 wherein he inter alia reiterated the events stating that-

- on 28.04.2024 he received a phone call from one Shri Deepak who was calling on behalf of M/s. GKR Traders Pvt. Ltd. He told that he is the employee of M/s. GKR Traders Pvt Ltd. and their company has to clear one consignment of imported goods at ICD Sanand and asked if M/s. Mathuradas Narandas & Sons Forwarders Ltd, Ahmedabad can act as their Customs Broker for custom clearance of the said imported goods. Shri Deepak informed that the goods have already arrived at ICD Sanand and they have to file a Warehouse Bill of Entry. He stated that he agreed to act as their custom broker and asked Shri Deepak to submit the required KYC documents i.e. IEC copy of Importer, Company PAN Card, GST Certificate, AD code letter from Axis bank, Aadhar card, ROC certificate issued by Ministry of Corporate Affairs., Company MOA. Accordingly Shri Deepak mailed all the documents via e mail on 29.04.2024 and same day the Warehouse Bills of entry was filed. He admitted that he had only received the soft copy of the said KYC documents and has not seen the original document.
- On being asked regarding the authorisation letter issued to M/s. Mathuradas Narandas & Sons Forwarders Ltd by M/s GKR Traders Pvt. Ltd to act as a custom broker for custom clearance work he stated that Shri Deepak has sent the soft copy of authorization letter (only Xerox not original letter head form) via email and then the same printout through courier. He has not received the authorization letter in original form. He further stated that he had not asked for original authorization letter from M/s GKR Traders Private limited because of short of time since the goods had already arrived at ICD Sanand and he had to file the Bill of entry so he failed to insist on original authorization letter from M/s GKR Traders Private limited. On being asked, Shri Amit L. Prajapati stated that neither authorised signatory nor any of the directors of M/s GKR Traders Pvt. Ltd did personally meet the CHA firm. He received the copy of authorization letter along with other KYC documents via mail and then the printout of same through courier only. Also they have not entered into any agreement / contract with M/s GKR Traders Private limited, it was just an oral communication with one of the staff from M/s GKR Traders Private limited. He also stated that as a custom broker they have not physically verified the address of M/s GKR Traders Pvt Ltd as the client location was out of Gujarat i.e. Delhi. Further, he added that he was aware of his responsibility as a CHA firm to verify the genuineness of the client before initiating any business clearance on their behalf. However in this case the

firm has not verified the credential of the Importer i.e. M/s. GKR Traders Pvt. Ltd. and just acted on the basis documents submitted to them via e-mail.

- On being asked about not appearing in the first 2 summons dated 09.09.2024 and 20.09.2024 (**RUD-18 to SCN**) issued in the name of M/s. Mathuradas Narandas & Sons Forwarders Ltd to appear before this office to produce necessary documents and give statement, he stated that he has not received the summons since the registered office address of the firm has changed. Further he added that the CHA firm has shifted their registered address to a new location twice since after getting Custom Broker License from the Custom Department. However they have failed to inform the same to the department.
- On being asked about Custom Broker fees payment by M/s GKR Traders, he stated that they have not yet received any payment from M/s GKR Traders Pvt Ltd, New Delhi. On being enquired about director, he stated that they have not contacted any of the directors. He was only in touch with Shri Deepak who claimed to be the employee of M/s GKR Traders Pvt Ltd. On being enquired about directors of the firm, he stated that there are two directors in the company. At the time of filing of Bill of Entry the directors were as per copy of Aadhar card submitted are Shri Ashwani Kumar S/o Rameshwar Dayal Tyagi, House No 189, PO Kanauj, Ghaziabad, UP-201205 and Shri Ranadeep Sarma resident of Block A /4A Uttarayan, 40 Dum dum Road, PO Motjheel, District North 24 Praganas, West Bengal- 70074. However, he has checked online as on today both the directors of the firm has changed on 1 June 2024. The new directors as per the Ministry of Corporate Affairs website are Shri Kamal Verma and Shri Sameer Bansal.
- On being asked about the change in Directors of M/s GKR Traders Pvt. Ltd, he further stated that he has checked online at Ministry of Corporate Affairs website on 24.10.2024 after getting to know from the customs department that the company is not operational at the given address premises, as per the website details the name of the directors has changed on 01.06.2024.

7. In view of the above, it appeared that M/s GKR Traders Pvt. Ltd did not produce any original documents to M/s. Mathuradas Narandas & Sons Forwarders Ltd, Ahmedabad and the CHA firm totally relied on the soft copy of the documents required for KYC of the first time client sent via e mail. None of the employees of M/s. Mathuradas Narandas & Sons Forwarders Ltd did personally meet with any of the directors or any authorized representative of M/s GKR Traders Pvt. Ltd before initiating any custom clearance for them. Just on the basis of telephonic conversation with Shri Deepak who claimed to be employee of the company the CHA firm agreed to be their Custom Broker. M/s. Mathuradas Narandas & Sons Forwarders Ltd, Ahmedabad completely relied on the basis of soft copy of documents received over mail for the KYC verification and did not verify the business credential or address details of their client physically. Also the firm did not meet any authorised person or any of the directors from M/s GKR Traders Pvt. Ltd before initiating any custom clearance on their behalf. The firm totally relied on

the soft copy of IEC copy of Importer, Company PAN Card, GST Certificate, AD code letter from Axis bank, Aadhar card and ROC certificate issued by Ministry of Corporate.

7.1 In view of the facts discussed in the foregoing paras and evidences available on record, it appeared that the importer is dummy and has been using modus operandi to overvalue the import for excess foreign remittance. The importer found to be non-existent at the address given in Invoice & Packing list. Further the Bills of Entry filed were warehouse Bills of Entry and goods were intended to be re-exported as provided in the authorisation letter received from the importer to the CHA firm. It appeared that the importer has no intention to pay the import duty applicable as it was intended to be re-exported and there would only be outflow of capital from India to foreign supplier for the imported goods which are grossly overvalued.

8. RELEVANT PROVISIONS OF THE 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 (41)— “value”, in relation to any goods, means the value thereof determined in accordance with the provisions of 1 [sub-section (1) or sub-section (2) of section 14];

Section 11A-Definitions.—In this Chapter, unless the context otherwise requires,— (a) —illegal import means the import of any goods in contravention of the provisions of this Act or any other law for the time being in force;

Section 12-Dutiable goods.—(1) Except as otherwise provided in this Act, or any other law for the time being in force, duties of customs shall be levied at such rates as may be specified under the 1 [Customs Tariff Act, 1975 (51 of 1975)], or any other law for the time being in force, on goods imported into, or exported from, India.

Section 14 - Valuation of goods.—(1) For the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, the value of the imported goods and export goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, or as the case may be, for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf: Provided that such transaction value in the case of imported goods shall include, in addition to the price as aforesaid, any amount paid or payable for costs and services, including commissions and brokerage, engineering, design work, royalties and licence fees, costs of transportation to the place of importation,

insurance, loading, unloading and handling charges to the extent and in the manner specified in the rules made in this behalf: Provided further that the rules made in this behalf may provide for,—

(i) the circumstances in which the buyer and the seller shall be deemed to be related;

(ii) the manner of determination of value in respect of goods when there is no sale, or the buyer and the seller are related, or price is not the sole consideration for the sale or in any other case;

(iii) the manner of acceptance or rejection of value declared by the importer or exporter, as the case may be, where the proper officer has reason to doubt the truth or accuracy of such value, and determination of value for the purposes of this section:

Provided also that such price shall be calculated with reference to the rate of exchange as in force on the date on which a bill of entry is presented under section 46, or a shipping bill of export, as the case may be, is presented under section 50.

(2) Notwithstanding anything contained in sub-section (1), if the Board is satisfied that it is necessary or expedient so to do, it may, by notification in the Official Gazette, fix tariff values for any class of imported goods or export goods, having regard to the trend of value of such or like goods, and where any such tariff values are fixed, the duty shall be chargeable with reference to such tariff value.

Explanation.—For the purposes of this section—

(a) —rate of exchange means the rate of exchange—

(i) determined by the Board, or

(ii) ascertained in such manner as the Board may direct, for the conversion of Indian currency into foreign currency or foreign currency into Indian currency;

(b) —foreign currency and —Indian currency have the meanings respectively assigned to them in clause (m) and clause (q) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999).]

Section 46 -(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.

Rule 11. Declaration by the importer. –

(1) The importer or his agent shall furnish –

(a) a declaration disclosing full and accurate details relating to the value of imported goods; and

(b) any other statement, information or document including an invoice of the manufacturer or producer of the imported goods where the goods are imported from or through a person other than the manufacturer or producer, as considered necessary by the proper officer for determination of the value of imported goods under these rules.

(2) Nothing contained in these rules shall be construed as restricting or calling into question the right of the proper officer of customs to satisfy himself as to the truth or accuracy of any statement, information, document or declaration presented for valuation purposes.

(3) The provisions of the Customs Act, 1962 (52 of 1962) relating to confiscation, penalty and prosecution shall apply to cases where wrong declaration, information, statement or documents are furnished under these rules.

Rule 12. Rejection of declared value. –

(1) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, he may ask the importer of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such importer, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such imported goods cannot be determined under the provisions of sub-rule (1) of rule 3

(2) At the request of an importer, the proper officer, shall intimate the importer in writing the grounds for doubting the truth or accuracy of the value declared in relation to goods imported by such importer and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (1).

Explanation.-(1) For the removal of doubts, it is hereby declared that:-

(i) This rule by itself does not provide a method for determination of value, it provides a mechanism and procedure for rejection of declared value in cases where there is reasonable doubt that the declared value does not represent

the transaction value; where the declared value is rejected, the value shall be determined by proceeding sequentially in accordance with rules 4 to 9.

(ii) The declared value shall be accepted where the proper officer is satisfied about the truth and accuracy of the declared value after the said enquiry in consultation with the importers.

(iii) The proper officer shall have the powers to raise doubts on the truth or accuracy of the declared value based on certain reasons which may include

—

(a) the significantly higher value at which identical or similar goods imported at or about the same time in comparable quantities in a comparable commercial transaction were assessed;

(b) the sale involves an abnormal discount or abnormal reduction from the ordinary competitive price;

(c) the sale involves special discounts limited to exclusive agents;

(d) the misdeclaration of goods in parameters such as description, quality, quantity, country of origin, year of manufacture or production;

(e) the non-declaration of parameters such as brand, grade, specifications that have relevance to value;

(f) the fraudulent or manipulated documents.

Section 110 - Seizure of goods, documents and things.—*(1) If the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods:*

Provided that where it is not practicable to seize any such goods, the proper officer may serve on the owner of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer.

(1A) The Central Government may, having regard to the perishable or hazardous nature of any goods, depreciation in the value of the goods with the passage of time, constraints of storage space for the goods or any other relevant considerations, by notification in the Official Gazette, specify the goods or class of goods which shall, as soon as may be after its seizure under sub-section (1), be disposed of by the proper officer in such manner as the Central Government may, from time to time, determine after following the procedure hereinafter specified

officer under sub-section (1), he shall prepare an inventory of such goods containing such details relating to their description, quality, quantity, mark, numbers, country of origin and other particulars as the proper officer may

consider relevant to the identity of the goods in any proceedings under this Act and shall make an application to a Magistrate for the purpose of—

- (a) certifying the correctness of the inventory so prepared; or
- (b) taking, in the presence of the Magistrate, photographs of such goods, and certifying such photographs as true; or
- (c) allowing to draw representative samples of such goods, in the presence of the Magistrate, and certifying the correctness of any list of samples so drawn.

(1C) Where an application is made under sub-section (1B), the Magistrate shall, as soon as may be, allow the application.]

(2) Where any goods are seized under sub-section (1) and no notice in respect thereof is given under clause (a) of section 124 within six months of the seizure of the goods, the goods shall be returned to the person from whose possession he were seized:

Provided that the Principal Commissioner of Customs or Commissioner of Customs may, for reasons to be recorded in writing, extend such period to a further period not exceeding six months and inform the person from whom such goods were seized before the expiry of the period so specified:

Provided further that where any order for provisional release of the seized goods has been passed under section 110A, the specified period of six months shall not apply.

(3) The proper officer may seize any documents or things which, in his opinion, will be useful for, or relevant to, any proceeding under this Act.

(4) The person from whose custody any documents are seized under sub-section (3) shall be entitled to make copies thereof or take extracts therefrom in the presence of an officer of customs.

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 3 [in respect thereof, or in the case of goods under transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54]

Section 112 - *Penalty for improper importation of goods, etc.—Any person,—*

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

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

(i) 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 5 [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:

(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 3 [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 4 [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 5 [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.

Section 114AA - *Penalty for use of false and incorrect material.—If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.*

Section 124 - *Issue of show cause notice before confiscation of goods, etc.—No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person—*

(a) is given a notice in 1 [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.

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:*

Provided 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.

9. RELEVANT PROVISIONS OF FOREIGN TRADE (REGULATIONS) RULE 1993

Rule 11: *Declaration as value and quality of imported goods:- On the importation into, or exportation out of, any customs ports of any goods, whether liable to duty or not, the owner of such goods shall in the Bill of Entry or the Shipping Bill or any other documents prescribed under the*

Customs Act, 1962 (52 of 1962), state the value, quality and description of such goods to the best of his knowledge and belief and in case of exportation of goods, certify that the quality and specification of the goods as stated in those documents, are in accordance with the terms of the export contract entered into with the buyer or consignee in pursuance of which the goods are being exported and shall subscribe a declaration of the truth of such statement at the foot of such Bill of Entry or Shipping Bill or any other documents.

Rule 14: Prohibition regarding making, signing of any declaration, statement or documents. - (1) No person shall make, sign or use or cause to be made, signed or used any declaration, statement or document for the purposes of obtaining a licence or importing any goods knowing or having reason to believe that such declaration, statement or document is false in any material particular. (2) No person shall employ any corrupt or fraudulent practice for the purposes of obtaining any licence or importing or exporting any goods.

10. RELEVANT PROVISIONS OF CUSTOMS BROKER LICENSING REGULATIONS, 2018:

10. Obligations of Customs Broker—A Customs Broker shall —

- (a) obtain an authorisation from each of the companies, firms or individuals by whom he is for the time being employed as a Customs Broker and produce such authorisation whenever required by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;
- (b) transact business in the Customs Station either personally or through an authorised employee duly approved by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;
- (c) not represent a client in any matter to which the Customs Broker, as a former employee of the Central Board of Indirect taxes and Customs gave personal consideration, or as to the facts of which he gained knowledge, while in Government service;
- (d) advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;
- (e) exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage;

(f) not withhold information contained in any order, instruction or public notice relating to clearance of cargo or baggage issued by the Customs authorities, as the case may be, from a client who is entitled to such information;

(g) promptly pay over to the Government, when due, sums received for payment of any duty, tax or other debt or obligations owing to the Government and promptly account to his client for funds received for him from the Government or received from him in excess of Governmental or other charges payable in respect of cargo or baggage on behalf of the client;

(h) not procure or attempt to procure directly or indirectly, information from the Government records or other Government sources of any kind to which access is not granted by the proper officer;

(i) not attempt to influence the conduct of any official of the Customs Station in any matter pending before such official or his subordinates by the use of threat, false accusation, duress or the offer of any special inducement or promise of advantage or by the bestowing of any gift or favour or other thing of value;

(j) not refuse access to, conceal, remove or destroy the whole or any part of any book, paper or other record, relating to his transactions as a Customs Broker which is sought or may be sought by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be;

(k) maintain up to date records such as bill of entry, shipping bill, transhipment application, etc., all correspondence, other papers relating to his business as Customs Broker and accounts including financial transactions in an orderly and itemised manner as may be specified by the Principal Commissioner of Customs or Commissioner of Customs or the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;

(l) Immediately report the loss of license granted to him to the Principal Commissioner of Customs or Commissioner of Customs, as the case may be;

(m) discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay;

(n) verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information;

(o) inform any change of postal address, telephone number, e-mail etc. to the Deputy Commissioner of Customs or Assistant Commissioner of Customs,

as the case may be, of all Customs Stations including the concerned Deputy Commissioner or Assistant Commissioner of the Commissionerate who has granted the license immediately within two days;

(p) maintain all records and accounts that are required to be maintained under these regulations and preserve for at least five years and all such records and accounts shall be made available at any time for the inspection of officers authorised for this purpose; and

(q) Co-operate with the Customs authorities and shall join investigations promptly in the event of an inquiry against them or their employees.

11. It appeared that the Custom Broker M/s. Mathuradas Narandas & Sons forwarders limited has failed to discharge its obligations and duty incumbent upon them as Custom Broker in the present case namely Regulations 10(d), (n), (o) and (q). It also appeared from preceding paras that the goods imported vide the said 02 Bill of Entry were mis-declared in terms of value, description, classification and the Customs Broker was well and truly aware of the fact. As is evident from the facts of the case discussed above the custom broker has failed to fulfil its obligation. In the present case the address of the importing firm was not correct as no business activity of M/s GKR Traders Pvt. Ltd were being operated from the address provided in the KYC documents. It appeared that the custom Broker has deliberately and knowingly ignored this fact. As such the Custom Broker M/s. Mathuradas Narandas & Sons forwarders limited has rendered himself liable to penalty under Section 112 (iii) of Customs Act 1962.

12. Thus from the investigation as detailed in the foregoing paras it appeared that the consignment of Carpet imported under Bill of Entry No. 3260739 & 3260738 both dated 29.04.2024 having Assessable value Rs. 24,79,61,806/- and Rs. 24,34,16,091/- respectively is grossly overvalued and mis-declared and hence are liable to confiscation as per Section 111(m) of the Customs Act, 1962.

13. The importer has filed warehouse Bills of Entry and intended to re-export the goods so that they don't have to pay the applicable Customs duty and just intended to make foreign outward remittance. As per the Charter Engineers report it is very clear that the value of goods imported is minimum 40 times more than the declared value in documents. Also it is evident from the statement recorded of the Custom Broker that none of the authorised representative or directors ever tried to make contact with the CHA for clearance and it was mere telephonic conversation with an anonymous person claiming to be employee of M/s GKR Traders Pvt. Ltd, the custom broker has filed the Bill of Entry for Custom clearance. Prima facie the importer appeared to be not operational and fictitious. It appeared that the directors of the company have knowingly or intentionally used false and incorrect information/ documents for importing the aforesaid goods. Thus it appeared that the importer had knowingly caused to made, signed or used, the declaration, and documents presented for import which were false or incorrect as discussed supra, in the transaction of his business for the purposes of Customs Act 1962, hence the Directors of M/s GKR Traders Pvt. Ltd, New Delhi, Shri

Ashwani Kumar and Shri Ranadeep Sarma, are liable to penalty under Section 112 (a) and (b) of the Customs Act, 1962. Further, liable to penalty under Section 114AA of the Customs Act, 1962.

14. Thereafter, a Show Cause Notice was issued on 28.10.2024 vide F. No. CUS/SIIB/SZRE/256/2024-PREV-O/o PR COMMR-CUS-AHMEDABAD to M/s. GKR Traders Pvt. Ltd through its directors Shri Ashwani Kumar S/o Rameshwar Dayal Tyagi, House No 189, PO Kanauj, Ghaziabad, UP-201205 and Shri Ranadeep Sarma resident of Block A /4A Uttarayan, 40 Dumdu Road, PO Motjheel, District North 24 Praganas, West Bengal- 70074, were called upon to show cause to the Additional Commissioner of Customs, Customs Ahmedabad Commissionerate, near All India Radio Ahmedabad Navrangpura, Ahmedabad, Gujarat - 380014 as to why:

- (a) The declared value Rs. 24,79,61,806/- and Rs. 24,34,16,091/- of the consignments imported vide Bill of Entry No. 3260739 & 3260738 respectively both dated 29.04.2024 should not be rejected in terms of the Section 14 of the Customs Act, 1962 read with rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.
- (b) The self-classification of carpets imported vide Bill of Entry No. 3260739 & 3260738 respectively both dated 29.04.2024 under Custom Tariff head 5703 should not be rejected and reclassified under 5704;
- (c) The consignments imported vide Bill of Entry No. 3260739 & 3260738 both dated 29.04.2024 containing Carpet as declared value Rs. 24,79,61,806/- and Rs. 24,34,16,091/- respectively should not be confiscated under section 111 (m) of the Customs Act, 1962.
- (d) Penalty should not be imposed upon them under the provisions of Section 112(a) and 112(b) of the Customs Act, 1962 for goods mentioned at (b) above.
- (e) Penalty should not be imposed upon them under the provisions of Section 114AA of the Customs Act, 1962 for duty for goods mentioned at (b) above
- (f) Penalty should not be imposed upon them under the provisions of Section 117 of the Customs Act, 1962 for goods mentioned at (b) above.

14.1 Vide above Show Cause Notice F. No. CUS/SIIB/SZRE/256/2024-PREV-O/o PR COMMR-CUS-AHMEDABAD dated 28.10.2024, the Customs Broker M/s. Mathuradas Narandas & Sons forwarders limited, Ahmedabad (CHA Licence No. AAACM3488KCH0085) were also called upon to show cause to the Additional Commissioner of Customs, Customs Ahmedabad Commissionerate, near All India Radio

Ahmedabad Navrangpura, Ahmedabad, Gujarat - 380014 as to Penalty should not be imposed upon them under Section 112(a), 112(b) and 114AA of the Customs Act, 1962.

14.2 Vide Corrigendum dated 16.04.2025 to The Show Cause Notice Dated 28.10.2024 in case of M/s GKR Traders Pvt. Ltd through its directors Shri Ashwani Kumar S/o Rameshwar Dayal Tyagi, House No 189, PO Kanauj, Ghaziabad, UP-201205 and Shri Ranadeep Sarma resident of Block A /4A Uttarayan, 40 Dum dum Road, PO Motjheel, District North 24 Praganas, West Bengal- 70074, Para No. 12 (e) was corrected and Section 114A was changed to Section 114AA of the Customs Act, 1962 as discussed in para 11.3 of the Show Cause Notice dated 28.10.2024.

SUBMISSION AND PERSONAL HEARING:-

15. M/s. Mathuradas Narandas & Sons Forwarders Ltd. submitted a letter dated 16.12.2024, interalia they submitted that:-

1. They denied the allegation levelled against them in the SCN.
2. They, in the normal course of business, relying on a telephonic conversation with Shri Deepak who claimed to be an employee of M/s GKR Traders Pvt. Ltd (importer) and based on the documents sent via email, acted as custom broker and filed warehousing bills of entry on behalf of the said importer. The SCN does not bring out any fact of our knowledge or involvement with the importer in the alleged improper importation of goods. It is thus wrong to assume that they had knowledge of or involvement in the submission of allegedly false or incorrect documents. The SCN does not cite a single piece of evidence that they had knowledge of the alleged mis-declaration in relation to the imported goods or the alleged importer's fictitious/dummy nature which itself is not established by complete investigation at the end of the importer.
3. It is clear from the statements dated 4.10.2024 and 24.10.2024 of their employee Shri Amit L. Prajapati that he fulfilled his duty of filing the Bills of Entry based on the information and documents provided by the importer, and that he had no knowledge of the alleged discrepancies in the declared value and Country of origin of the goods. It was only during the physical examination by the customs officer that the alleged discrepancies were revealed, including the Chartered Engineer's report allegedly highlighting the significant differences in declared and estimated values, and the mis-declared country of origin. Thus, there is no evidence of prior knowledge on their part of these alleged discrepancies, in absence of which allegation of our involvement with the alleged mis-declaration of the goods are not tenable, consequently penalties proposed as against them cannot survive.
4. They relied upon decisions in the cases-
 - M/S JEENA AND COMPANY VERSUS COMMISSIONER OF CUSTOMS BANGALORE _ 2021 3 TMI 170
 - M/S. SEA QUEEN SHIPPING SERVICES PRIVATE LIMITED VERSUS THE COMMISSIONER OF CUSTOMS, CHENNAI - VIII COMMISSIONERATE - 2019 (12) TMI 248

- PRIME FORWARDERS VERSUS COMM R OF CUSTOMS, KANDLA- 2007
(11) TMI 37

15.1 Opportunity to be heard was given to M/s. Mathuradas Narandas & Sons Forwarders Ltd., which was attended by Shri Rahul Gajera, advocate on 10.06.2025, who reiterated their written submission dated 16.12.2024 and also submitted the copies of the case laws relied upon.

16. In response to the show cause notice, neither of 1) M/s. GKR Traders Pvt. Ltd, 2) Shri Ashwani Kumar S/o Rameshwar Dayal Tyagi, House No 189, PO Kanauj, Ghaziabad, UP-201205, or 3) Shri Ranadeep Sarma resident of Block A /4A Uttarayan, 40 Dum dum Road, PO Motjheel, District North 24 Paraganas, West Bengal- 70074 have submitted any written submission till date.

16.1 Accordingly, opportunities to be heard in person were also given to M/s. GKR Traders Pvt. Ltd, 2) Shri Ashwani Kumar and 3) Shri Ranadeep Sarma on 07.03.2025, 21.03.2025, 07.04.2025, 17.04.2025 and 10.06.2025 in compliance with Principle of Natural Justice. All the letters of Personal Hearing were sent to the address available with the office by speed post and were also pasted on the Notice Board of the Office of Principal Commissioner of Customs, Ahmedabad-380009 as per the provisions of Section 153(1)(e) of the Customs Act, 1962, however, the noticee did not attend any of the Personal Hearing. From the aforesaid facts, it is observed that sufficient opportunity has been granted to the noticee, but they chose not to join the personal hearing.

DISCUSSION AND FINDINGS:-

17. I have carefully gone through the show cause notice, records of personal hearing, submissions and facts in the present case. I find that only the noticee M/s. Mathuradas Narandas & Sons Forwarders Ltd. submitted written submission and attended personal hearing, while 1) M/s. GKR Traders Pvt. Ltd, 2) Shri Ashwani Kumar and 3) Shri Ranadeep Sarma have failed to appear for Personal Hearing as well as did not submit any written submission, inspite of being given opportunity to appear in person several times as detailed in forgoing para for defending their case. Under such circumstance, there is no option left for me but to proceed with the adjudication proceedings ex-parte for them in terms of merit of the case.

17.1 With regard to proceeding to decide the case ex-parte in respect of, support is drawn from the following case laws:

17.1.1 Hon'ble High Court of Kerala in the case of **UNITED OIL MILLS VS. COLLECTOR OF CUSTOMS & C.EX. COCHIN REPORTED IN 2000 (124) ELT 53 (KER.)** has held that:

“19. No doubt hearing includes written submissions and personal hearing as well but the principle of Audi Alteram Partem does not make it imperative for the authorities to compel physical presence of the party concerned for hearing and go on adjourning the proceeding so long the party

concerned does not appear before them. What is imperative for the authorities is to afford the opportunity. It is for the party concerned to avail the opportunity or not. If the opportunity afforded is not availed of by the party concerned, there is no violation of the principles of natural justice. The fundamental principles of natural justice and fair play are safeguards for the flow of justice and not the instruments for delaying the proceedings and thereby obstructing the flow of justice. In the instant case as stated in detail in preceding paragraphs, repeated adjournments were granted to the petitioners, dates after dates were fixed for personal hearing, petitioners filed written submissions, the administrative officer of the factory appeared for personal hearing and filed written submissions, therefore, in the opinion of this Court there is sufficient compliance of the principles of natural justice as adequate opportunity of hearing was afforded to the petitioners.

21. It may be recalled here that the requirement of natural justice varies from cases to cases and situations to situations. Courts cannot insist that under all circumstances personal hearing has to be afforded. Quasi-judicial authorities are expected to apply their judicial mind over the grievances made by the persons concerned but it cannot be held that before dismissing such applications in all events the quasi-judicial authorities must hear the applicants personally. When principles of natural justice require an opportunity before an adverse order is passed, it does not in all circumstances mean a personal hearing. The requirement is complied with if the person concerned is afforded an opportunity to present his case before the authority. Any order passed after taking into consideration the points raised in such applications shall not be held to be invalid merely on the ground that no personal hearing had been afforded. This is all the more important in the context of taxation and revenue matters. See *Union of India and Another v. M/s. Jesus Sales Corporation [1996 (83) E.L.T. 486 (S.C.) = J.T. 1996 (3) SC 597].*"

17.1.2 Hon'ble Tribunal of Mumbai in the case of **SUMIT WOOL PROCESSORS V. CC, NHAVA SHEVA REPORTED IN 2014 (312) E.L.T. 401 (TRI. - MUMBAI)** has observed as under:

"8.3 We do not accept the plea of Mr. Sanjay Kumar Agarwal and Mr. Parmanand Joshi that they were not heard before passing of the impugned orders and principles of natural justice has been violated. The records show that notices were sent to the addresses given and sufficient opportunities were given. If they failed in not availing of the opportunity, the mistake lies on them. When all others who were party to the notices were heard, there is no reason why these two appellants would not have been heard by the adjudicating authority. Thus the argument taken is only an alibi to escape the consequences of law. Accordingly, we reject the plea made by them in this regard."

17.1.3 Hon'ble Supreme Court in the case of ***JETHMAL VS. UNION OF INDIA***
REPORTED IN 1999 (110) ELT 379 (S.C.) has held as under:

"7. Our attention was also drawn to a recent decision of this Court in A.K. Kripak v. Union of India - 1969 (2) SCC 340, where some of the rules of natural justice were formulated in Paragraph 20 of the judgment. One of these is the well-known principle of audi alteram partem and it was argued that an ex parte hearing without notice violated this rule. In our opinion this rule can have no application to the facts of this case where the appellant was asked not only to send a written reply but to inform the Collector whether he wished to be heard in person or through a representative. If no reply was given or no intimation was sent to the Collector that a personal hearing was desired, the Collector would be justified in thinking that the persons notified did not desire to appear before him when the case was to be considered and could not be blamed if he were to proceed on the material before him on the basis of the allegations in the show cause notice. Clearly he could not compel appearance before him and giving a further notice in a case like this that the matter would be dealt with on a certain day would be an ideal formality."

17.1.4 Hon'ble Delhi Tribunal in the case of ***COMMISSIONER OF C.EX. VS. PEE IRON & STEEL CO. (P) LTD. REPORTED IN AS 2012 (286) E.L.T. 79 (TRI. - DEL)*** [upheld by Hon'ble Punjab & Haryana High Court reported in ***2015 (316) E.L.T. A118 (P&H.)***] has observed that:

"9. Notice to the respondent has been received back undelivered with the report that address is not correct. No other address of the respondent is available on record, therefore, the respondent cannot be served with the notice without undue delay and expense. Accordingly, we are constrained to proceed ex parte order against the respondent."

18. I find from the records available that M/s GKR Traders Pvt. Ltd imported 'Carpets' under two warehouse Bill of Entry No. 3260739 & 3260738 both dated 29.04.2024 at ICD Sanand, Ahmedabad from M/s M Queen Import and Export Ltd, Hong Kong, through Customs Broker M/s. Mathuradas Narandas & Sons forwarders limited, Ahmedabad. I find that on physical examination, the goods appeared to be mis-declared in respect of value and Country of Origin. I find that the empanelled Chartered Engineer in its report suggested the mis-declaration of Country of Origin and overvaluation of the imported goods, further the test reports from Textiles Committee Lab, Mumbai also confirmed the major constituent material to be polyester and thus it appeared to be overvaluation and misclassification of the imported goods. I find that the importer did not answer to the summons and did not appear in the investigation proceedings. In view of the above, the show Cause notice dated 28.10.2024 and corrigendum to the Show Cause Notice dated 16.04.2025, proposed the rejection of value declared by the importer and re-classification of the imported goods. I find that the show cause notice further proposed confiscation of imported goods and penalties

on the importer, and its directors under Section 112(a), 112(b), 114AA and 117 of the Customs Act, 1962. I find that Show Cause Notice also proposed penalty on the customs broker M/s. Mathuradas Narandas & Sons forwarders limited under Section 112(a), 112(b) and 114AA of the Customs Act, 1962. Therefore, the issues before me to decide are:-

- (a) Whether the declared value Rs. 24,79,61,806/- and Rs. 24,34,16,091/- of the consignments imported vide Bill of Entry No. 3260739 & 3260738 respectively both dated 29.04.2024 are liable to be rejected in terms of the Section 14 of the Customs Act, 1962 read with rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007?
- (b) Whether the classification of the imported goods under CTH 5703, self-declared and imported vide Bill of Entry No. 3260739 & 3260738 respectively both dated 29.04.2024 is liable for rejection and the Bills of Entry should be re-assessed under CTH 5704?
- (c) Whether the impugned goods are liable for confiscation as per the provisions of Section 111(m) of the Customs Act, 1962?
- (d) Whether the Penalty is imposable on M/s GKR Traders Pvt. Ltd and its directors Shri Ashwani Kumar and Shri Ranadeep Sarma under Section 112(a), 112(b), 114AA and 117 of the customs Act, 1962?
- (e) Whether the Penalty is imposable on M/s. Mathuradas Narandas & Sons forwarders limited under Section 112(a), 112(b) and 114AA of the customs Act, 1962?

18.1 Now I proceed to decide whether the declared value Rs. 24,79,61,806/- and Rs. 24,34,16,091/- of the consignments imported vide Bill of Entry No. 3260739 & 3260738 respectively both dated 29.04.2024 are liable to be rejected in terms of the Section 14 of the Customs Act, 1962 read with rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

18.1.1 I find that M/s. GKR Traders Pvt. Ltd have filed two Warehouse Bills of Entry No. 3260739 & 3260738 both dated 29.04.2024 at ICD Sanand, Ahmedabad for import of 'Carpets' from M/s. M Queen Import and Export Ltd., Hong Kong, through their Customs Broker M/s. Mathuradas Narandas & Sons forwarders Limited, Ahmedabad and declared value of the imported goods as Rs. 24,79,61,806/- and Rs. 24,34,16,091/- respectively. I find that during the physical examination of the goods, it was observed that:

- The Bar Code on the carpets suggest the Country of Origin as 'Austria',
- The Label show delivery at 'Brazil' and
- Language of the pasted sticker is 'Portuguese'
- The value of the goods also appeared unusually high.

18.1.2 I find that due to above observations, the goods were put for the examination by the empanelled chartered engineer ("CE") to determine the composition and value of the imported goods. I find that the CE Shri Bhasker G. Bhatt vide his report ref. no. BB/E-15/24/ICD-SANAND/CE-GKRTPL dated 15.05.2024, observed and opined in respect of both the consignments as per Image-1 and 2:

Image-1

(D) Observations :

The consignment declared as "CARPETS" as mentioned in the invoice no. MQIEL/GKTPL/2024/015 Dt:22-Mar-2024 which were pulled out of the container, kept in the ware house of the ICD-Sanand. It was available for the inspection. The visual inspection was possible; hence it was checked from several angles, for the declared measurements and weight average weight calculated as 2464 GSM say 2500 GSM.

(E) Opinion :

The consignment of "CARPETS" of average GSM 2500 grams as per the Invoice received at ICD-Sanand. Considering rate of Carpets US \$37.5/Sq.mt (average rates of public domain) before deducting Duties & discounts, as well as inclusive of Incidental charges, Loading /Unloading /Transportation labour & all other Misc. expenses , margin of profit, etc, the CNF value of the consignment estimated (round-up) US \$ 72522, Which is US \$ 2832729.93 Lower than the declared invoice value for US \$ 2905252. Estimated consignment value is US \$ 72522/-

IN WORDS : SEVENTY-TWO THOUSAND FIVE HUNDRED TWENTY-TWO ONLY.

Image-2

Observations :

The consignment declared as "CARPETS" as mentioned in the invoice no: MQIEL/GKTPL/2024/016, Dt:22-Mar-24 dt:22-Mar-2024, which were pulled out of the container, kept in the ware house of the ICD-Sanand. It was available for the inspection. The visual inspection was possible; hence it was checked from several angles, for the declared measurements and weight average weight calculated as **1650 GSM (AVERAGE)** .

E) Opinion :

The consignment of "CARPETS" of average GSM 1650 grams as per the Invoice received at ICD-Sanand. Considering rate of Carpets US \$25/Sq.mt (average rates of public domain) before deducting Duties & discounts, as well as inclusive of Incidental charges, Loading /Unloading /Transportation labour & all other Misc. expenses , margin of profit, etc, the CNF value of the consignment estimated (round-up) US \$ 64350, Which is US \$ 2787642 Lower than the declared invoice value for US \$ 2851992. Estimated consignment value is US \$ 64350/-

IN WORDS : SIXTY-FOUR THOUSAND THREE HUNDRED FIFTY ONLY.

18.1.3 I find that the CE relied and cited certain public domain sources in his report which are as per Image-3, 4, 5 and 6:-

VIII/10-226/ICD-SANAND/O&A/HQ/2024-25
OIO No. 54/ADC/SR/O&A/2025-26

Image-3

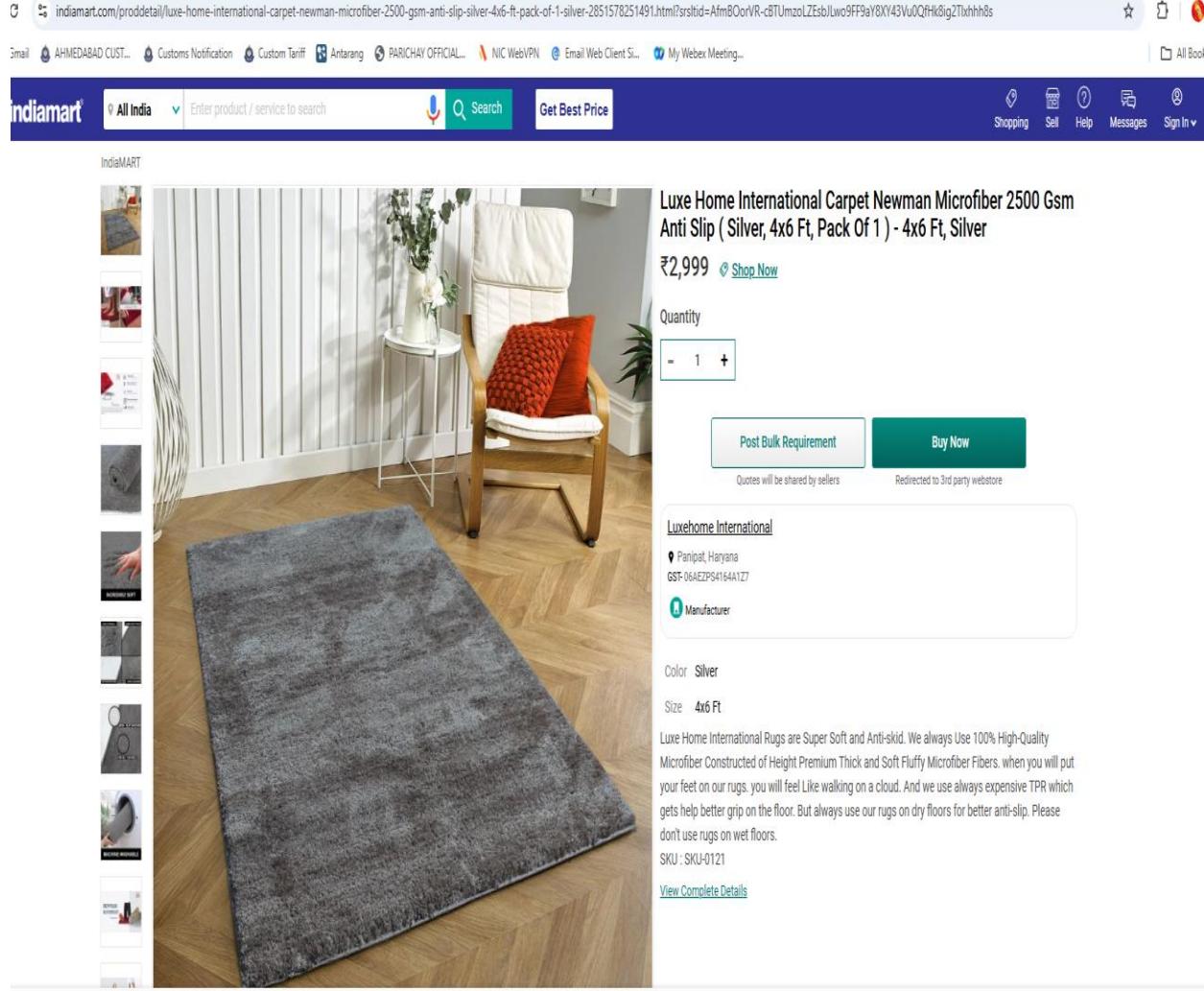


Image-4



VIII/10-226/ICD-SANAND/O&A/HQ/2024-25
OIO No. 54/ADC/SR/O&A/2025-26**Image-5**<https://www.flipkart.com/luxe-home-international-black-polyester-carpet/p/itm5d138b200c246>**Image-6**<https://www.ikea.com/in/en/p/stoense-rug-low-pile-medium-grey-20426832/>

MRP inclusive of 28% tax MRP Rs.16,786 (incl. tax)



I find that on the basis of above public domain information, the CE arrived at the product pricing as given below in image-7 and 8:

Image-7

STATEMENT SHOWING CONSIDERED RATES FROM THE PUBLIC DOMAIN
2500 GSM BEFORE DISCOUNT AS WELL AS MARGING OF PROFIT CONSIDERED @ 15%

Sr. No:	Size Sqmt	Weight	GSM	Price INR	Rate in Rs: per Sqmt	Rate in Rs: for 1650 GSM	Rate in US \$	Sales price with 15% profit
1	2.230483	3400	1524.333	2725	1221.71	1322.43	15.67	18.02
2	2.230483	2200	986.3333	2346	1051.79	1759.50	20.85	23.97
3	0.24	400	1666.667	656	2733.33	2706.00	32.06	36.87
4	2.230483	3700	1658.833	3999	1792.89	1783.34	21.13	24.30
5	6	14610	2435	13114	2185.68	1481.05	17.55	20.18
Total								123.34
Average rate in US \$								24.67
SAY Average rate in US \$								25
Quantity of import in M²								2574.00
Estimated amount of the consignment in US \$								64350.00
Amount of the consignment in INR								5431140.00

Image-8

B.G. BHATT & Co.			Ref: BB/E-11/24/ICD-SANAND/GKRTPL			ANNEXURE -R		
STATEMENT SHOWING CONSIDERED RATES FROM THE PUBLIC DOMAIN EQUALIZED FOR 2500 GSM BEFORE DISCOUNT AS WELL AS MARGING OF PROFIT CONSIDERED @ 15%								
Sr. No:	Size Sqmt	Weight	GSM	Price INR	Rate in Rs: per Sqmt	Rate in Rs: for 2500 GSM	Rate in US \$	Sales price with 15% profit
1	2.230483	3400	1524.333	2725	1221.71	2003.68	23.74	27.30
2	2.230483	2200	986.3333	2346	1051.79	2665.91	31.59	36.32
3	0.24	400	1666.667	656	2733.33	4100.00	48.58	55.86
4	2.230483	3700	1658.833	3999	1792.89	2702.03	32.01	36.82
5	6	14610	2435	13114	2185.68	2244.02	26.59	30.58
							Total	186.88
							Average rate in US \$	37.38
							Average rate in US \$	Say 37.50
							Quantity of import in M²	1940.30
							Amount of the consignment in US \$	72522.07
							SAY amount of the consignment	72522
							Amount of the consignment in INR	6120856.80

18.1.4 I find that the CE conducted market research and found that on verification of declared values of the imported goods with contemporaneous import price data, the values declared by the importer were overvalue about 40 times. Therefore, I find that as per the provisions of Section 14 of the Customs Act, 1962 read with the Rule 12 of Customs (Determination of Value of Imported goods) Rules, 2007, as amended, the value declared by the Importer was required to be rejected and to be re-determined under the provisions of Customs Valuation (Determination of Price of imported Goods) Rules, 2007.

18.1.5 Section 14 is reproduced below:-

“14. Valuation of goods. -

“(1) For the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, **the value of the imported goods and export goods shall be the transaction value of such goods, that is to say, **the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation**, or as the case may be,**

...

(iii) the manner of acceptance or rejection of value declared by the importer or exporter, as the case may be, where the proper officer has reason to doubt the truth or accuracy of such value, and determination of value for the purposes of this section:

2/[iv) the additional obligations of the importer in respect of any class of imported goods and the checks to be exercised, including the circumstances and manner of exercising thereof, as the Board may specify, where, the Board has reason to believe that the value of such goods may

not be declared truthfully or accurately, having regard to the trend of declared value of such goods or any other relevant criteria]

Provided also that such price shall be calculated with reference to the rate of exchange as in force on the date on which a bill of entry is presented under section 46, or a shipping bill of export, as the case may be, is presented under section 50."

18.1.6 Rule 12 of Customs Valuation (Determination of value of imported goods) Rules, 2007.

"12. Rejection of declared value. — (1) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, he may ask the importer of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such importer, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such imported goods cannot be determined under the provisions of sub-rule (1) of rule 3.

(2) At the request of an importer, the proper officer, shall intimate the importer in writing the grounds for doubting the truth or accuracy of the value declared in relation to goods imported by such importer and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (1).

Explanation. - (1) For the removal of doubts, it is hereby declared that :-

(i) *This rule by itself does not provide a method for determination of value, it provides a mechanism and procedure for rejection of declared value in cases where there is reasonable doubt that the declared value does not represent the transaction value; where the declared value is rejected, the value shall be determined by proceeding sequentially in accordance with rules 4 to 9.*

(ii) *The declared value shall be accepted where the proper officer is satisfied about the truth and accuracy of the declared value after the said enquiry in consultation with the importers.*

(iii) *The proper officer shall have the powers to raise doubts on the truth or accuracy of the declared value based on certain reasons which may include*

-
- (a) ***the significantly higher value*** at which identical or similar goods imported at or about the same time in comparable quantities in a comparable commercial transaction were assessed;
- (b) *the sale involves an abnormal discount or abnormal reduction from the ordinary competitive price;*
- (c) *the sale involves special discounts limited to exclusive agents;*

- (d) ***the misdeclaration of goods in parameters such as description, quality, quantity, country of origin, year of manufacture or production;***
- (e) ***the non declaration of parameters such as brand, grade, specifications that have relevance to value;***
- (f) ***the fraudulent or manipulated documents.”***

18.1.7 I find as per Chartered Engineer's report that the carpets are made from POLYPROPYLENE (up to 70%) Composite Adhesive (Olefin-synthetic material) and the material used for piles and for carpets is manmade microfibers named as Olefin fibre which is a synthetic fiber made from a polyolefin, such as polypropylene or polyethylene, which is used in wallpaper carpeting, ropes, and vehicles interiors. I also find that the goods covered under the Bills of Entry No 3260739 dated 29.04.2024 were also mis-declared in respect of 'Country of Origin' as apparent from the CE report that:

6. The bar code suggests the country of origin as Austria, the label shows deliver at Brazil, language of the pasted sticker is Portuguese. (English translation is enclosed as an annexure)

18.1.8 I find that samples were drawn from both the containers covered under aforesaid the Bills of Entry and were sent to the Textile Committee, Mumbai for testing purpose vide letter dated 18.05.2024 to find out the actual nature, description and value of the goods. The Textiles Committee Lab, Mumbai has sent the test report of both the samples vide letter dated 05.07.2024, wherein they stated as per image-9:

Image-9

1	Identification of fibre (IS 667)	Pile	Polyester
		Layer I- Knitted	Polyester
		Layer II- Non Woven	Polyester
		Layer III- One & Other direction	Polyester + Cotton
2	Fibre Blend Composition (%) (Based on clean dry mass with % addition for Moisture) WI 4 TC/Lab/PTM 2 & 3 (Layers are separated in organic solvent) (IS 3416)	Polyester	94.0
		Cotton	6.0
3	Weight of Sample (TC/Lab/TM-03)	Weight Per Square Mtr (g)	1851.3
4	Whether Coated/ Laminated/ Impregnated		Assembled in layers
5	Whether Woven/ Knitted/ Non woven		Layer I- Knitted Layer II- Nonwoven Layer III- Woven
6	Whether Unbleached/Bleached/Dyed/Printed/Yarns of Different Colour (In house)		Layer I & II- Dyed Layer III- Yarns of different colours
7	Whether Pile		Layer I is having Pile
8	Whether Knotted or Not		Not Knotted *
9	Whether Tufted or Non Tufted		Not Tufted *
10	Whether Handmade or Machine Made		There is no standard procedure in section XI of harmonized commodity description and coding system to ascertain whether handmade or machine made hence this query is not addressed. *
11	Ascertain The CTH		CTH is not under preview of Textiles Committee. Hence query is not addressed

18.1.9 Therefore, I find from the test results, that the major constituent material of the goods under import is polyester and therefore taking into account of the price of

the constituent material, the declared value of USD 1108 per Sq. mtr. and 1505 Sq. mtr. was found to be unusually high.

18.1.10 I also find that during investigation, multiple summons were issued to M/s GKR Traders Pvt. Ltd. to produce required documents & to give statements, however they did not respond to any of them. Further, on physical verification at the premises of M/s GKR Traders Pvt. Ltd (IEC - AAICG1612P) situated at 1006-A, 10th Floor Plot DG-ITL Tower, Netaji Subhash Place, New Delhi, the Customs Preventive, New Delhi informed vide a letter dated 21.10.2024 informed that there is no firm in the name of M/s. GKR Traders Private Limited at the given address. The excerpt from the Panchanama dated 18.10.2024 is as per image-10:-

Image-10

Thereafter, the Customs Officers alongwith We, the panchas, reached at the above mentioned address. On reaching the said address, the premises was found locked and the top of the door has a metal strip attached which displayed only "1006-A". Further, neither any board nor any sign of M/s GKR Traders (P) Limited was found at the said address. The Customs officers tried to contact persons present at that time nearby and asked about the firm M/s GKR Traders (P) Limited. The nearby persons present at that time informed that they are not aware of any such named firm. They further informed that the said premises have remained locked for more than six months. On being further request made by Customs officers, no-one present there agreed to provide anything in writing. Since the premise was locked, search proceedings under Section 105 of the Customs Act, 1962 could not be carried out.

I find as per Rule 12, reasonable opportunities have been given to the importer to present his case as well as evidences on the valuation of the goods and "*in the absence of a response of such importer, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared,*" In view of the above and in light of Chartered Engineer's Report, which is based on Market Survey and Contemporaneous Import Data, I have reasonable doubts on the accuracy and truthfulness of the value declared by the noticee.

18.1.11 I find as per para above, that importer is dummy and has been using modus operandi to overvalue the import for excess foreign remittance. Further, I find that the Bills of Entry filed were warehouse Bills of Entry and goods were intended to be re-exported as provided in the authorisation letter received from the importer to the CHA firm and the importer had no intention to pay the import duty applicable as it was intended to be re-exported and there would only be outflow of capital from India to foreign supplier for the imported goods which are grossly overvalued. In view of this, I have no other option than to reject the value in terms of Section 14 read with Rule 12. I further rely upon the Judgment of **MRITYUNJAY TRADING PVT LTD V/S COMMISSIONER OF CUSTOMS (PORT), KOLKATA -2009 (244) E.L.T. 441 (TRI-KOLKATA)** The Appellate Tribunal in its impugned order had held that,

"the Customs authorities have taken the trouble of conducting necessary enquiries and have determined the value of the exported goods on a rational basis which also has been disclosed to the appellants. Moreover, the Customs authorities have used the price of two comparable brands to make

such determination after allowing trade discount, profit margin etc. Hence, we are of the view that the valuation done by the lower authorities is in order and the same needs no interference and therefore the appeal is rejected.”

I also hold the assessable value of the imported goods as per Customs Valuation (Determination of value of imported goods) Rules, 2007, would be “value arrived at by the Chartered Engineer on the basis of market research and contemporaneous import price data mentioned at Table-2 above”.

18.2 Now I decide whether the classification of the imported goods under CTH 5703, self-declared and imported vide Bill of Entry No. 3260739 & 3260738 respectively both dated 29.04.2024 is liable for rejection and the Bills of Entry should be re-assessed under CTH 5704.

18.2.1 I find that samples were drawn from both the containers covered under aforesaid the Bills of Entry and were sent to the Textile Committee, Mumbai for testing purpose vide letter dated 18.05.2024 to find out the actual nature, description and value of the goods. I find that the Textiles Committee Lab, Mumbai has sent the test report of both the samples vide letter dated 05.07.2024, which is as under:-

(I) The test report of sample covered under Bill of entry no. 3260738 dated 29.04.2024

- a) Azo dyes, which are prohibited in accordance with the Environment Protection Act, 1986 read with Environment Protection Rules, 1986 were not detected in the material.
- b) Identification of fibre (IS 667)
{Pile, Layer -I – Knitted, Layer -II-Non woven}: Polyester; {Layer – III – One & other direction} :Polyester+cotton.
- c) Fibre blend composition: Polyester: 94.0, Cotton 6.0.
- d) Weight per square meter (g) 1851.3
- e) Layer I: Knitted, Layer – II: Non-woven, Layer – III: Woven
- f) Layer I & II: Dyed, Layer III: Yarns of different colours.
- g) Layer is having pile
- h) Not Knotted, not tufted.

(II) The test report of sample covered under Bill of entry no. 3260739 dated 29.04.2024

- a) Azo dyes, which are prohibited in accordance with the Environment Protection Act, 1986 read with Environment Protection Rules, 1986 were not detected in the material.
- b) Identification of fibre (IS 667)
{Pile, Layer -I – Knitted, Layer -II-Non woven}: Polyester; {Layer – III – One & other direction}: Polyester+cotton.
- c) Fibre blend composition: Polyester: 94.8, Cotton 5.2.
- d) Weight per square meter (g) 1647.1
- e) Layer I: Knitted, Layer – II: Non-woven, Layer – III: Woven
- f) Layer I & II: Dyed, Layer III: Yarns of different colours.

- g) Layer is having pile
- h) Not Knotted, not tufted.

18.2.2 I find from, the test results, that the major constituent material of the goods under import is **polyester** and the subject carpets are **not tufted**. I find that the importer has declared the goods under Customs Tariff Sub-heading 5703:

5703 *CARPETS AND OTHER TEXTILE FLOOR COVERINGS (INCLUDING TURF), **TUFTED**, WHETHER OR NOT MADE UP*

However, the correct classification of the said goods as per Custom Tariff Act 1975 is 5704 which is for “carpets and other textile floor coverings, of felt, not tufted or flocked”:

5704 *CARPETS AND OTHER TEXTILE FLOOR COVERINGS, OF FELT, **NOT TUFTED** OR FLOCKED, WHETHER OR NOT MADE UP*

18.2.3 I find from the foregoing paras that the Noticee, despite being aware of the nature and appropriate classification of goods, has willfully mis-classified the goods to evade payment of Customs Duty and declared the untrue value of the subject goods. I find that Section 17(4) of the Customs Act, 1962 stipulates that in cases where self-assessment is not done correctly, the proper officer may re-assess the duty leviable on such goods. The relevant text of the said statute is reproduced under:

“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.”

Therefore, I hold that the classification of the imported goods under CTH 5703, self-declared and imported vide Bill of Entry No. 3260739 & 3260738 respectively both dated 29.04.2024 is liable for rejection and the Bills of Entry should be re-assessed under CTH 5704.

18.3 Now I decide whether the impugned goods are liable for confiscation as per the provisions of Section 111(m) of the Customs Act, 1962.

18.3.1 I find that in the Show Cause Notice, it is alleged that the goods are liable for confiscation under Section 111(m) of the Customs Act, 1962. From the perusal of Section 111(m) of the Customs Act, 1962 it is clear that *“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,”* will be liable to confiscation.

18.3.2 I find that the subject Bills of Entry filed by the noticee, wherein they had declared the valuation, classification of goods and country of origin, were self-assessed by them. However, as per the investigation, Chartered Engineer's Report, Test etc. were found to be overvalued, mis-classified and mis-declared in terms of Country of Origin.

18.3.3 Vide Finance Act, 2011, "Self-Assessment" has been introduced w. e. f. from 08.04.2011 under the Customs Act, 1962. Section 17 of the said Act provides for self-assessment of duty on import and export goods by the importer or exporter himself by filing a Bill of Entry or Shipping Bill as the case may be, in the electronic form, as per Section 46 or 50 respectively. Thus, under self-assessment, it is the responsibility of the importer to ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notification claimed, if any in respect of the imported goods while presenting Bill of Entry.

18.3.4 I find that the above facts has highlighted substantial grounds and reasons for fraud, collusion, wilful mis-statement and suppression of facts on the part of the importer, as I find that the Bills of Entry filed were warehouse Bills of Entry and goods were intended to be re-exported as provided in the authorisation letter received from the importer to the CHA firm and the importer had no intention to pay the import duty applicable as it was intended to be re-exported and there would only be outflow of capital from India to foreign supplier for the imported goods which are grossly overvalued.

18.3.5 Further, the noticee deliberately provided wrong addresses in the documents so as to evade the investigation that ensued on account of such submission of non-authentic documents. Thus, I find that the importer have violated the provisions of Section 46 (4) of the Customs Act, 1962. All these acts on part of them have rendered the goods imported under Bill of Entry No. 3260739 & 3260738 both dated 29.04.2024 having Assessable value Rs. 24,79,61,806/- and Rs. 24,34,16,091/- respectively are grossly overvalued, mis-classified and mis-declared and I hold them liable to confiscation under Section 111 (m) of the Customs Act, 1962.

18.3.6 As the impugned goods are found liable to confiscation under Section 111 (m) of the Customs Act, 1962, I find it necessary to consider as to whether redemption fine under Section 125(1) of Customs Act, 1962 is liable to be imposed in lieu of confiscation in respect of the imported goods. The Section 125 (1) of the Customs Act, 1962 reads as under:-

"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..."

In view of the above, I hold that impugned goods are liable for confiscation under Section 111(m) of the Customs Act, 1962 and may be redeemed on payment of redemption fine.

18.4 I decide further whether the Penalty is imposable on M/s GKR Traders Pvt. Ltd and its directors Shri Ashwani Kumar and Shri Ranadeep Sarma under Section 112(a), 112(b), 114AA and 117 of the customs Act, 1962.

M/S GKR TRADERS PVT. LTD:

18.4.1 I find from the foregoing paras that the goods imported under Bill of Entry No. 3260739 & 3260738 both dated 29.04.2024 having Assessable value Rs. 24,79,61,806/- and Rs. 24,34,16,091/- are grossly overvalued and mis-declared and hence are liable to confiscation as per Section 111(m) of the Customs Act, 1962. Further, I find the importer has filed warehouse bill of entry and intended to re-export the goods so that they don't have to pay the applicable custom duty and just intended to make foreign outward remittance. I also find that during investigation, multiple summons were issued to M/s. GKR Traders Pvt. Ltd. to produce required documents & to give statements, however they did not respond to any of them. Further, on physical verification at the premises of M/s. GKR Traders Pvt. Ltd (IEC - AAICG1612P) situated at 1006-A, 10th Floor Plot DG-ITL Tower, Netaji Subhash Place, New Delhi, the Customs Preventive, New Delhi informed vide a letter dated 21.10.2024 informed that there is no firm in the name of M/s. GKR Traders Private Limited at the given address.

18.4.2 I also find from the statement of Customs Broker recorded on 04.10.2024 under Section 108 of the Customs Act, 1962 that none of the authorised representative or directors of M/s. GKT Traders Private Ltd. ever tried to make contact with them i.e. CHA for clearance and it was mere telephonic conversation with an anonymous person claiming to be employee of M/s GKR Traders Pvt Ltd, the custom broker has filed the Bill of Entry for Custom clearance. The excerpt is as per image-11:

Image-11

Q.5	How do you know M/s. GKR Traders? How did you come in contact with him?
Ans:	We have received a call from a staff of M/s GKR Traders, Mr Deepak for clearance of one consignment of carpets in April 2024. We asked him to submit the consignment detail and KYC documents which he duly submitted via e mail the same day
Q.6	Have you done any business with M/s GKR Traders earlier?
Ans	No, this was our first import consignment of M/s GKR Traders as a custom broker.
Q.7	Have you met with any of the partners / directors / authorized representative of M/s GKR Traders before starting business with them?
Ans:	No, We have not personally met with any staff / authorized representative of M/s GKR Traders before starting clearance work with them.

18.4.3 Penalty under Section 112(a), and 112(b) of the Customs Act, 1962: I find that as per Section 112 (a)(iii), “(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 3 [not exceeding the difference between the

declared value and the value thereof or five thousand rupees], whichever is the greater” Hence due to commissions and omissions on the part of M/s. GKR Traders Private Limited, I hold them liable for penalty under Section 112(a)(iii) and 112(b)(iii) of the Customs Act, 1962.

18.4.4 Penalty under Section 114AA of the Customs Act, 1962: I find that the Show Cause Notice proposes to impose penalty on the noticee under Section 114AA of the Customs Act, 1962. The text of the said statute is reproduced under for ease of reference:

Section 114AA of the Customs Act, 1962:

“114AA. Penalty for use of false and incorrect material.—If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.”

I find that the importer had knowingly or intentionally used false and incorrect information/ documents for importing the aforesaid goods and therefore, the importer had knowingly caused to made, signed or used, the declaration, and documents presented for import which were false or incorrect as discussed supra, in the transaction of their business for the purposes of Customs Act 1962, I hold the importer M/s. GKR Traders Private Limited liable to penalty under Section 114AA of the Customs Act, 1962.

18.4.5 Penalty under Section 117 of the Customs Act, 1962: I also find that during investigation, multiple letters and summons were issued to M/s GKR Traders Pvt. Ltd. to produce required documents, however they did not respond to any of them. Further, on physical verification at the premises of M/s GKR Traders Pvt. Ltd (IEC - AAICG1612P) situated at 1006-A, 10th Floor Plot DG-ITL Tower, Netaji Subhash Place, New Delhi, the Customs Preventive, New Delhi informed vide a letter dated 21.10.2024 informed that there is no firm in the name of M/s. GKR Traders Private Limited at the given address. Therefore, I find that the importer has contravened the provisions of Customs Act and other allied acts and I hold them liable for penalty under Section 117 of the Customs Act, 1962, wherein it provides that *“Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding four lakh rupees.”*

SHRI ASHWANI KUMAR:

18.4.6 I find from the records that Shri Ashwani Kumar was the Director of M/s. GKR Traders Private Limited, which was involved in overvaluation, mis-classification and mis-declaration under Bills of Entry No. 3260739 & 3260738 both dated 29.04.2024. Further, I find from the foregoing paras that M/s. GKR Traders Private Ltd. has filed warehouse bill of entry and intended to re-export the goods so that they do not

have to pay the applicable custom duty and just intended to make foreign outward remittance. I also find that during investigation, multiple summons were issued to Shri Ashwani Kumar, Director of M/s. GKR Traders Pvt. Ltd. to produce required documents & to give statements, however he did not respond to any of them. Further, on physical verification at the premises of M/s GKR Traders Pvt. Ltd (IEC - AAICG1612P) situated at 1006-A, 10th Floor Plot DG-ITL Tower, Netaji Subhash Place, New Delhi, the Customs Preventive, New Delhi informed vide a letter dated 21.10.2024 informed that there is no firm in the name of M/s. GKR Traders Private Limited at the given address.

18.4.7 Penalty under Section 112(a), and 112(b) of the Customs Act, 1962: I also find from the statement of Customs Broker recorded on 04.10.2024 under Section 108 of the Customs Act, 1962 that none of the directors of M/s. GKT Traders Private Ltd. including Shri Ashwani Kumar ever tried to make contact with them. In view of the above, I find that Shri Ashwani Kumar is actively involved in defrauding the government by gross overvaluation, misdeclaration and misclassification due to commissions and omissions on the part of Shri Ashwani Kumar Director of M/s. GKR Traders Private Limited, I hold him liable for penalty under Section 112(a)(iii) and 112(b)(iii) of the Customs Act, 1962.

18.4.8 Penalty under Section 114AA of the Customs Act, 1962: I find that Shri Ashwani Kumar had knowingly or intentionally used false and incorrect information/ documents for importing the aforesaid goods and therefore, he had knowingly caused to made, signed or used, the declaration, and documents presented for import which were false or incorrect as discussed supra, in the transaction of their business for the purposes of Customs Act 1962, I hold Shri Ashwani Kumar liable to penalty under Section 114AA of the Customs Act, 1962.

18.4.9 Penalty under Section 117 of the Customs Act, 1962: I also find that during investigation, multiple summons were issued to Shri Ashwani Kumar at his registered address to produce required documents & to give statements, however he did not respond to any of them. Also, I find that the letters addressed to his registered address in records returned undelivered. I find that Shri Ashwani Kumar did not co-operate with the investigation. Therefore, I find that he has contravened the provisions of Customs Act and other allied acts and I hold him is liable for penalty under Section 117 of the Customs Act, 1962.

SHRI RANADEEP SARMA:

18.4.10 I find from the records that Shri Ranadeep Sarma was also the Director of M/s. GKR Traders Private Limited, which was involved in overvaluation, misclassification and mis-declaration under Bills of Entry No. 3260739 & 3260738 both dated 29.04.2024. Further, I find from the foregoing paras that M/s. GKR Traders Private Ltd. has filed warehouse bill of entry and intended to re-export the goods so that they do not have to pay the applicable custom duty and just intended to make foreign outward remittance. I also find that during investigation, multiple summons were issued to Shri Ranadeep Sarma, Director of M/s. GKR Traders Pvt. Ltd. to produce

required documents & to give statements, however he did not respond to any of them. Further, on physical verification at the premises of M/s GKR Traders Pvt. Ltd (IEC - AAICG1612P) situated at 1006-A, 10th Floor Plot DG-ITL Tower, Netaji Subhash Place, New Delhi, the Customs Preventive, New Delhi informed vide a letter dated 21.10.2024 informed that there is no firm in the name of M/s. GKR Traders Private Limited at the given address.

18.4.11 Penalty under Section 112(a), and 112(b) of the Customs Act, 1962: I also find from the statement of Customs Broker recorded on 04.10.2024 under Section 108 of the Customs Act, 1962 that none of the directors of M/s. GKT Traders Private Ltd. including Shri Ranadeep Sarma ever tried to make contact with them. In view of the above, I find that Shri Ranadeep Sarma is actively involved in defrauding the government by gross overvaluation, misdeclaration and misclassification due to commissions and omissions on the part of Shri Ranadeep Sarma Director of M/s. GKR Traders Private Limited, I hold him liable for penalty under Section 112(a)(iii) and 112(b)(iii) of the Customs Act, 1962.

18.4.12 Penalty under Section 114AA of the Customs Act, 1962: I find that Shri Ranadeep Sarma had knowingly or intentionally used false and incorrect information/ documents for importing the aforesaid goods and therefore, he had knowingly caused to made, signed or used, the declaration, and documents presented for import which were false or incorrect as discussed supra, in the transaction of their business for the purposes of Customs Act 1962, I hold Shri Ranadeep Sarma liable to penalty under Section 114AA of the Customs Act, 1962.

18.4.13 Penalty under Section 117 of the Customs Act, 1962: I also find that during investigation, multiple summons were issued to Shri Ranadeep Sarma at his registered address to produce required documents & to give statements, however he did not respond to any of them. Also, I find that the letters addressed to his registered address in records returned undelivered. I find that Shri Ranadeep Sarma did not co-operate with the investigation. Therefore, I find that he has contravened the provisions of Customs Act and other allied acts and I hold him is liable for penalty under Section 117 of the Customs Act, 1962.

18.5 Now, I proceed to decide whether the Penalty is imposable on M/s. Mathuradas Narandas & Sons forwarders limited under Section 112(a), 112(b) and 114AA of the customs Act, 1962.

18.5.1 I find from the foregoing paras that that the goods imported under Bill of Entry No. 3260739 & 3260738 both dated 29.04.2024 having Assessable value Rs. 24,79,61,806/- and Rs. 24,34,16,091/- through their appointed Customs Broker M/s. Mathuradas Narandas & Sons forwarders limited, Ahmedabad (CHA Licence No. AAACM3488KCH0085), are grossly overvalued, misclassified and misdeclared and hence are liable to confiscation as per Section 111(m) of the Customs Act, 1962. I find that the show cause notice dated 28.10.2024 proposed penalties under Section 112(a),

112(b) and 114AA under the Customs Act, 1962 on the CHA M/s. Mathuradas Narandas & Sons forwarders limited.

18.5.2 I find that no representative appeared on behalf of the CHA M/s. Mathuradas Narandas & Sons Forwarders Ltd before investigating officers to produce necessary documents and give statement for first 02 summons dated 09.09.2024 and 20.09.2024. However, Shri Amit L. Prajapati, Operation Manager and G- Card Holder, of M/s. Mathuradas Narandas & Sons Forwarders Ltd, Ahmedabad appeared on 04.10.2024 and 24.10.2024 for recording his statements under Section 108 of the Customs Act, 1962. The relevant portions of the statements are as per image-12, 13, 14 and 15.

Image-12

Q.5	How do you know M/s. GKR Traders? How did you come in contact with him?
Ans:	We have received a call from a staff of M/s GKR Traders, Mr Deepak for clearance of one consignment of carpets in April 2024. We asked him to submit the consignment detail and KYC documents which he duly submitted via e mail the same day
Q.6	Have you done any business with M/s GKR Traders earlier?
Ans	No, this was our first import consignment of M/s GKR Traders as a custom broker.
Q.7	Have you met with any of the partners / directors / authorized representative of M/s GKR Traders before starting business with them?
Ans:	No, We have not personally met with any staff / authorized representative of M/s GKR Traders before starting clearance work with them.
Q.8	Did you verify the credential of the importer, place of business of firm etc before starting business with them?
Ans:	We had verified the KYC documents only, submitted by M/s GKR Traders via email. On the basis of KYC documents only we initiated our business as custom broker with M/s GKR Traders.
Q.9	Please Provide the mobile number of above mentioned staff of M/s. GKR Traders?
Ans	Mobile number of Deepak (staff of M/s. GKR Traders) is 7300929302.
Q.10	Please Provide KYC details submitted by Importer?
Ans.	I have received the KYC details from M/s. GKR Traders through email. The email id of M/s. GKR Traders is gkrtradersp@gmail.com . I will submit the KYC details to your office.

18.5.3 I find from the image-12 of the statement dated 04.10.2024 above that he was contacted over phone by Shri Deepak, a staff of M/s GKR Traders Pvt. Ltd who enquired him about clearance of imported Carpets at ICD Sanand, Ahmedabad and asked him to work as their custom Broker on behalf of M/s. GKR Traders Pvt. Ltd. for custom clearance of imported goods from ICD Sanand. I find that he stated that he received KYC documents from M/s GKR Traders Pvt. Ltd through email i.e. gkrtradersp@gmail.com and never met with any of the directors or the authorized person of M/s. GKR Traders Pvt. Ltd.

Image-13

<small>may be have your question</small>	
Ans	Shri Deepak has sent the soft copy of authorization letter (only zerox not original letter head form) via email and then the same printout through courier. We have not received the authorization letter in original form.
Q.3	Why you as a custom broker did not insisted to produce the original authorization letter from M/s GKR Traders Private limited, before initiating to act as their custom broker for custom clearance work.
Ans	No, we did not ask on original authorization letter from M/s GKR Traders Private limited. We were short of time because the goods had already arrived at ICD Sanand and we had to file the Bill of entry so we failed to insist on original authorization letter from M/s GKR Traders Private limited.
Q.4	Did any representatives from M/s GKR Traders Private limited personally visit your office to submit the authorization letter to act as their custom broker?
Ans	No, Neither we nor any member of the company personally met for the authorization from M/s GKR Traders to act as their custom broker. We have received the authorization letter along with other KYC documents via mail and then courier only.
Q.5	Do you have any agreement with M/s GKR Traders Private limited (IEC – AAICG1612P), New Delhi to act as custom broker on their behalf?
Ans.	We have not entered into any agreement / contract with M/s GKR Traders Private limited, it was just an oral communication with one of the staff from M/s GKR Traders Private limited.
Q.6	Did M/s. Mathuradas Narandas & Sons Forwarders Ltd, Ahmedabad verified the address premises of M/s GKR Traders before starting to act as a custom broker for them?
Ans.	No, we have not verified the address of M/s GKR Traders Pvt Ltd as the client location was out of Gujarat i.e. Delhi.
Q.7	Are you aware that the Custom Broker has to verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information? If yes, why did not you follow the prescribed procedure?
Ans.	Yes, we are aware of our responsibility to verify the genuineness of the client before initiating any business clearance on their behalf. However in this case we have not verified the credential of the firm, we have just acted on the basis documents submitted to us on e mail.

18.5.4 I find from the above image-13 of the statement dated 24.10.2024 that the authorization letter issued to M/s. Mathuradas Narandas & Sons Forwarders Ltd by M/s GKR Traders Pvt. Ltd to act as a custom broker for custom clearance work, Shri Deepak has sent the soft copy of authorization letter (only Xerox not original letter head form) via email and then the same printout through courier. The CHA had not received the authorization letter in original form and have not entered into any agreement / contract with the importer. I find that Shri Amit Prajapati stated that they had not asked for original authorization letter from M/s. GKR Traders Private limited because of short of time since the goods had already arrived at ICD Sanand and they had to file the Bill of entry so they failed to insist on original authorization letter from M/s. GKR Traders Private limited. I find that he also stated that as a custom broker they have not physically verified the address of M/s GKR Traders Pvt. Ltd as the client location was out of Gujarat i.e. Delhi. I find from his statement that he was aware of his responsibility as a CHA firm to verify the genuineness of the client before initiating any business clearance on their behalf, however in this case the firm has not verified the credential

of the firm and just acted on the basis documents submitted to them via e-mail. I refer to the Regulation 10 of the Customs Brokers Licensing Regulations, 2018:-

“Regulation 10. Obligations of Customs Broker: -

(a) obtain an authorisation from each of the companies, firms or individuals by whom he is for the time being employed as a Customs Broker and produce such authorisation whenever required by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;

...

(d) advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;

...

(n) verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information;

....”

18.5.5 I find from the statements that the CHA has neither obtained Authorisation Letter in original, nor physically verified the KYC of the importer, however they contended in their submissions that they have verified the KYC online. I further find that regulation 10(n) has specifically mentions that it is the obligation of Customs Broker to “*verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information*”. I find that Shri Amit Prajapati had admitted in answer to question no. 7 in his statement dated 24.10.2024 that they did nothing to verify the antecedents of the importer. I also find that he admitted that he had received the KYC documents, but did not physically verified the address of the importer as it was far away in Delhi. I further find reference in Circular No. 09/2010-Customs dated 08.04.2010 regarding KYC norms as under:

“(iv) Know Your Customs (KYC) norms for identification of clients by CHAs:

6. *In the context of increasing number of offences involving various modus-operandi such as misuse of export promotion schemes, fraudulent availment of export incentives and duty evasion by bogus IEC holders etc., it has been decided by the Board to put in place the " Know Your Customer (KYC)" guidelines for CHAs so that they are not used intentionally or unintentionally by importers / exporters who indulge in fraudulent activities. Accordingly, Regulation 13 of CHALR, 2004, has been suitably amended to provide that certain obligations on the CHAs to verify the antecedent, correctness of Import Export Code (IEC) Number, identity*

of his client and the functioning of his client in the declared address by using reliable, independent, authentic documents, data or information. In this regard, a detailed guideline on the list of documents to be verified and obtained from the client/ customer is enclosed in the Annexure. It would also be obligatory for the client/ customer to furnish to the CHA, a photograph of himself/ herself in the case of an individual and those of the authorised signatory in respect of other forms of organizations such as company/ trusts etc., and any two of the listed documents in the annexure”

Thus, I hold that the CHA have neither verified the antecedents nor verified physically verified the functioning of his client at the declared address, thus the Customs Broker obligations to verify the correctness of KYC including **functioning of his client at the declared address** were not fulfilled.

18.5.6 I hold that a proper verification through online platforms were also not conducted by the CHA and his employee. For e.g., I find that on verifying from GSTN, following details are shown:

Search Result based on GSTIN/UIN : 07AAICG1612P2ZE

Legal Name of Business GKR Traders Private Limited	Trade Name GKR Traders Private Limited	Effective Date of registration 06/02/2024
Constitution of Business Public Limited Company	GSTIN / UIN Status Cancelled suo-moto (Effective from 06/02/2024)	Taxpayer Type  Regular
Administrative Office (JURISDICTION - CENTER) State - CBIC Zone - DELHI Commissionerate - DELHI WEST Division - PITAMPURA Range - RANGE - 104	Other Office (JURISDICTION - STATE) State - Delhi Zone - Zone 4 Ward - Ward 64	Principal Place of Business 10th Floor, Unit No. 1006-A, Plot No. B-08, GD-ITL Tower, Netaji Subhash Place Road, Pitampura, New Delhi, North West Delhi, Delhi, 110034
Whether Aadhaar Authenticated? Yes (On 13/07/2024)	Whether e-KYC Verified? Not Applicable	Additional Trade Name View
Nature Of Core Business Activity Trader - Wholesaler/Distributor		
Nature of Business Activities <ul style="list-style-type: none"> 1. Export 2. Import 3. Retail Business 4. Wholesale Business 		

Dealing In Goods and Services

Goods		Services	
HSN	Description	HSN	Description
85429000	PARTS		
842230	MACHINERY FOR FILLING, CLOSING, SEALING OR LABELLING BOTTLES, CANS, BOXES, BAGS OR OTHER CONTAINERS MACHINERY FOR CAPSULING BOTTLES, JARS, TUBES AND SIMILAR CONTAINERS, MACHINERY FOR AERATING BEVERAGES		

I find that M/s. GKR Traders Pvt. Ltd. were dealing in machines of chapter 84 and 85 and Carpets were **nowhere** mentioned in the column 'Dealing in Goods and Services'.

18.5.7 I find that the CHA or their employee never met personally to the importer/authorized persons and its directors, and only talked on phone for related clearance work. Further In view of this, I hold that the CHA has not fulfilled the obligation 10(d) i.e. *“(d) advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof...”*

18.5.8 I find from the statement of Shri Amit Prajapati dated 24.10.2024 that they could not appear for statement for the first 02 summons dated 09.09.2024 and 20.09.2024 as they had not received the summons since the registered office address of the firm has changed. The relevant excerpt of the statement is as per image-14 below:

Image-14

Q 12	The custom department has sent 2 summons dated 09.09.2024 and 20.09.2024 in the name of M/s. Mathuradas Narandas & Sons Forwarders Ltd to appear before this office to produce necessary documents and give statement. Why did you fail to appear in response to the summons issued?
Ans	We have not received the summons since our registered office address has changed.
Q.13	It has been observed that the registered address of your firm has changed, Do you know that the custom broker has to inform any change of postal address, telephone number, e-mail etc. to the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, of all Customs Stations including the concerned Deputy Commissioner or Assistant Commissioner of the Commissionerate who has granted the license immediately within two days. Please provide the details of your submission made to the customs department.
Ans.	Yes, we have shifted our registered address to a new location twice after getting Custom Broker License from the Custom Department. However we have failed to inform the same to the department.

18.5.9 I find that the CHA firm has shifted their registered address to a new location twice since after getting Custom Broker License from the Custom Department, however they have failed to inform the same to the department. I refer to the Regulation 10 of the Customs Brokers Licensing Regulations, 2018:-

“

...

(o) inform any change of postal address, telephone number, e-mail etc. to the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, of all Customs Stations including the concerned Deputy Commissioner or Assistant Commissioner of the Commissionerate who has granted the license immediately within two days;

...

(q) co-operate with the Customs authorities and shall join investigations promptly in the event of an inquiry against them or their employees.

18.5.10 I find that Show Cause Notice proposed Penal provision invoked against M/s. Mathuradas Narandas & Sons forwarders limited under Section 112(a), 112(b) and Section 114AA of the Customs Act, 1962 in light of corroborative evidences.

18.5.11 I find that the CHA M/s. Mathuradas Narandas & Sons forwarders limited might not have knowledge regarding overvaluation, mis-classification or mis-declaration and might have filed the Bills of Entry entirely based on the documents supplied by the importer; however, I find that the CHA M/s. Mathuradas Narandas & Sons forwarders limited has failed to exercise due diligence to ensure the bona-fide of the importer which proves their sheer carelessness on their part such as they could not notice the details on GSTN portal that M/s. GKR Traders Pvt. Ltd. were dealing in machines of chapter 84 and 85 and Carpets were **nowhere** mentioned in the column 'Dealing in Goods and Services'. Further, I find that M/s. Mathuradas Narandas & Sons forwarders limited also failed to take all the necessary measures at the time of filing of the Bills of entry, regarding advising their client for proper declaration and valuation of the imported goods. Further, M/s. Mathuradas Narandas & Sons forwarders limited has shifted their registered address to a new location twice since after getting Custom Broker License from the Custom Department, however they have failed to inform the same to the department. I find that they also failed to ensure the proper conduct of their employee Shri Amit Prajapati regarding obligations of the CHA. As held in foregoing paras, overvaluation, misclassification and mis-declared, therefore, I hold that the CHA M/s. Mathuradas Narandas & Sons forwarders limited are culpable for the act of omission and commission made on their part in mis-declaration and overvaluation of the imported goods, which are liable for confiscation, and hence have rendered themselves liable for penalty under Section 112(a)(iii) and 112(b)(iii) of the Customs Act, 1962.

18.5.12 I also find that the Show Cause Notice proposes to impose penalty on the noticee under Section 114AA of the Customs Act, 1962. The text of the said statute is reproduced under for ease of reference:

Section 114AA of the Customs Act, 1962:

"114AA. Penalty for use of false and incorrect material.—If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods."

18.5.13 I further find that the CHA might not be the beneficiary with the goods meant for import and alleged fraud of mis-declaration and overvaluation, however, they have not advised the importer to comply with the Customs Act and Rules made thereunder and failed to exercise due diligence to ascertain the correctness of information with reference to work related to clearance of cargo, and thereby also violated the provisions of Rule 10 of the Customs Brokers Licence Regulations, 2018. I

find that the CHA have failed to take all the necessary measures at the time of filing of the Bills of Entry and it led to the mis-declaration and overvaluation. I find that it cannot be discarded as sheer negligence on part of the CHA as they had not verified the import documents presented to them, and I hold due to '*use of false and incorrect material*' by them, that penal provisions under Section 114AA, are applicable to the CHA as they had neither verified the documents, nor verified the antecedents, not advised the importer for complying with the Customs Act and other allied acts and barely filed the Bills of Entry with the documents presented to them on email, hence knowingly provide false information to the department.

18.6 I find that the ratio of the case laws cited by M/s. Mathuradas Narandas & Sons forwarders limited, i.e. *M/s. JEENA AND COMPANY (supra)*, *M/S. SEA QIIEEN SHIPPING SERVICES PRIVATE LIMITED (supra)* and *PRIME FORWARDERS (supra)*, is not squarely applicable in the present case in light of judgment of the Hon'ble CESTAT, Mumbai in the case of **SUSWASHIS CLEARING AND FORWARDING AGENCY VS. PRINCIPAL COMMR. OF CUSTOMS (GENERAL), MUMBAI AS REPORTED AT 2024 (388) ELT 623 (TRI-MUMBAI)**

“13.1 Besides the above analysis and discussions of the specific violations of CBLR, 2018, as raised in the inquiry proceedings, it is also necessary to appreciate the role or the position of the CHA/CB and whether any of his actions in clearance of the goods, omission or commission had caused directly or indirectly any violations in respect of imported goods, in this case. Furthermore, in order to appreciate the importance of the role of Customs Broker/Custom House Agent and the timely action which could prevent the import/export frauds, we rely on the judgment of the Hon'ble Supreme Court in affirming the decision of the Co-ordinate Bench of this Tribunal in the case of Principal Commissioner of Customs v. K.M. Ganatra & Co. in Civil Appeal No. 2940 of 2008 reported in 2016 (332) E.L.T. 15 (S.C.). The relevant paragraph of the said judgment is extracted below:

“15. In this regard, Ms. Mohana, Learned Senior Counsel for the appellant, has placed reliance on the decision in *Noble Agency v. Principal Commissioner of Customs, Mumbai 2002 (142) E.L.T. 84 (Tri. - Mumbai)* wherein a Division Bench of the CEGAT, West Zonal Bench, Mumbai has observed:-

“The CHA occupies a very important position in the Customs House. The Customs procedures are complicated. The importers have to deal with a multiplicity of agencies viz. carriers, custodians like BPT as well as the Customs. The importer would find it impossible to clear his goods through these agencies without wasting valuable energy and time. The CHA is supposed to safeguard the interests of both the importers and the Customs. A lot of trust is kept in CHA by the importers/exporters as well as by the Government Agencies. To ensure appropriate discharge of such trust, the

relevant regulations are framed. Regulation 14 of the CHA Licensing Regulations lists out obligations of the CHA. Any contravention of such obligations even without intent would be sufficient to invite upon the CHA the punishment listed in the Regulations.....”

We approve the aforesaid observations of the CEGAT, West Zonal Bench, Mumbai and unhesitatingly hold that this misconduct has to be seriously viewed.”

13.2 Similarly, in the case of *Sri Kamakshi Agency v. Commissioner of Customs, Madras - 2001 (129) E.L.T. 29*, the High Court of Madras, had taken the following views. The extract of the relevant para is given below:

“...the grant of licence to act as a Custom House Agent has got a definite purpose and intent. On a reading of the Regulations relating to the grant of licence to act as Custom House Agent, it is seen that while Custom House Agent should be in a position to act as agent for the transaction of any business relating to the entry or departure of conveyance or the import or export of goods at any customs station, he should also ensure that he does not act as an agent for carrying on certain illegal activities of any of the persons, who avail his services as Custom House Agent. In such circumstances, the person playing the role of Custom House Agent has got greater responsibility. The very prescription that one should be conversant with various procedures, including the offences under the Customs Act to act as a Custom House Agent would show that, while acting as Custom House Agent, he should not be a cause for violation of those provisions. A CHA cannot be permitted to misuse his position as a CHA by taking advantage of the access to the department. The grant of licence to a person to act as Custom House Agent is to some extent to assist the department with the various procedures such as scrutinising the various documents to be presented in the course of transaction of business for entry and exit of conveyance or the import or export of the goods. In such circumstances, great confidence is reposed in a Custom House Agent. Any misuse of such position by the Custom House Agent will have far reaching consequences in the transaction of business by the Custom House officials.”

14. In view of the above discussions and on the basis of the judgment of the Hon’ble Supreme Court in the case of *K.M. Ganatra (supra)*, we find that the appellants CB could have been proactive in fulfilling their obligation as Customs Broker for exercising due diligence, particularly when the import documents were obtained from the importers through an intermediary in ensuring that all documents relating to imports are genuine and that these are not fake or fabricated. As discussed in detail in Paragraphs 7.3 to 7.7 above, the mis-match in the general description of the goods given in the MAWB and invoices could have immediately alerted the appellants CB to

inquire into the same with the importer about its correctness, before accepting the authorisation for handling the customs clearance work of such imported goods. However, they have failed to do such an action, which show that they did not scrutinize the documents presented to them by the importer before filing the Bills of Entry.”

19. Therefore, I pass the following order -

ORDER

- (a) I reject the classification under Custom Tariff head 5703 for the imported goods vide Bill of Entry No. 3260739 & 3260738 respectively both dated 29.04.2024 and order to reassess the aforesaid Bills of Entry by taking value as per the CE report and reclassifying the imported goods under CTH 5704;
- (b) I reject the declared value Rs. 24,79,61,806/- and Rs. 24,34,16,091/- of the consignments imported vide Bills of Entry No. 3260739 & 3260738 respectively both dated 29.04.2024 by M/s. GKR Traders Private Limited in terms of the Section 14 of the Customs Act, 1962 read with rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.
- (c) I order to re-assess the Bills of Entry No. 3260739 & 3260738 respectively both dated 29.04.2024 at the value arrived by the Chartered Engineer at Table-2 above, under provisions of Customs Valuation (Determination of value of imported goods) Rules, 2007. I order to recover the Customs Duties on applicable rates from M/s. GKR Traders Private Limited;
- (d) I hold the imported goods vide Bill of Entry No. 3260739 & 3260738 both dated 29.04.2024 with declared value of Rs. 24,79,61,806/- and Rs. 24,34,16,091/- respectively liable for confiscation. However, I give an option to M/s. GKR Traders Private Limited to redeem the goods on payment of fine of **Rs. 30,00,000/- (Rupees Thirty Lakhs Only)** under Section 125(1) of the Customs Act, 1962;
- (e) I impose a penalty of **Rs. 5,00,00,000/- (Rupees Five Crores Only)** on M/s. GKR Traders Private Limited under the provisions of Section 112(a) (iii) and 112(b) (iii) of the Customs Act, 1962;

(f) I impose a penalty of **Rs. 2,00,00,000/- (Rupees Two Crores Only)** on M/s. GKR Traders Private Limited under the provisions of Section 114AA of the Customs Act, 1962;

(g) I impose a penalty of **Rs. 2,00,000/- (Rupees Two Lakhs Only)** on M/s. GKR Traders Private Limited under the provisions of Section 117 of the Customs Act, 1962;

(h) I impose a penalty of **Rs. 5,00,00,000/- (Rupees Five Crores Only)** on Shri Ashwani Kumar under the provisions of Section 112(a) (iii) and 112(b) (iii) of the Customs Act, 1962;

(i) I impose a penalty of **Rs. 2,00,00,000/- (Rupees Two Crores Only)** on Shri Ashwani Kumar under the provisions of Section 114AA of the Customs Act, 1962;

(j) I impose a penalty of **Rs. 2,00,000/- (Rupees Two Lakhs Only)** on Shri Ashwani Kumar under the provisions of Section 117 of the Customs Act, 1962;

(k) I impose a penalty of **Rs. 5,00,00,000/- (Rupees Five Crores Only)** on Shri Ranadeep Sarma under the provisions of Section 112(a) (iii) and 112(b)(iii) of the Customs Act, 1962;

(l) I impose a penalty of **Rs. 2,00,00,000/- (Rupees Two Crores Only)** on Shri Ranadeep Sarma under the provisions of Section 114AA of the Customs Act, 1962;

(m) I impose a penalty of **Rs. 2,00,000/- (Rupees Two Lakhs Only)** on Shri Ranadeep Sarma under the provisions of Section 117 of the Customs Act, 1962;

(n) I impose a penalty of **Rs. 5,00,00,000/- (Rupees Five Crores Only)** on M/s. Mathuradas Narandas & Sons forwarders limited, Ahmedabad under the provisions of Section 112(a)(iii) and 112(b)(iii) of the Customs Act, 1962;

(o) I impose a penalty of **Rs. 2,00,00,000/- (Rupees Two Crores Only)** on M/s. Mathuradas Narandas & Sons forwarders limited, Ahmedabad under the provisions of Section 114AA of the Customs Act, 1962.

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OIO No. 54/ADC/SR/O&A/2025-26

20. The Show Cause Notice No. CUS/SIIB/SZRE/256/2024-PREV-O/o PR COMMR-CUS-AHMEDABAD dated 28.10.2024 is disposed of in terms of the para above.

(SHRAVAN RAM)
ADDITIONAL COMMISSIONER

DIN: 20250671MN000000F4B3

F. No. VIII/10-226/ICD-SANAND/O&A/HQ/2024-25

Date: **23.06.2025**

BY SPEED POST / E-MAIL / HAND DELIVERY / THROUGH NOTICE BOARD

To,

1) M/S GKR TRADERS PVT LTD

OFFICE NO. 1006-A, 10TH FLOOR,
PLOT DG-ITL TOWER, NETAJI SUBHASH PLACE,
NEW DELHI – 110034

2) SHRI ASHWANI KUMAR,

DIRECTOR OF M/S GKR TRADERS PVT LTD,
S/O RAMESHWAR DAYAL TYAGI,
HOUSE NO 189, PO KANAUJ,
GHAZIABAD, UP-201205

3) SHRI RANADEEP SARMA,

DIRECTOR OF M/S GKR TRADERS PVT LTD
RESIDENT OF
BLOCK A /4A UTTARAYAN,
40 DUMDUM ROAD, PO MOTJHEEL,
DISTRICT NORTH 24 PRAGANAS,
WEST BENGAL -70074

4) M/S. MATHURADAS NARANDAS & SONS

FORWARDERS LTD,
AHMEDABAD OFFICE
A- 1303, SUN WEST BANK,
OPPOSITE: VALLABH SADAN,
ASHRAM ROAD, AHMEDABAD

Copy to:

1. The Principal Commissioner of Customs, Ahmedabad (Kind Attn: The Assistant Commissioner, RRA, Customs Ahmedabad).
2. The Assistant Commissioner of Customs, ICD-Sanand, Ahmedabad.
3. The Superintendent of Customs (Systems), Customs HQ, Ahmedabad for uploading on official web-site.
4. The Superintendent (Task Force), Customs-Ahmedabad
5. Guard File.