
	<p>कार्यालय: प्रधान आयुक्त सीमा शुल्क, मुन्द्रा, सीमा शुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421 <b>OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT- 370421</b> <b>PHONE:02838-271426/271423 FAX:02838-271425</b> <b>Email: adj-mundra@gov.in, commr-cusmundra@nic.in</b></p>	
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DIN-20241171MO000081868C

Date: 07.11.2024

**SHOW CAUSE NOTICE**

M/s. Om Enterprises (IEC No. ARRPK7735L) having registered address at C-112/85, Plot No.2/56, East Park Lane, Near Govt. Girls School, Karol Bagh, New Delhi - 110005 is engaged in import of PU-coated Fabrics and other fabrics from China for home consumption. M/s. Om Enterprise used to import these goods in Mundra SEZ Warehouse Unit M/s. OWS Warehouse Services LLP, Mundra and subsequently file SEZ to DTA Bill of Entry in the SEZ for their DTA removal.

2. Intelligence developed by the Directorate of Revenue Intelligence (DRI) Ahmedabad indicated that M/s. Om Enterprise (herein after referred to as OM) is indulging in evading payment of Anti-dumping duty and appropriate levy of Customs duty during their import of Fabrics by way of mis-declaration of description and mis-classification of these good. In terms of Govt. of India, Ministry of Finance, Department of Revenue Notification No. 14/2022-Customs (ADD) dated 20.05.2022 issued from F.No. 190354/115/2022-TRU (**RUD No.1**), PU-coated fabric falling under HS code 59032090, when imported from any Country including China and produced by entities other than by M/s. Anhui Anli Material Technology Limited, attracts Anti-dumping duty @USD 0.46 per Meters.

3. The intelligence further indicated that 02 such consignments of PU Coated fabrics imported by M/s. Om Enterprise from China through Bill of Entry No. 1015307 dt. 27.0.2022 and Bill of Entry No.1015306 dt. 27.10.2022 by mis-declaring the description of goods as Felt Woven Coated Fabric and mis-classifying it under CTI 59119090 are lying at Mundra SEZ Warehouse Unit M/s. OWS Warehouse Services LLP. Acting upon the above intelligence, import consignments in Bill of Entry No. 1015307 dt. 27.10.2022 and Bill of Entry No.1015306 dt. 27.10.2022 of M/s. Om Enterprise were examined by the officers of DRI at Mundra SEZ Warehouse Unit M/s. OWS Warehouse Services LLP, under Panchnama dated 12.11.2022 (**RUD No.2**). During the course of examination, different type of goods in rolls were found in the import consignments as detailed below –

**Table-1**  
**Bill of Entry No.1015307 dt 27.10.2022**

Goods Type	Total No. of Rolls	Total Length of Fabric in each Roll (in meters)	Width of Fabric in each Roll (in meters)
Type – 1	557	50	1.5
Type – 2	89	50	1.5
Type – 3	187	50	1.5

Type - 4	112	70	1.5
Type - 5	134	40	1.5
Type - 6	170	50	1.5

**Table-2**  
**Bill of Entry No.1015306 dt 27.10.2022**

Goods Type	Total No. of Rolls	Total Length of Fabric in each Roll (in meters)	Width of Fabric in each Roll (in meters)
Type - 1	825	65	1.5
Type - 2	98	50	1.5
Type - 3	172	30	1.5
Type - 4	40	50	1.5
Type - 5	55	50	1.5

The above goods i.e. Fabrics were found to have some coating which indicated the possibility of the fabric being PU Coated and therefore, representative samples from all the 06 types of goods in Bill of Entry No. 1015307 dt. 27.10.2022 and in all 05 types of goods in Bill of Entry No.1015306 dt. 27.10.2022 were drawn in the presence of the representative of the Warehouse and the Panchas. The goods were thereafter detained pending result of the Testing of the Samples. The samples were forwarded to CRCL, Vadodara.

**3.1** Subsequently, the import consignments in respect of Bill of Entry No. 1014717 dt. 17.10.2022 of M/s. OM were also examined by the officers of DRI at Mundra SEZ Warehouse Unit M/s. OWS Warehouse Services LLP, under Panchnama dated 13.11.2022 (**RUD No.3**). During the course of examination, different type of goods in rolls were found as detailed below –

**Table-3**  
**Bill of Entry No.1014717 dt 17.10.2022**

Goods Type	Total No. of Rolls	Total Length of Fabric in each Roll (in meters)	Width of Fabric in each Roll (in meters)
Type - 1	790	50	1.5
Type - 2	443	40	1.5
Type - 3	182	50	1.5
Type - 4	99	50	1.5

During the examination, these goods i.e. Fabrics were found to have some coating which indicated the possibility of the fabric being PU Coated and therefore, representative samples from all the 04 types of goods in Bill of Entry No. 1014717 dt. 17.10.2022 were drawn in the presence of the representative of the Warehouse and the Panchas. The goods were thereafter detained pending result of the Testing of the Samples. The samples drawn were further forwarded to CRCL, Vadodara for ascertaining its true identity and coating.

**3.2** The samples of imported goods drawn as discussed above at para 3 & 3.1 were forwarded to CRCL, Vadodara. Details of the Test results received is tabulated as under –

**TABLE-4**

Bill of Entry No. & Dt.	Type of goods	Test Memo No.	Test Result as per CRCL Report
1015307 dt. 27.10.2022	Type-1	9/OM/1015307 dt. 18.11.2022 [RUD-4]	Dyed Woven Fabric Coataed with Compounded Polyurethane on one side.
	Type-2	10/OM/1015307 dt. 18.11.2022 [RUD-5]	Dyed knitted Fabric having raised fibres on one surface, coated with compounded polyurethane on one side.
	Type-3	11/OM/1015307 dt. 18.11.2022 [RUD-6]	Dyed viscose cut Fibres passed on Polyurethane Layer forming check pattern.
	Type-4	12/OM/1015307 dt. 18.11.2022 [RUD-7]	White knitted Fabric coated with compounded polyurethane laminated with PVC film.
	Type-5	13/OM/1015307 dt. 18.11.2022 [RUD-8]	Non-Woven Bonded Fabric coated with Compounded Polyurethane on one side.
	Type-6	14/OM/1015307 dt. 18.11.2022 [RUD-9]	White knitted Fabric having raised Fibres, coated with Compounded Polyurethane:
1015306 dt. 27.10.2022	Type-1	15/OM/1015306 dt. 18.11.2022 [RUD-10]	White knitted Fabric having raised Fibres on one surface, coated with Compounded Polyurethane on one side.
	Type-2	16/OM/1015306 dt. 18.11.2022 [RUD-11]	White knitted Fabric coated with Compounded Polyurethane on one side.
	Type-3	17/OM/1015306 dt. 18.11.2022 [RUD-12]	Dyed Non-Woven fabric coated with compounded polyurethane on one side
	Type-4	18/OM/1015306 dt. 18.11.2022 [RUD-13]	White knitted Fabric having raised fibres on one side, coated with compounded polyurethane having laminated with PVC film.
	Type-5	19/OM/1015306 dt. 18.11.2022 [RUD-14]	Dyed knitted Fabric having raised fibres on one surface, coated with compounded polyurethane laminated with PVC film.
1014717 dt. 17.10.2022	Type-1	35/OM/1014717 dt. 17.10.2022 [RUD-15]	Dyed knitted Fabric having raised fibres, of polyester filament yarns, coated with compounded polyurethane on one side.having shining surface.
	Type-2	36/OM/1014717 dt. 17.10.2022 [RUD-16]	Dyed knitted fabric having raised fibres on one side, of polyester filament yarns, coated with compounded polyurethane on one side having glossy surface laminated with polyurethane film.
	Type-3	37/OM/1014717 dt. 17.10.2022 [RUD-17]	Dyed self-designed knitted fabric of polyester filament yarns backed with white non-woven fabric of polyesters fibres, both layers are pasted together with polymeric material based on compounded polyurethane.
	Type-4	38/OM/1014717 dt. 17.10.2022 [RUD-18]	Dyed knitted fabric made of polyester filament yarns, coated with compounded polyurethane on one side.

In view of the above test reports, the goods as mentioned in Table-A, B & C above, collectively in 3953 Nos. of Rolls having Approx. Length of 2,03,055 Meters imported vide Bills of Entry as mentioned above were found to be Fabrics coated with Compounded Polyurethane which were mis-declared and mis-classified by the importer and Anti-dumping duty leviable on it were not paid on it in terms of Govt. of India, Ministry of Finance, Department of Revenue Notification No. 14/2022-Customs (ADD) dated 20.05.2022. The above imported goods were therefore placed under seizure vide Seizure Memo issued F.No.DRI/AZU/CI/ENQ-01(INT-21)/2023 dtd. 09.01.2023 [RUD-19] under Section 110(1) of the Customs Act, 1962. Subsequently, the above goods were ordered for provisional release by the Competent authority i.e. Customs House, Mundra vide their letter F.No.CUS/APR/INV/91/2023-Gr 3 -O/o Pr. Commr-cus-Mundra dated 25.04.2023.

4. During further course of the investigation, the imported goods in respect of Bill of Entry No. 1015514 dt. 31.10.2022, Bill of Entry No.1015513 dt. 31.10.2022, Bill of Entry No.1015612 dt. 05.11.2022 and Bill of Entry No.1015777 dt. 05.11.2022 of M/s. Om Enterprises were also examined by the officers of DRI at Mundra SEZ Warehouse Unit M/s. OWS Warehouse Services LLP, under Panchnama dated 17.01.2023 [RUD No.20]. During the course of examination, different type of goods in rolls were found in the import consignments as detailed below –

**Table-5**  
**Bill of Entry No.1015513 dt 31.10.2022**

Goods Type	Total No. of Rolls	Total Length of Fabric in each Roll (in meters)	Width of Fabric in each Roll (in meters)
Type – 1	207	50	1.45
Type – 2	492	50	1.5
Type – 3	350	50	1.5

**Table-6**  
**Bill of Entry No.1015514 dt 31.10.2022**

Goods Type	Total No. of Rolls	Total Length of Fabric in each Roll (in meters)	Width of Fabric in each Roll (in meters)
Type – 1	225	50	1.5
Type – 2	704	50	1.5
Type – 3	413	40	1.5
Type – 4	114	50	1.5
Type – 5	62	50	1.5

**Table-7**  
**Bill of Entry No.1015612 dt 05.11.2022**

Goods Type	Total No. of Rolls	Total Length of Fabric in each Roll (in meters)	Width of Fabric in each Roll (in meters)
Type – 1	798	50	1.5
Type – 2	450	50	1.5

**Table-8**  
**Bill of Entry No.1015777 dt 05.11.2022**

Goods Type	Total No. of Rolls	Total Length of Fabric in each Roll (in meters)	Width of Fabric in each Roll (in meters)
Type – 1	519	50	1.45
Type – 2	206	50	1.40
Type – 3	377	40	1.40

During the examination under Panchnama, these goods i.e. Fabrics were found to have some coating which indicated the possibility of the fabric being PU Coated and therefore, representative samples from all the types of goods in Bill of Entry No. 1015514 dt. 31.10.2022, Bill of Entry No.1015513 dt. 31.10.2022, Bill of Entry No.1015612 dt. 05.11.2022 and Bill of Entry No.1015777 dt. 05.11.2022 were drawn in the presence of the representative of the Warehouse and the Panchas. The goods were thereafter detained

pending result of the Testing of the Samples. The samples drawn were further forwarded to CRCL, Vadodara for ascertaining its true identity and coating, if any.

**4.1** The Test results in respect of these samples of imported received from CRCL, Vadodara is tabulated as under –

Bill of Entry No. & Dt.	Type of goods	Test Memo No.	Test Result as per CRCL Report
1015514 dt. 31.10.2022	Type-1	57/OM/1015514 dt. 19.01.2023 [RUD-21]	Dyed Woven Fabric coated with compounded polyurethane and laminated with transparent polyester film on one side.
	Type-2	58/OM/1015514 dt. 19.01.2023 [RUD-22]	White knitted Fabric having raised fibres on one surface coated with compounded polyurethane on one side.
	Type-3	59/OM/1015514 dt. 19.01.2023 [RUD-23]	Dark Grey knitted fabric of Polyester filament yarns & coated with compounded polyurethane on one side having glossy surface laminated with PVC film.
	Type-4	60/OM/1015514 dt. 19.01.2023 [RUD-24]	White knitted fabric of Polyester filament yarns & coated with compounded polyurethane on one side having glossy surface laminated with PVC film.
	Type-5	61/OM/1015514 dt. 19.01.2023 [RUD-25]	Dark Grey knitted fabric of Polyester filament yarns & coated with compounded polyurethane on one side having glossy surface laminated with PVC film.
1015513 dt. 31.10.2022	Type-1	54/OM/1015513 dt. 19.01.2023 [RUD-26]	White knitted fabric having raised fibres on one surface coated with compounded polyurethane on one side.
	Type-2	55/OM/1015513 dt. 19.01.2023 [RUD-27]	Dyed knitted fabric having raised fibres on one surface coated with compounded polyurethane on one side.
	Type-3	56/OM/1015513 dt. 19.01.2023 [RUD-28]	Dyed knitted fabric having raised fibres on one surface coated with compounded polyurethane on one side.
1015612 dt. 05.11.2022	Type-1	62/OM/1015612 dt. 19.01.2023 [RUD-29]	Dark Grey knitted fabric having raised fibres on one side of Polyester filament yarns & coated with compounded polyurethane on other side
	Type-2	63/OM/1015612 dt. 19.01.2023 [RUD-30]	White knitted fabric having raised fibres on one side, of polyester filament yarns, coated with Compounded Polyurethane on other side.
1015777 dt. 05.11.2022	Type-1	64/OM/1015777 dt. 19.01.2023 [RUD-31]	White knitted fabric having raised fibres on one side, of polyester filament yarns, coated with Compounded Polyurethane on other side.
	Type-2	65/OM/1015777 dt. 19.01.2023 [RUD-32]	Dark Grey knitted fabric having raised fibres on one side of Polyester filament yarns & coated with compounded polyurethane on other side
	Type-3	66/OM/1015777 dt. 19.01.2023 [RUD-33]	Woven Fabric of spun yarns of viscose & coated with compounded polyurethane on the one side having glossy surface, laminated with PVC film.

In view of the above test reports, the goods collectively in 4917 Nos. of Rolls having Approx. Length of 2,37,950 Meters imported vide Bills of Entry as mentioned above were found to be Fabrics coated with compounded polyurethane which were mis-declared and mis-classified by the importer and Anti-dumping duty leviable on it were not paid on it in terms of Govt. of India, Ministry of Finance, Department of Revenue Notification No. 14/2022-Customs (ADD) dated 20.05.2022. The above imported goods were therefore placed under seizure vide Seizure Memo issued F. No. DRI/AZU/CI/ENQ-01(INT-21)/2023 dated 29.03.2023 [RUD-34] under Section 110(1) of the Customs Act, 1962. Subsequently, the above goods were ordered for provisional release by the Competent authority i.e. Customs House, Mundra vide their letter F.No.CUS/APR/INV/91/2023-Gr 3 -O/o Pr. Commr-cus-Mundra dated 25.04.2023.

5. In terms of Govt. of India, Ministry of Finance, Department of Revenue Notification No. 14/2022-Customs (ADD) dated 20.05.2022 issued from F. No. 190354/115/2022-TRU **[RUD No.1]**, PU-coated fabric falling under HS code 59032090, when imported from any Country including China and produced by entities other than by M/s. Anhui Anli Material Technology Limited, attracts Anti-dumping duty @USD 0.46 per Meters.

5.1. The above notification further also clarifies that "for the purposes of this notification, rate of exchange applicable for calculation of such anti-dumping duty, shall be the rate which is specified in the notification of the Government of India, Ministry of Finance (Department of Revenue), issued from time to time, in exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and the relevant date for the determination of the rate of exchange shall be the date of presentation of the bill of entry under section 46 of the Customs Act, 1962".

6. In terms of Ministry of Commerce & Industry (D.C.) Notification No. S.O. 2666(E) dated 05.08.2016 **[RUD-35]**, Officers of Directorate of Revenue Intelligence (DRI) is authorised by the Central Government, to be the enforcement officer(s) in respect of any notified offence or offences committed or likely to be committed in Special Economic Zone.

## 7. Search conducted during the investigation

7.1 During the course of investigation, Search at the Registered Premises at 5289, Hardhiyan Singh Road, Karol Bagh Delhi - 110005, Godown of M/s Jai Maa Enterprises situated at 7/23, Kirti Nagar, Near Under Pass, New Delhi and Residence of Shri Arun Jyoti Mahajan, Partner of M/s Jai Maa Enterprises situated at D-11, Kirti Nagar, New Delhi was carried out under Panchnama dated 21.11.2022 **[RUD No.36]**. During the search various types of fabric roles appearing to be coated with some materials were found at the registered premises and godown of the firm. On being asked, Shri Arun Jyoti Mahajan informed that these fabrics are coated with Poly Urethane (PU). During the search at the residential premises of Shri Arun Jyoti Mahajan, some documents in respect of Sale and purchases of the firm were found. Shri Arun Jyoti informed that the Sales & Purchase documents are with Shri Anil Kumar Sharma, his CA who appeared during the Panchnama and provided the required sales and purchase documents in a Pen Drive related to the firm. The above documents in soft and digital form are retrieved by the officers during the Search. It was informed by Shri Arun Jyoti Mahajan that they make most of their purchases from M/s. JMV Enterprises, M/s. OM Enterprises and Alfa Impex. He further stated that the goods which were purchased from said firms were PU coated fabric, Flock fabric, Glitter fabric, Polyester Bonded fabric.

7.2 Search at the registered premises of M/s. Om Enterprise situated at C-112/85, Plot No.2/56, East Park Lane, Near govt. Girls School, Karol Bagh, New Delhi - 110005 was conducted under Panchnama dated 23.11.2022 **[RUD-37]**. During the search, Shri Hari Kishan, Proprietor of M/s. Om Enterprise was found at the premises. No documents related to the inquiry/import were found at the premises during the search. On being

asked, Shri Hari Kishan informed that all the documentation work related to the firm is done from the office situated at 212, Vishal Tower, Janakpuri, Delhi and after completion of the work, the documents are forwarded to their CA for filing of returns.

**7.3** Search at the Shop of M/s Ritika Traders and M/s Kishor Traders located at MG/54/1/10, Thakkar Bapa Nagar, CS Road, Chembur, Mumbai & 53/2/2 Thakkar Bapa Nagar, CS Road, Chembur, Mumbai was carried out on 16.12.2022 under Panchnama proceedings dated 16.12.2022 [RUD-38]. M/s. Ritika Traders & M/s. Kishor Traders are engaged in trading of various fabrics used in footwear & other goods and the search was carried out in connection with purchases of imported goods by them. During the search, Shri Kishor Kumar Ramuram Naval, Proprietor of M/s. Kishor Traders stated that they purchase PU Coated Fabric, Flock Fabric, Glitter Fabric etc. which is used in Ladies Footwear and their main suppliers are M/s. Jai Maa Enterprises, M/s. Bhagwati International & M/s. Tayesha International. The officers draw sample of goods purchased by M/s. Kishor Traders against Invoice No.2022-23/1405 dt. 12.1.2022 issued by M/s. Jai Maa Enterprises & sample of goods purchased by M/s. Ritika Traders against Invoice No.2022-23/2022 dt. 20.10.2022 issued by M/s. Jai Maa Enterprises.

**7.3.1** The above samples of goods drawn under Panchnama dated 16.12.2022 were sent to the CRCL, Vadodara for conducting test to ascertain the actual identification of the goods. The details divulged in Test Reports provided by CRCL provided in respect of these samples are as under -

Sr. No	Test Memo No. and Date	Test Report No. and Date	Bill of Entry No. (SEZ and SEZ to DTA) & Date	Declared Description declared in BE	Appropriate description of goods as per Test Reports
1	52/KISHOR/54 dated 19.12.2022	RCL/AZU/DRI/3351/22. 12.2022 dt. 04.01.2023 [RUD No.39]	Sample of goods purchased by M/s. Kishor Traders, Mumbai which were drawn under Panchnama dt.16.12.2022	Textile Coated Fabric Sold to M/s. Kishor Trader by M/s. Jai Maa Enterprises under Invoice No. 2022-23/1045 dt. 12.11.2022	Dyed Knitted Fabric having raised fibers on one surface, coated with compounded polyurethane on one side.
2	53/RITIKA/47 dated 19.12.2022	RCL/AZU/DRI/3352/22. 12.2022 dt. 04.01.2023 [RUD No.40]	Sample of goods purchased by M/s. Ritika Traders, Mumbai which were drawn under Panchnama dt.16.12.2022	Glitter Fabric Sold to M/s. Kishor Trader by M/s. Jai Maa Enterprises under Invoice No. 2022-23/1312 dt. 23.10.2022	White Knitted Fabric having raised fibers on one surface, coated with compounded polyurethane on one side.

**7.4** Further search at the residential premises of Shri Arun Jyoti Mahajan, Partner of M/s. Jai Maa Enterprises situated at D-11, Kirti Nagar, New Delhi

was carried out under Panchnama dated 28.12.2022. During the search of the examination, documents relevant to inquiry were found and the same were resumed. Further, mobile phones of Shri Ankur Mahajan, Son of Shri Arun Jyoti Mahajan were also resumed for inquiry.

**7.5** Search at the registered premises of M/s. JMV Enterprise at 216, Vishal Tower, Distt Centre, Janakpuri, New Delhi was carried out under Panchnama dated 21.11.2022 **[RUD NO.41]**. During the search Shri Kapil Kotiya, Proprietor of M/s. Ocean Logistics and freight forwarding and Customs agent of M/s. JMV Enterprise was found at the premises. During the course of search print out of the import documents of M/s. JMV Enterprise, M/s. Om Enterprise & other firms with whom Shri Kapil Kotiya was carrying the customs clearance & freight forwarding work was taken out from the email Id of Kapil Kotiya i.e. [kapillogis@gmail.com](mailto:kapillogis@gmail.com) and the same were resumed in the Box File containing pages from 01 to 671.

## **8. Statements recorded in the case**

**8.1** Statement of Shri Hari Kishan S/o Shri Panchu Ram, Proprietor of M/s Om Enterprises was recorded u/s. 108 of the Customs Act, 1962 on 23.11.2022 **[RUD No.42]** wherein he inter alia stated that M/s. Om Enterprises was established in the year 2018; that prior to this firm he was working elsewhere and that job due to some medical issues; that M/s. Om Enterprises has an IEC and he is lending the IEC to other firms through Shri Kapil Kotiya who is his nephew; that as per his knowledge M/s. Jai Maa Enterprises, M/s. A.N. Enterprises and M/s. Bhagwati Enterprises have used the IEC of M/s. Om Enterprise; that he has never met anyone from these firms and Shri Kapil Kotiya is dealing with these firms; that Shri Kapil Kotiya is having a freight forwarding firm in the name of M/s. Ocean Logistics; that there is no fix financial remuneration received by him on account of lending the IEC but Shri Kapil Kotiya gives him money from time to time whenever he requires; that the funds which are sent to overseas suppliers of the imported goods are received by his firm from these domestic firms who actually are ordering the goods; that he is not handling any work in the firm except operating its bank account; that the import work of the firm is handled solely by Shri Kapil Kotiya .

**8.2** Statement of Shri Kapil Kotiya s/o Shri Ratan Lal, Proprietor of M/s Ocean Logistics was recorded u/s. 108 of the Customs Act, 1962 on 27.11.2022 **[RUD No.43]**, wherein he inter alia stated that he is the Proprietor of M/s Ocean Logistics, situated at 212, Vishal Tower, District Center, Janakpuri, New Delhi-110058; that M/s Ocean Logistics was established in the year 2017; that M/s Ocean Logistics does not have an IEC and the firm is handling work related to Freight Forwarding and Customs Clearance; that apart from M/s. Ocean Logistics, he is not a partner or director in any other firm/company; that his firm does not have any Customs Brokers License and gives the work related to customs clearance to M/s. Rainbow Shipping Service & Lara Exim Pvt. Ltd.; that he is handling all the day to day work of the firm M/s JMV Enterprises, M/s. Om Enterprises & M/s. J Bridge World Wide; that IEC of this firm is lent to the Domestic firms for importing of the goods they require; that various Domestic Traders (Actual



Importer of Goods) import their goods through the IEC & the name of these IEC holding firms and after import they take these imported goods by way of domestic sale from the IEC holding firms; that the modus adopted in the above transaction is that the Domestic firm/Traders orders the goods from overseas supplier and provide them the credentials of these IEC lending firm as an importer to facilitate the import of the goods; that the import related documents from overseas supplier are received by the domestic firms/traders (Actual owner of the goods) which they forward to the IEC lending firm for customs clearance and after the customs clearance, these imported goods are directly forwarded from the port to the premises of these domestic firm/traders (the actual importer of goods) by showing it as domestic sale by IEC lending firm; that due to the market being very competitive, the domestic firms/traders/actual owner of the goods want to hide the details of overseas suppliers and therefore they use IEC lending firms to import the goods; that he had approached his relatives or friends, who lost jobs during COVID-19 lock down and gave them ideas to open IEC lending firm for some monetary benefit for which they agreed; that no fix amount is paid for the same to the owner of the firm and the same varied from person to person; that the IEC of the firm M/s Om Enterprise was intended to be utilized by domestic traders (actual importer of goods) M/s. Jai Maa Enterprises, M/s. Bhagwati Enterprise, M/s. Tayesha International, M/s. KG Overseas etc.; that these domestic firm/traders were known to him and since they required IEC firm for import, he provided them this firm; that the proprietor of M/s. Om Enterprises is not looking after any work of the firm except to signing documents related to import and banking transaction; that he is charging Rs.15000/- per container to Domestic firm/Traders (actual importer of goods) for lending IEC; that this amount is added to value of goods in the Invoice when the goods are removed for domestic sale; that the Domestic firm/Traders (actual importer of goods) are importing Polyester Woven Fabric, Knitted Fabric, Polyester Bonded Fabric, PVC Coated Fabric, PA Coated Fabric, Textile Coated Fabric etc. through these IEC lending firms; that these domestic traders/firms place the order to overseas supplier and later on send the import documents to him for the purpose of freight forwarding or customs clearance; that he did not know anything about the mis-declaration of goods, as goods are directly ordered by the Domestic Traders (actual importer of goods) and after import the same is directly dispatched to the Domestic Traders (actual importer of goods); that all the domestic traders were his regular clients and are communicating with him only; that domestic traders used to import PU Coated Fabric before imposing of Anti-dumping duty on the PU Coated Fabric, however after imposing Anti-dumping duty, they discontinued import of PU Coated Fabric.

**8.3** Statement of Shri Ankur Mahajan S/o Shri Arun Jyoti Mahajan Proprietor of M/s Bhagwati International was recorded u/s. 108 of Customs Act, 1962 on 28.12.2022 **[RUD No.44]**, wherein he inter alia stated that M/s.Bhagwati International was established in the year 2013 and its registered address is 7034/3, Mata Rameshwari Nehru Nagar, Karol Bagh, Delhi; that he is the Proprietor of this firm and is trading various types of goods through this firm; that his family owns two other firms namely M/s. Jai Maa Enterprises which is a partnership firm & M/s.Tayesha International in which his father is the Proprietor; that all the business of M/s. Jai Maa Enterprises, M/s.Bhagwati International and M/s.Tayesha International is

being looked after by him and his father Shri Arun Jyoti Mahajan; that these firms buy and sell various types of fabric i.e. PU Coated Fabric, PVC Coated Fabric, Glitter Fabric, Non-Woven Fabric, Bonded Fabric etc.; that they have imported PU Coated Fabric, PVC Coated Fabric, Glitter Fabric, Non-Woven Fabric, Bonded Fabric etc. through their three firms; that in M/s. Jai Maa Enterprises, they had started import from the year 2012 and in M/s. Bhagwati International and M/s. Tayesha International, they started imports from the year 2013 and 2016 respectively; that they had stopped import from the year 2018 and had started purchasing fabrics domestically; that he purchased goods from M/s. JMV Enterprises, M/s. Om Enterprises, M/s. Alpha Impex etc.; that he did not know Shri Hari Kishan; that they had purchased PU Coated Fabric, Textile Coated Fabric, Bonded Fabric etc. from M/s. Om Enterprises; that PU Coated Fabric is artificial leather which is used in footwear and garments; that Textile Coated Fabric is PU Coated Fabric which is used in footwear and garments; that Textile Coated Fabric is just another name given to PU Coated Fabrics; that he did not know, why in their purchase of PU Coated Fabric, this term Textile Coated Fabric is used by his local supplier firms in their invoices; that the goods purchased from local supplier were imported from China; that they ordered PU Coated Fabric and received the PU Coated Fabric, but the goods in their invoice were mentioned as Textile Coated Fabric; that M/s. Om Enterprises is one the firm who is mentioning the PU Coated Fabric as Textile Coated Fabric in their invoices; that he did not know the Proprietor/Partner/Employee of M/s. Om Enterprises and he only contacts Shri Kapil Kotiya for purchase of goods from this firm; that Shri Kapil Kotiya had visited their shop in Karol Bagh and had offered door-step delivery of these goods; that the payment of the goods is transferred by them to M/s. Om Enterprises at his convenience since a credit period of 15 to 120 days is available for making payment; that on one or two occasion they have also made advance payment to M/s. Om Enterprises towards delivery of the goods; that he took sample of the goods from manufacturer in China i.e. Volcano International and Cinorich and gave the details of shortlisted samples of the goods with desired quantity to Shri Kapil Kotiya, who places the order in China but sometimes he himself had also placed the order directly to the Overseas Supplier in China; that he placed the order to suppliers in China through his phone; that Invoice and packing list were directly received by Shri Kapil Kotiya whereas BL copy is received through telex by him or Shri Kapil Kotiya; that he was dealing with Volcano International, China and Cinorich, China since two three years and their representative had approached him as he was dealing in various kind of fabrics; that he further introduced Shri Kapil Kotiya to these firms; that Order were placed to suppliers in China by him as well as by Shri Kapil Kotiya and the import of the goods, Customs clearance and payment was looked after by Shri Kapil Kotiya; that they have always communicated through Whatsapp and never through e-mail; that he was aware of Anti-Dumping Duty on import of PU Coated Fabric from China; that he had not used the term Textile Coated Fabric in ordering the goods from China and M/s. Om Enterprises had mentioned the PU Coated Fabric as Textile Coated Fabric; that he also mentioned the "Textile Coated Fabric" in his invoices when he further sold the goods to various buyers; that he received invoice of Textile Coated Fabric and same was entered in his accounting software, therefore he also had to mention the goods description as Textile Coated Fabric instead of correct goods description i.e. PU Coated Fabric in the invoice issued by him; that he is getting monetary benefit of Rs.30,000/- to Rs.90,000/- per container when

the goods are being purchased from local firms instead of purchasing directly from the overseas suppliers; that he exactly does not know how the local firms are providing goods at cheaper rates but they may be ordering in bulk and getting discount from the overseas suppliers.

**8.4** Statement of Shri Narendrachand Ramniwas Moriya S/o Shri Ramniwas Moriya, Authorized person of Kishor Traders, Mumbai was recorded on 10.02.2023 **[RUD No.45]**, wherein he inter alia stated that M/s Kishor Traders is a Proprietorship firm and Shri Kishor Kumar Naval is the Proprietor of the firm; that the firm was established in the year 2007 and is dealing in sale and purchase of various types of fabrics; that in the absence of Shri Kishor Kumar Naval, he is looking after work related to the accounts and sale-purchase of the firm and is also dealing with different buyers/supplier firms for purchase & sale of the goods for the firm; On being asked about M/s Ritika Traders, he stated that M/s. Ritika Traders is a Proprietorship firm and Shri Shankarlal Ramuram Naval is the proprietor of the said firm; that Shri Kishor Kumar Naval is looking after the work related sale and purchase of Ritika Traders; that in absence of Shri Kishor Kumal Naval, he is looking after the work of M/s. Ritika Traders; that both the firms are dealing with various types of fabric i.e. Firangi, Munmun, Nonwoven Napa, Madras, Wrinkle Free Jelly, Samosa, Tracktor, Armani etc; that these names are the general trade names of the fabric which was being used in the market, but in the invoice, they mention the goods as PU Coated Fabric, PVC Coated Fabric, Glitter Fabric, Flock Fabric etc.; that the PU Coated fabric is mostly known as Napa, Firangi, Wrinkle Free Jelly etc., the PVC Coated fabric is known as Sheesha or Mota Sheesha, the Glitter Fabric is Known as Munmun, Jajba etc. and the Flock Fabric is known as Madras; that all these fabrics are also known with various other names based on colour and design; that the Textile Coated Fabric purchased by them from M/s. Jai Maa Enterprises was PU Coated Fabric; that they have ordered goods viz. Napa, Firangi, Wrinkle Free Jelly etc. from their domestic suppliers and have received these goods from the suppliers but they mentioned the description of the goods as Textile Coated Fabric in its invoices; that he was perused with Panchnama dated 16.12.2023 **[RUD-38]** drawn at the premises of Kishor Traders, Mumbai wherein samples of goods having Product Mark(PM) as "Kishor/54 which were purchased by M/s. Kishor Traders from M/s. Jai Maa Enterprises, New Delhi, under Invoice No.2022-23/1405 dated 12.11.2022 and transported under E-way Bill Number 741297609478 dated 12.11.2022, Transportation Bill/invoice No.274769 dated 15.11.2022 issued by M/s. Satkartar Roadlines; that after perusing these documents he confirms that the sample drawn under the Panchnama dated 16.12.2023 were from the goods that was purchased by M/s. Kishor Traders from M/s. Jai Maa Enterprises under their Invoice No.2022-23/1045 dated 12.11.2022; that he did not know much about Polyurethane but as per his knowledge, the fabric, in which his firm dealt with the local name viz. Firangi Napa, Napa, Wrinkle free Jelly etc. were called as PU Coated Fabric and PU was the short name of Polyurethane; that at the time of purchase of the goods, they always used their local name viz Firangi Napa, Napa, wrinkle free Jelly etc. but the supplier used the name as PU Coated or Textile Coated Fabric; that after being perused with Panchnama dated 16.12.2023 **[RUD-38]** drawn at the premises of Kishor Traders, Mumbai wherein samples of goods having Product Mark(PM) as "RITIKA/47 which were purchased by M/s. Ritika Traders from M/s. Jai Maa Enterprises, New

Delhi under Invoice No.2022-23/1312 dated 20.11.2022 and transported under E-way Bill Number 761293259608 dated 20.10.2022, Transportation Bill/invoice No.271194 dated 23.10.2022 issued by M/s. Satkartar Roadlines, he stated that he confirms that the sample drawn under the Panchnama dated 16.12.2023 were from the goods that was purchased by M/s. Ritika Traders from M/s. Jai Maa Enterprises under their Invoice No.2022-23/1312 dated 20.11.2022; that he did not know much about Polyurethane but as per his knowledge, the fabric, in which his firm dealt with the local name viz. Firangi Napa, Napa, Wrinkle free Jelly etc. were called as PU Coated Fabric and PU was the short name of Polyurethane; that at the time of purchase of the goods, they always used their local name viz Firangi Napa, Napa, wrinkle free Jelly etc. but the supplier used the name as PU Coated or Textile Coated Fabric; that they had ordered the goods by name of their local name, therefore, he could not offer any comment that why the seller had mentioned the goods as Glitter Fabric or Textile Coated Fabric in their invoices; that he did not know that how many time M/s Jai Maa Traders mentioned as PU Coated Fabric as Textile Coated Fabric or Glitter fabric in the invoices, but his firm had purchased PU Coated fabric from M/s Jai Maa Enterprises; that after perusing the contents of their Purchase Register, he stated that their firms have purchased PU Coated Fabrics from M/s. Hero Traders, M/s. Chawla Rexine, M/s. Jai Prakash & Sons, M/s. A.N. Enterprises, Delhi, M/s. Sai Traders, Delhi, M/s.Shree Ganesh Overseas, M/s. Khurana & Khurana, M/s. Jai Maa Enterprises & M/s. Bhagwati Enterprises wherein the invoices for sale of these goods raised by the above firms carried the description as Textile Coated Fabrics; that the payment of the goods purchased from M/s. Jai Maa Enterprises were made through banking channels.

**8.5** Further statement of Shri Kapil Kotiya s/o Shri Ratan Lal Proprietor of M/s Ocean Logistics was recorded on 03.03.2023 u/s. 108 of the Customs Act, 1962 [RUD-46], wherein he was perused with his earlier statement recorded in the case on 27.11.2022[RUD-43] and after perusing the same he stated that he agrees with all the facts and version recorded in the statement; that after being perused with the statement dated 23.11.2022 tendered by Shri Hari Kishan[RUD-42], Proprietor of M/s. Om Enterprises u/s.108 of the Customs Act, 1962, he stated that he agrees with all the version and facts recorded in the statement; that he was also perused with the printout of a email received from email id [haribachhniya03@gmail.com](mailto:haribachhniya03@gmail.com) of Shri Hari Kishan, Prop. of M/s. Om Enterprises wherein it was stated that Mr. Kapil is looking all the business in his name; that after perusing the contents of the email he admits and agrees that he is also looking after all the business activity of M/s. Om Enterprises; that after being perused with the copy of Letter dated 19.01.2023 of M/s. Om Enterprises addressed to the Deputy Commissioner, SEZ Mundra requesting for clearance of goods PU Fabrics covered under (DTA) Bill of Entry No.2019764 dt. 13.12.2022, (DTA) Bill of Entry No.2019668 dt.12.12.2022, (DTA) Bill of Entry No.2019667 dt.12.12.2022, (DTA) Bill of Entry No.1018010 dt.09.12.2022, (DTA) Bill of Entry No.2019665 dt.12.12.2022 and (DTA) Bill of Entry No.2019693 dt. 12.12.2022, he stated that he is aware of the above letter and the same was issued and signed by Shri Hari Kishan under his instructions; he admitted that he is looking after the activity related to clearance of the above consignments imported by M/s. Om Enterprises; that he provided with the details of those Domestic traders

who had utilized the IEC of M/s. Om Enterprises for importing the consignments as detailed here-in-under –

B/E No.	Date	Overseas Order placed by (Domestic Trader)	Importer firm whose IEC was Utilized for import
2019764	13.12.2022	M/s. A.N. Enterprises	M/s/. Om Enterprises
2019668	12.12.2022	Shri Banarsi Dass Khatri	M/s. Om Enterprises
2019667	12.12.2022	M/s. Jai Maa Enterprises	M/s. Om Enterprises
1018010	09.12.2022	M/s. Jai Maa Enterprises	M/s. Om Enterprises
2019665	12.12.2022	M/s. Jai Maa Enterprises	M/s. Om Enterprises
2019693	12.12.2022	M/s. Jai Maa Enterprises	M/s. Om Enterprises
2019872	14.12.2022	M/s. Jai Maa Enterprises	M/s. JMV Enterprises
2019670	12.12.2022	M/s. Jai Maa Enterprises	M/s. JMV Enterprises

He further stated that no remittance in the above imports have been sent by him to the Overseas Supplier through M/s. Om Enterprises as he had not received the payment for the value of goods from the domestic traders for whom the goods were imported; that he have received payment amount for customs duty only in respect of the above imports from these domestic traders; that he don't have any knowledge as to whether the overseas suppliers had made any communication regarding the outstanding payments of the goods as the goods were directly order by these domestic traders and the payment terms were also finalised by them; that on being asked about why the goods declaration in the DTA B/E No.2019764 dt. 13.12.2022 and B/E No.2019668 dt. 12.12.2022, B/E No.1018010 dt.09.12.2022, 2019665 dt.12.12.2022 and 2019693 dt.12.12.2022 filed by M/s. OM Enterprises is mentioned as PU Fabric under CTH 59032090, whereas in the corresponding Bills of Lading, Invoices and Packing List of the import, the description of the goods is differently mentioned as Fabric with CTH 59119090, he stated that he had also discussed this matter with the respective domestic traders who had ordered these goods from the overseas supplier before filing of Bill of Entry and they have intimated them that these goods are PU Coated goods and should be declared as mentioned in the Invoice; that he does not know why the goods are mentioned as Fabric under CTH 59119090 in the Bills of Lading; that he does not have any written communication of the domestic traders in the above matter; that the documents viz. Bill of Lading and Invoices were physically delivered to him by the domestic traders; that he was perused with Panchnama dated 12.11.2022[RUD-2] drawn at M/s.OWS Warehouse Services LLP, APSEZ, Mundra in respect of examination of goods imported by M/s. Om Enterprises vide Bill of Entry No.1015307 dt. 27.10.2022 and he was also perused with the Test Memo in respect of representative samples of goods drawn in respect of above Bill of Entry under the above Panchnama dated 12.11.2022 and also with the Test Results issued by the CRCL, Vadodara in respect of the samples sent for testing and after perusing these documents, he stated that as per the CRCL Vadodara Test Report, the goods imported from whom these samples were taken are found to be coated with Compounded Polyurethane (PU); that he accepts and agrees with the finding of the Test Report issued by CRCL, Vadodara in respect of the said goods imported by M/s. Om Enterprises which were examined under Panchnama dt. 12.11.2022 at M/s.OWS warehouse Services LLP, APSEZ, Mundra.

**8.6** Statement of Shri Arun Jyoti Mahajan S/o Shri Hansraj Mahajan, Partner of M/s Jai Maa Enterprises was recorded u/s. 108 of Customs Act,

1962 on 17.05.2023 [**RUD No.47**], wherein he inter alia stated that M/s Jai Maa Enterprises was established in the year 2000 and he and his wife Smt. Raman Mahajan were partners of the firm; that the registered address of the M/s Jai Maa Enterprises is 5289, Hardhyan Singh Road, Karol Bagh, New Delhi-110005; that he and his son Shri Ankur Mahajan are looking after all the work of M/s Jai Maa Enterprises; that M/s Jai Maa Enterprises is into trading of various types of fabrics e.g. Bonded Fabric, PU Coated Fabric, PVC Coated Fabric, Glitter Fabric, Non-Woven Fabric etc.; that he is also proprietor of the firm M/s. Tayesha International; that they are purchasing fabrics from Domestic Market and majority of the fabrics purchased are manufactured in China.; that they had directly imported fabrics from China also; that they purchase fabrics from M/s. JMV Enterprises, M/s. Om Enterprises, M/s. Alpha Impex etc.; that they purchased Glitter Fabric, Polyester Bonded, PU Coated Fabric, Textile Coated Fabric etc. from M/s. Om Enterprises & M/s. JMV Enterprises and the order for these fabrics were directly placed by them to overseas supplier and the same was then imported in the name and IEC of M/s. Om Enterprises & M/s. JMV Enterprises; on being asked about the Proprietor/Partner of M/s. Om Enterprises & M/s. JMV Enterprises he stated that Shri Kapil Kotiya is looking after all the work of M/s. Om Enterprises & M/s. JMV Enterprises and he does not know what was his designation in these firms; that their role was limited to placing orders for the goods to Chinese Suppliers and rest of all the work was being handled by Shri Kapil Kotiya; On being asked about how to identify Glitter Fabrics, he stated that Glitter Fabrics are embedded with small, reflective particles, giving it a sparkling and glamorous appearance and it is used in ladies footwear; On being asked about how to identify Polyester Bonded Fabrics, he stated that Bonded fabric was made by pasting two fabrics together and is used in footwear and garments; On being asked about how to identify PU Coated Fabrics, he stated that PU Coated Fabric is artificial leather which is used in footwear and garments; On being asked about the identity of the description Textile Coated Fabric, he stated that Textile Coast Fabric is actually PU Coated Fabric; On being asked about the identity of the description Felt Woven Coated Fabric, he stated that Felt Woven Coated Fabric is actually PU Coated Fabric; On being asked why PU Coated Fabrics are mentioned as Textile Coated Fabrics or Felt Woven Fabrics, he stated that he did not know the reason of using term Textile Coated Fabric or Felt Woven Coated Fabric for declaring PU Coated Fabric but they have received invoices mentioning these descriptions instead of PU Coated Fabric; on being asked as to what they are mentioning the description of these imported PU Coated goods during their further sale to various buyers in domestic market, he stated that while sale of the PU Coated goods which they have received as "Textile Coated Fabric", they continued to declared it as "Textile Coated Fabrics" during their further sale; that they have sold such Textile Coated Fabric to Kishore Traders, Mumbai; on being shown Invoice No. 2022-23/1405 dated 12.11.2022 he stated that the said invoice was signed by him and was issued to Kishore Traders, Mumbai for sale of 964.89 KGS Textile Coated Fabric; that after perusing the Panchanama dated 16.12.2022 [**RUD No.38**] drawn at the premises of Kishore Traders, Mumbai and Bill Number 274769 dated 15.11.2022 issued by Satkartar Roadlines he stated that the goods covered under Invoice No. 2022-23/1405 dated 12.11.2022 were transported under Bill Number 274769 dated 15.11.2022 issued by Satkartar Roadlines; that after perusing the Test Memo No. 52/Kishor/54 dated 19.12.2022 [**RUD-39**] and Test Report Lab No. RCL/AZU/DRI/3351/22-12-



2022 dated 04.01.2023 issued by CRCL Vadodara in respect of the sample of goods drawn from the premises of M/s. Kishore Traders, Mumbai under the Panchnama date 16.12.2022 **[RUD-38]**, he stated that the identity of the sample goods tested in test report is revealed to be coated with compounded Polyurethane and he accepts the test report; that he agrees that he sold PU Coated Fabric to Kishore Traders, Mumbai by mentioning the same as Textile Coated Fabric in the invoice; that he further agrees that all the Textile Coated Fabric procured by his firm i.e. M/s Jai Maa Enterprise from M/s JMV Enterprises & M/s. OM Enterprises were PU Coated Fabric and the same was sold to various firms mentioning the same as Textile Coated Fabric in their sale Invoices.

**8.7** Statement of Shri Tulsi Dass Chopra S/o Shri Bhola Ram, Authorised representative of m/s. Bharat Exports was recorded u/s. 108 of Customs Act, 1962 on 21.05.2024 **[RUD No.48]**, wherein he inter alia stated that Ms. Nilima Khurana is the Proprietor of M/s. Bharat Exports; that he is associated with the firm for the last 10 years and is aware of all the activity of M/s. Bharat Exports including import & manufacturing activities; that they use Non-Woven Fabric, Non-Woven lining, PVC Coated Fabric, Embroidered Fabric, PU Coated Fabric, Flock Fabric etc. for manufacturing Ladies Foot Wear; that he was perused with copy of Invoice No.GST/22-23/1403 dated 14.12.2022 issued to them by M/s. A.N. Fabric with goods description "Textile Coated Fabric, Non-Woven lining fabric and Polyester Non-Woven coated with PU" and after perusing he stated that they have order PU Coated Fabric from M/s. A.N. Enterprise and they have received the same under the said Invoice No. GST/22-23/1403 dated 14.12.2022 from them, however the goods description mentioned in the said Invoice was different; that they didn't objected to this discrepancy as the GST rate was same on these descriptions; that this is the only occasion when they have raised an order to M/s. A.N. Enterprise and the goods received from them were used in manufacturing products; that after being perused with the goods description under sub heading 5911 & sub heading 5903 of the Customs Tariff and Chapter Notes under 59, he states that since the goods purchased by them from M/s. A.N. Enterprise were PU Coated Fabric, they fall under CTH 59032090; that M/s. Bharat Exports had never imported Fabrics in the last 05 years.

**8.8** Statement of Shri Mohd Arif Iraqi S/o Shri Mohd. Mobin, Manager & Authorised representative of M/s. Amin Leather & Products was recorded u/s. 108 of Customs Act, 1962 on 22.05.2024 **[RUD No.49]**, wherein he inter alia stated that Shri Naved Lari is the Proprietor of M/s. Amin Leather & Products and the firm manufactures Safety Shoes, Safety Garments & Finished Leather; that they majorly export all their products and a little quantity of it is sold domestically; that PVC Coated Fabric & PU Coated Fabric are being used in Safety Shoes as lining material; that PU Coated Fabric is having coating of Polyurethan whereas PVC Coated Fabric is having coating of Poly Vinyl Chloride; on being asked he states that M/s. Amin Leather & Products had purchased Fabric from M/s. A.N. Enterprises and produces a copy of Invoice No.GST/22-23/1312 dated 26.11.2022 issued by M/s. A.N. Enterprise towards the said purchase; he stated that the goods purchased in above Invoice were used in manufacturing of Safety Shoes by them and no quantity of it were sold as such by them; on being specifically

asked, he states that M/s. A.N. Enterprises have supplied PU Coated Fabric against the Invoice No.GST/22-23/1312 dated 26.11.2022 to them; that M/s. A.N. Enterprises have mentioned the goods description "Textile Coated Fabric" and classified the goods under the Invoice in CTH 5911900 but they have received only PU Coated Fabric against the said Invoice dated 26.11.2022; that they didn't objected to this discrepancy as the GST rate was same on these descriptions; that after being perused with the goods description under sub heading 5911 & sub heading 5903 of the Customs Tariff and Chapter Notes under 59, he stated that since the goods purchased by them from M/s. A.N. Enterprise were PU Coated Fabric, they fall under CTH 59032090.

**8.9** Statement of Shri Sanjay Dhingra S/o Shri Atam Prakash Dhingra, Authorised representative of M/s. R.S. Enterprise, New Delhi was recorded u/s. 108 of Customs Act, 1962 on 28.05.2024 **[RUD No.50]**, wherein he inter alia stated that M/s. R. S. Enterprise is a Proprietary firm established in 2017 with his wife Mrs. Ruchi Dhingra as the Proprietor; that he is also handling all the activity of the firm along with his wife; that their firm manufactures Garment Covers and mainly procure raw materials i.e. Coated Fabric (imported) from M/s. A.N. Enterprises and he also submitted purchase and sales register and copy of invoices; that the terms "Coated Fabric" is used for PU Coated Fabric; that they order PU Coated Fabric from M/s. A.N Enterprises and have received PU Coated Fabric from them, however, in Invoices the description of goods are mentioned both as Textile Coated Fabric or PU Coated Fabric by M/s. A.N. Enterprises; On being specifically asked, he stated that after May 2022, M/s. A.N. Enterprise have mentioned the goods under their Invoices as "Textile Coated Fabric" or "Coated Textile Fabric"; he was shown Invoices issued by M/s. A.N. Enterprises along with relevant Purchase Register entries made by them as mentioned under –

Invoice No.	Invoice date	Description of Goods in Invoices	HSN/SAC in Invoices	Details of Goods against Entries in Purchase Register
GST/22-23/017	04.04.2022	PU Coated Fabric	59032090	Coated Fabric (Import)
GST/22-23/065	13.04.2022	PU Coated Fabric	59032090	Coated Fabric (Import)
GST/22-23/1032	01.10.2022	Textile Coated Fabric	59119090	Textile Coated Fabric
GST/22-23/1380	08.12.2022	Textile Coated Fabric	59119090	Coated Fabric (Import)
GST/22-23/1399	13.12.2022	Textile Coated Fabric	59119090	Textile Coated Fabric
GST/22-23/1705	15.02.2023	PU Fabric Thickness	59032090	Coated Fabric (Import)

that after perusing the details in above invoices, he stated that M/s. R.S. Enterprises have received only PU Coated Fabric from M/s. A.N. Enterprises against the above Invoices, whereas the description in Invoice was "Textile Coated Fabric" or "Coated Textile Fabric"; that the fabric having coating of Polyurethane is called PU Coated Fabric; that they didn't object to this discrepancy as the GST rate was same on above descriptions; that after being perused with the goods description under sub heading 5911 & sub heading 5903 of the Customs Tariff and Chapter Notes under 59, he stated that since the goods purchased by them from M/s. A.N. Enterprise were PU Coated Fabric, they fall under CTH 59032090.



**8.10** Further, statement of Shri Kapil Kotiya s/o Shri Ratan Lal proprietor of M/s Ocean Logistics was recorded u/s. 108 of the Customs Act, 1962 on 16.07.2024 [RUD-51], wherein he stated that he looks after the customs clearance of all the imported goods, local sales and banking transactions in respect M/s. Om Enterprises; that the Order to the Overseas Suppliers in respect of the goods imported by M/s. Om Enterprises were directly placed by the actual owner of the goods and after completion of the imports, these goods are directly transported from the port to the premises of the above actual owners as per their directions; that the Bill of Lading, Packing List, Invoice etc. were directly received by the actual owners of the goods from the Overseas Suppliers and the same was then provided by them to him for facilitating the clearance of the goods from the customs; that he is submitting "Annexure-B" i.e. consignment-wise details of the goods imported by M/s. Om Enterprises along with the name of Actual Owner of these goods and also put his signature on it, in token of its correctness; that the consignments of M/s. Om Enterprises which were Seized by the DRI, were released on furnishing of Bond and Bank Guarantee and the funds for obtaining the above Bank Guarantee was also actually provided by the above actual owner of the goods as mentioned in Annexure-B; that he didn't take any salary or profit from the above transaction but his firm M/s. Ocean Logistics used to raise forwarding charges bill to M/s. OM Enterprise; that Shri Amit Jain, Proprietor of M/s. A.N. Enterprises has provided them funds to prepare Bank Guarantee for release of goods seized by DRI which were imported vide Bill of Entry No.1014717 dt. 17.10.2022 and Bill of Entry No.1015514 dt. 31.10.2022; that Shri Amit Jain had transferred the fund to M/s. Om Enterprises from the bank account of M/s. A.N. Enterprises and M/s. New Style International; that he had received the import documents in respect of goods ordered to overseas suppliers by M/s. A.N. Enterprise from Shri Amit Jain.

**8.11** Statement of Shri Amit Jain, s/o Shri Abhinandan Jain, proprietor of M/s A.N. Enterprises was recorded u/s. 108 of the Customs Act, 1962 on 29.07.2024 [RUD-52], wherein he stated that M/s. A.N. Enterprises is a Proprietary firm established in year 2012; that he is looking after all the work related to sale and purchase of the firm; that M/s. A.N. Enterprises is trading various types of fabrics viz. PVC Coated Fabric, PU Coated Fabric, Textile Coated Fabric, Glitter Fabric, Non-Woven lining fabric, PVC Transparent Fabric etc.; that they have imported PVC Coated Fabric, PVC Transparent Fabric, Non-Woven lining Fabric, Textile Coated Fabric etc.; that they have stopped importing PU Coated Fabric after imposition of Anti-dumping duty on it; that due to high rate of Anti-dumping duty, they have stopped import and have started to procure the same from local traders; that they have purchased PU Coated Fabric from M/s. Om Enterprise, M/s. Arora Vinyl, M/s. Gandhi Textile and M/s. New Style International etc.; that they have purchased various kind of coated fabrics viz. PU Coated Fabric, PVC Coated Fabric, Textile Coated Fabric etc. from M/s. Om Enterprises; that after perusing the statement dated 21.05.2024[RUD-48] of Shri Tulsi Dass Chopra, Authorised representative of M/s. Bharat Exports, he stated that he had sold goods purchased from M/s. Om Enterprises to M/s. Bharat Exports and further also agrees with all the facts mentioned by Shri Tulsi Dass Chopra in his statement dated 21.05.2024; that after perusing the statement dated 22.05.2024[RUD-49] of Shri Mohd Airf Iraqi, Manager of M/s. Amin Leather & Products, he stated that he had sold goods purchased from M/s. Om

Enterprises to M/s. Amin Leather & Products and further also agrees with all the facts mentioned by Shri Arif Iraqi in his statement dated 22.05.2024; that after perusing the statement dated 28.05.2024 [RUD-50] of Shri Sanjay Dhingra, Authorised representative of M/s. R.S. Enterprises, he stated that he had sold goods purchased from M/s. Om Enterprises to M/s. R.S. Enterprises and further also agrees with all the facts mentioned by Shri Sanjay Dhingra in his statement dated 28.05.2024; that he knows Shri Kapil Kotiya, Proprietor of M/s. Ocean Logistics for last 04 years and he has assigned to him the transportation and customs clearance work of goods imported by M/s. A.N. Enterprises.

**8.12** Further, Statement of Shri Amit Jain, s/o Shri Abhinandan Jain, proprietor of M/s A.N. Enterprises was recorded u/s. 108 of the Customs Act, 1962 on 12.09.2024 [RUD-53], wherein he was shown his earlier recorded statement dated 29.07.2024 [RUD-52] and after perusing the it he stated that he agrees with all the facts mentioned by him in his earlier statement dated 29.07.2024; he admitted that the goods imported by M/s. Om Enterprise vide Bill of Entry No.1011061 dt. 20.08.2022 (DTA Bill of Entry No. 2013691 dt. 10.09.2022), Bill of Entry No.1012253 dt. 09.09.2022 (DTA Bill of Entry No.2014640 dt. 26.09.2022) and Bill of Entry No.1012535 dt. 10.09.2022 (DTA Bill of Entry No.2014056 dt. 19.09.2022) were actually ordered by him to Overseas Supplier in China; he stated that the Overseas Suppliers in China suggested to declare PU Coated Fabric as Textile Coated Fabric or Felt Woven Coated Fabric to avoid Anti-dumping duty imposed on import and he agreed to their suggestion; that to maintain secrecy he had ordered these PU Coated Fabrics in the name of M/s. Om Enterprises; that Shri Kapil Kotiya had introduced M/s. Om Enterprises to him and had told him to imports goods through this firm; that he has also ordered PU Coated Fabric through Bill of Entry No. 1014717 dt. 17.10.2022 (DTA Bill of Entry No.2017089 dt. 03.11.2022) and Bill of Entry No.1015514 dt. 31.10.2022 (DTA Bill of Entry No.2008159 dt. 11.05.2023), however these goods were seized by DRI; that he was perused with copy of Panchnama dt. 13.11.2022 [RUD-3] & 17.01.2023 [RUD-20] drawn at M/s. OWS Warehouse Services LLP at Mundra SEZ and after perusal he agrees with all the proceedings covered under the Panchnama; that he was inter-alia also perused with Test Memo and their Test Reports issued by Central Excise & Customs Laboratory, Vadodara in respect of sample of goods drawn from the goods imported vide Bills of Entry by them as mentioned here-in-under –

Bill of Entry No. & Dt.	Type of goods	Test Memo No.	Test Result as per CRCL Report
1014717 dt. 17.10.2022	Type-1	35/OM/1014717 dt. 17.10.2022 [RUD-15]	Dyed knitted Fabric having raised fibres, of polyester filament yarns, coated with compounded polyurethane on one side having shining surface.
	Type-2	36/OM/1014717 dt. 17.10.2022 [RUD-16]	Dyed knitted fabric having raised fibers on one side, of polyester filament yarns, coated with compounded polyurethane on one side having glossy surface laminated with polyurethane film.
	Type-3	37/OM/1014717 dt. 17.10.2022 [RUD-17]	Dyed self-designed knitted fabric of polyester filament yarns backed with white non-woven fabric of polyesters fibers, both layers are pasted together with polymeric material based on compounded polyurethane.
	Type-4	38/OM/1014717	Dyed knitted fabric made of polyester

		dt. 17.10.2022 [RUD-18]	filament yarns, coated with compounded polyurethane on one side.
1015514 dt. 31.10.2022	Type-1	57/OM/1015514 dt. 19.01.2023 [RUD-21]	Dyed Woven Fabric coated with compounded polyurethane and laminated with transparent polyester film on one side.
	Type-2	58/OM/1015514 dt. 19.01.2023 [RUD-22]	White knitted Fabric having raised fibres on one surface coated with compounded polyurethane on one side.
	Type-3	59/OM/1015514 dt. 19.01.2023 [RUD-23]	Dark Grey knitted fabric of Polyester filament yarns & coated with compounded polyurethane on one side having glossy surface laminated with PVC film.
	Type-4	60/OM/1015514 dt. 19.01.2023 [RUD-24]	White knitted fabric of Polyester filament yarns & coated with compounded polyurethane on one side having glossy surface laminated with PVC film.
	Type-5	61/OM/1015514 dt. 19.01.2023 [RUD-25]	Dark Grey knitted fabric of Polyester filament yarns & coated with compounded polyurethane on one side having glossy surface laminated with PVC film.

that on being asked, he stated that he agrees with the above test report in respect of goods imported by Om Enterprises which has revealed it to be various fabrics Coated with compounded Polyurethane on one side; that he was inter-alia perused with copies of documents in relation with the import of Fabrics made by M/s. Om Enterprises as mentioned here-in-under –

S. No.	Particulars	RUD No.
1	Seizure Memo dated 09.01.2023 issued by DRI, Ahmedabad vide F.No. DRI/AZU/CI/ENQ-01(INT-21)/2023 om respect of seizure of goods covered under Bill of Entry No.1014717 dt. 17.10.2022	19
2	Seizure Memo dated 29.03.2023 issued by DRI, Ahmedabad vide F.No. DRI/AZU/CI/ENQ-01(INT-21)/2023 om respect of seizure of goods covered under Bill of Entry No.1015514 dt. 31.10.2022	34
3	Statement of Shri Kapil Kotiya recorded u/s.108 of the Customs Act, 1962 on 16.07.2024 alongwith Annexure-B.	51
4	SEZ Bill of Entry No. 1011061 dated 20-08-2022, SEZ to DTA Bill of Entry No. 2013691 dated 10-09-2022 and Invoice No. HS22-0907 dated 23-07-2022	54
5	SEZ Bill of Entry No. 1012253 dated 09-09-2022, SEZ to DTA Bill of Entry No. 2014640 dated 26-09-2022 and Invoice No. HS22-0908 dated 06-08-2022	55
6	SEZ Bill of Entry No. 1012535 dated 15-09-2022, SEZ to DTA Bill of Entry No. 2014056 dated 19-09-2022 and Invoice No. 22WZSHLF004 dated 08-08-2022	56
7	SEZ Bill of Entry No. 1014717 dated 17-10-2022, SEZ to DTA Bill of Entry No. 2017089 dated 03-11-2022 and Invoice No. HS22-0909 dated 07-09-2022	57
8	SEZ Bill of Entry No. 1015514 dated 31-10-2022, SEZ to DTA Bill of Entry No. 2008159 dated 11-05-2023 and Invoice No. HS22-0910 dated 28-09-2022	58

After perusing the above documents, he stated to be in agreement with the facts/reports mentioned & expressed in the above documents and in token of the same he appended his signature on each page of the said documents; he further stated that he had ordered "PU Coated Fabric" through M/s. Om Enterprise and the goods in the documents were mentioned as "Textile Coated Fabric" or "Felt Woven Coated Fabric".

**8.13** Statement of Shri Hari Kishan, S/o Shri Panchu Ram, Proprietor of M/s Om Enterprises was recorded u/s.108 of the Customs Act, 1962 on 18.09.2024 **[RUD-59]**, wherein he was inter-alia perused with copy of documents in relation with the import of Fabrics made by M/s. Om Enterprises as mentioned here-in-under-

<b>S. No.</b>	<b>Particulars</b>	<b>RUD No.</b>
1	SEZ Bill of Entry No. 1011061 dated 20-08-2022, SEZ to DTA Bill of Entry No. 2013691 dated 10-09-2022 and Invoice No. HS22-0907 dated 23-07-2022	<b>54</b>
2	SEZ Bill of Entry No. 1012253 dated 09-09-2022, SEZ to DTA Bill of Entry No. 2014640 dated 26-09-2022 and Invoice No. HS22-0908 dated 06-08-2022	<b>55</b>
3	SEZ Bill of Entry No. 1012535 dated 15-09-2022, SEZ to DTA Bill of Entry No. 2014056 dated 19-09-2022 and Invoice No. 22WZSHLF004 dated 08-08-2022	<b>56</b>
4	SEZ Bill of Entry No. 1014717 dated 17-10-2022, SEZ to DTA Bill of Entry No. 2017089 dated 03-11-2022 and Invoice No. HS22-0909 dated 07-09-2022	<b>57</b>
5	SEZ Bill of Entry No. 1015514 dated 31-10-2022, SEZ to DTA Bill of Entry No. 2008159 dated 11-05-2023 and Invoice No. HS22-0910 dated 28-09-2022	<b>58</b>
6	SEZ Bill of Entry No. 1015513 dated 31-10-2022, subsequent SEZ to DTA Bill of Entry No. 2017929 dated 16-11-2022, and Invoice No. CY22YGA008 dated 10-10-2022	<b>60</b>
7	SEZ Bill of Entry No. 1015612 dated 01-11-2022, subsequent SEZ to DTA Bill of Entry No. 2017410 dated 08-11-2022, and Invoice No. HS22-5318 dated 12-10-2022	<b>61</b>
8	SEZ Bill of Entry No. 1015777 dated 03-11-2022, subsequent SEZ to DTA Bill of Entry No. 2017411 dated 08-11-2022, and Invoice No. LS22-4047 dated 30-09-2022	<b>62</b>
9	SEZ Bill of Entry No. 1015306 dated 27-10-2022, subsequent SEZ to DTA Bill of Entry No. 2017249 dated 05-11-2022, and Invoice No. LS22-4044 dated 25-09-2022	<b>63</b>
10	SEZ Bill of Entry No. 1015307 dated 27-10-2022, subsequent SEZ to DTA Bill of Entry No. 2016889 dated 01-11-2022, and Invoice No. LS22-4049 dated 30-09-2022	<b>64</b>
11	SEZ Bill of Entry No. 1013940 dated 06-10-2022, subsequent SEZ to DTA Bill of Entry No. 2015522 dated 11-10-2022, and Invoice No. LS22-4043 dated 06-09-2022	<b>65</b>
12	SEZ Bill of Entry No. 1013244 dated 26-09-2022, subsequent SEZ to DTA Bill of Entry No. 2015360 dated 07-10-2022, and Invoice No. LS-22-4039 dated 24-08-2022	<b>66</b>
13	SEZ Bill of Entry No. 1011237 dated 23-08-2022, subsequent SEZ to DTA Bill of Entry No. 2012671 dated 24-08-2022, and Invoice No. LO22-4033 dated 27-07-2022	<b>67</b>
14	SEZ Bill of Entry No. 1012134 dated 07-09-2022, subsequent SEZ to DTA Bill of Entry No. 2013801 dated 13-09-2022, and Invoice No. LS22-4036 dated 08-08-2022	<b>68</b>

that he was shown with copy of Panchnama dated 12.11.2022**[RUD-2]**, 13.11.2022**[RUD-3]** & 17.01.2023**[RUD-20]**, all drawn at M/s OWS Warehouse Services LLP, Survey No. 169, Sector-8, Village Dhruve, Mitap Road, APSEZ, Mundra for examination of goods and drawn of samples of imported goods imported vide SEZ Bills of Entry No. 1015514 dated 31.10.2022, 1015513 dated 31.10.2022, 1015612 dated 01.11.2022, 1015777 dated 03.11.2022, 1015306 dated 27.10.2022, 1014717 dated 17.10.2022 and 1015307 dated 27.10.2022 and after perusal he stated that he agrees with the facts mentioned in the said Panchnama dated 12.11.2022,

13.11.2022 & 17.01.2023; that he was perused with copy of Test Memo and their Test Reports issued by Central Excise & Customs Laboratory, Vadodara in respect of sample of goods drawn from the goods imported vide Bills of Entry by them as mentioned here-in-under –

Bill of Entry No. & Dt.	Type of goods	Test Memo No.	Test Result as per CRCL Report
1014717 dt. 17.10.2022	Type-1	35/OM/1014717 dt. 17.10.2022 [RUD-15]	Dyed knitted Fabric having raised fibres, of polyester filament yarns, coated with compounded polyurethane on one side having shining surface.
	Type-2	36/OM/1014717 dt. 17.10.2022 [RUD-16]	Dyed knitted fabric having raised fibres on one side, of polyester filament yarns, coated with compounded polyurethane on one side having glossy surface laminated with polyurethane film.
	Type-3	37/OM/1014717 dt. 17.10.2022 [RUD-17]	Dyed self-designed knitted fabric of polyester filament yarns backed with white non-woven fabric of polyesters fibers, both layers are pasted together with polymeric material based on compounded polyurethane.
	Type-4	38/OM/1014717 dt. 17.10.2022 [RUD-18]	Dyed knitted fabric made of polyester filament yarns, coated with compounded polyurethane on one side.
1015514 dt. 31.10.2022	Type-1	57/OM/1015514 dt. 19.01.2023 [RUD-21]	Dyed Woven Fabric coated with compounded polyurethane and laminated with transparent polyester film on one side.
	Type-2	58/OM/1015514 dt. 19.01.2023 [RUD-22]	White knitted Fabric having raised fibres on one surface coated with compounded polyurethane on one side.
	Type-3	59/OM/1015514 dt. 19.01.2023 [RUD-23]	Dark Grey knitted fabric of Polyester filament yarns & coated with compounded polyurethane on one side having glossy surface laminated with PVC film.
	Type-4	60/OM/1015514 dt. 19.01.2023 [RUD-24]	White knitted fabric of Polyester filament yarns & coated with compounded polyurethane on one side having glossy surface laminated with PVC film.
	Type-5	61/OM/1015514 dt. 19.01.2023 [RUD-25]	Dark Grey knitted fabric of Polyester filament yarns & coated with compounded polyurethane on one side having glossy surface laminated with PVC film.
1015307 dt. 27.10.2022	Type-1	09/OM/1015307 dt. 27.10.2022 [RUD-4]	Dyed Woven Fabric Coated with compounded Polyurethane on one side.
	Type-2	10/OM/1015307 dt. 27.10.2022 [RUD-5]	Dyed knitted fabric (having raised fibres on one surface), coated with compounded Polyurethane on one side.
	Type-3	11/OM/1015307 dt. 27.10.2022 [RUD-6]	White woven fabric coated with compounded Polyurethane on one side. Dyed viscose cut fibres passed on Polyurethane layer forming check pattern.
	Type-4	12/OM/1015307 dt. 27.10.2022 [RUD-7]	White knitted fabric coated with compounded Polyurethane laminated with PVC film.
	Type-5	13/OM/1015307 dt. 27.10.2022 [RUD-8]	Non-woven bonded fabric, coated with compounded Polyurethane on one side.
	Type-6	14/OM/1015307 dt. 27.10.2022 [RUD-9]	White knitted fabric having raised fibres, coated with compounded Polyurethane.
1015306 dt. 27.10.2022	Type-1	15/OM/1015306 dt. 27.10.2022 [RUD-10]	White knitted fabric (having raised fibres on one surface), coated with Compounded Polyurethane on one side.
	Type-2	16/OM/1015306 dt. 27.10.2022 [RUD-11]	White knitted fabric coated with Compounded Polyurethane on one side.
	Type-3	17/OM/1015306	Dyed Non-woven fabric coated with

		dt. 27.10.2022 [RUD-12]	Compounded Polyurethane on one side
	Type-4	18/OM/1015306 dt. 27.10.2022 [RUD-13]	White knitted fabric (having raised fibres on one surface), coated with Compounded Polyurethane on one side.
	Type-5	19/OM/1015306 dt. 27.10.2022 [RUD-14]	Dyed knitted fabric having raised fibres on one side, coated with Compounded Polyurethane on one side
1015513 dt. 31.10.2022	Type-1	54/OM/1015513 dt. 31.10.2022 [RUD-26]	White knitted fabric (having raised fibres on one surface), coated with Compounded Polyurethane on one side.
	Type-2	55/OM/1015513 dt. 31.10.2022 [RUD-27]	Dyed knitted fabric having raised fibres on one side, coated with Compounded Polyurethane on one side
	Type-3	56/OM/1015513 dt. 31.10.2022 [RUD-28]	Dyed knitted fabric having raised fibres on one side, coated with Compounded Polyurethane on one side
1015612 dt. 01.11.2022	Type-1	62/OM/1015612 dt. 01.11.2022 [RUD-29]	Dark Grey knitted fabric having raised fibers on one side, of Polyester filament yarns, coated with compounded polyurethane on other side.
	Type-2	63/OM/1015612 dt. 01.11.2022 [RUD-30]	White knitted fabric having raised fibres on one side, of Polyester filaments yarns coated with Compounded Polyurethane on one side
1015777 dt. 03.11.2022	Type-1	64/OM/1015777 dt. 03.11.2022 [RUD-31]	White knitted fabric having raised fibres on one side, of Polyester filaments yarns coated with Compounded Polyurethane on one side
	Type-2	65/OM/1015777 dt. 03.11.2022 [RUD-32]	White knitted fabric having raised fibres on one side, of Polyester filaments yarns coated with Compounded Polyurethane on one side
	Type-3	66/OM/1015777 dt. 03.11.2022 [RUD-33]	Woven fabric of spun yarns of viscose & coated with compounded polyurethane on the one side having glossy surface laminated with PVC film.

that after perusing the above Test Reports issued by CECL, Vadodara in respect of goods imported by M/s. Om Enterprise, he stated that he agrees with the reports given by CECL, Vadodara; that he was perused with copy of seizure memo dated 09.01.2023 issued vide F.No. DRI/AZU/CI/ENQ-01(INT-21)/2023 for seizure of goods imported vide SEZ Bill of Entry 1015306 dated 27.10.2022, 1015307 dated 27.10.2022 & 1014717 dated 17.10.2022; that he was perused with copy of the seizure memo dated 29.03.2023 issued vide F.No. DRI/AZU/CI/ENQ-01(INT-21)/2023 for seizure of goods imported vide SEZ Bills of Entry No. 1015513 dated 31.10.2022, 1015514 dated 31.10.2022, 1015777 dated 03.11.2022 & 1015612 dated 01.11.2022; that he was further perused with copy of below-mentioned documents in relation to the imports made in the case -

S. No.	Particulars	RUD No.
1	His earlier Statement of recorded u/s.108 of the Customs Act, 1962 on 23.11.2022.	42
2	Panchnamas dated 12.11.2022, 13.11.2022 & 17.01.2022 all drawn at M/s. OWS Warehouse Services LLP, APSEZ, Mundra for examination of goods imported by M/s. Om Enterprises.	2,3 & 20
3	Seizure Memo dated 09.01.2023 issued by DRI, Ahmedabad vide F.No. DRI/AZU/CI/ENQ-01(INT-21)/2023.	19
4	Seizure Memo dated 29.03.2023 issued by DRI, Ahmedabad vide F.No. DRI/AZU/CI/ENQ-01(INT-21)/2023.	34
5	Statement of Shri Kapil Kotiya recorded u/s.108 of the Customs Act, 1962 on 27.11.2022 & 03.03.2023.	43 & 46
6	Statement of Shri Arun Jyoti Mahajan, Partner of M/s. Jai Maa Enterprises recorded u/s.108 of the Customs Act, 1962 on 17.05.2023.	47

7	Statement of Shri Ankur Mahajan, Proprietor of M/s. Bhagwati Enterprise & Son of Shri Arun Jyoti Mahajan recorded u/s.108 of the Customs Act, 1962 on 28.12.2022.	44
8	Statement of Shri Amit Jain, Proprietor of M/s. A.N.Enterprises recorded u/s.108 of the Customs Act, 1962 on 29.07.2027 & 12.09.2024.	52 & 53
9	Statement of Shri Tulsi Dass Chopra, Authorized Representative of M/s. Bharat Exports recorded u/s.108 of the Customs Act, 1962 on 21.05.2024.	48
10	Statement of Shri Mohd Arif Iraqi, Manager of M/s. Amin Leather recorded u/s.108 of the Customs Act, 1962 on 22.05.2024.	49
11	Statement of Shri Sanjay Dhingra, Authorised representative of M/s. R.S. Enterprises recorded u/s.108 of the Customs Act, 1962 on 28.05.2024.	50

that after perusing the above documents, he stated that he agrees with the facts mentioned in the above documents; that he was also perused with the statement of Shri Kapil Kotiya dated 16.07.2024 along with Annexure-B (Om Enterprise) of the said statement and after perusing it he stated that that goods imported by the M/s Om Enterprises were actually ordered by the respective beneficial owner of the goods, which are mentioned in Annexure-B of the statement of Shri Kapil Kotiya and these goods imported by his firm were transferred to the actual owner of these goods after Customs Clearance through domestic sale under GST; that he was also perused with Annexure-I prepared showing the tracking of the goods vis-à-vis its import to receipt at the premises of the actual owners of these goods and after perusing the same he agreed that all the details in tracking chart the imported goods are true and these goods were finally forwarded by their firms to the actual owner of the goods; that the goods imported vide Bill of Entry No.1015307 dt. 27.10.2022 were ordered to Overseas supplier by Shri Arun Jyoti Mahajan, Proprietor of M/s.Tayesha International; that the goods imported vide Bill of Entry No.1015513 dt. 31.10.2022 & 1015612 dt. 01.11.2022 were ordered to overseas supplier by Dee Pee Leather Store and the same after customs clearance were sold to M/s. Anand Garments Pvt. Ltd. on the instructions given by M/s. Dee Pee Leather Store.

**8.14** Statement of Shri Arun Jyoti Mahajan, Partner of M/s. Jai Maa Enterprises was recorded u/s.108 of the Customs Act, 1962 on 19.09.2024 [RUD-69], wherein he was interalia perused with his earlier statement dt. 17.05.2023[RUD-47] and after perusing it he stated that he agrees with the facts mentioned in his said statement dated 17.05.2023; that he was also perused with the statements of Shri Kapil Kotiya dated 27.11.2022[RUD-43] & 03.03.2023[RUD-46] and after perusing it he stated that he agrees with the facts mentioned in the said statements of Shri Kapil Kotiya; that he was also shown with Annexure-B submitted by Shri Kapil Kotiya in his statement dated 16.07.2024[RUD-51] and after perusing it he stated that he agrees that goods imported by the M/s Om Enterprises and mentioned at Sr. No.2, 3, 6, 7, 9, 10 & 14 in Annexure -B of the statement of Shri Kapil Kotiya were actually ordered by the M/s Jai Maa Enterprises from the Overseas Supplier; that these goods imported by M/s Om Enterprises were later transferred to M/s Jai Maa Enterprises & M/s Tayesha International through domestic sale under GST after Customs Clearance; that he was perused with the statements of Shri Hari Kishan dated 18.09.2024[RUD-59] & 23.11.2022[RUD-42] and after perusing he stated that he agrees with the facts mentioned in the said statements of Shri Hari Kishan; that he was



perused with copy of documents in relation with the import of Fabrics made by M/s. Om Enterprises as mentioned here-in-under-

S.No.	Particulars	RUD No.
1	SEZ Bill of Entry No. 1015777 dated 03-11-2022, subsequent SEZ to DTA Bill of Entry No. 2017411 dated 08-11-2022, and Invoice No. LS22-4047 dated 30-09-2022	62
2	SEZ Bill of Entry No. 1015306 dated 27-10-2022, subsequent SEZ to DTA Bill of Entry No. 2017249 dated 05-11-2022, and Invoice No. LS22-4044 dated 25-09-2022	63
3	SEZ Bill of Entry No. 1015307 dated 27-10-2022, subsequent SEZ to DTA Bill of Entry No. 2016889 dated 01-11-2022, and Invoice No. LS22-4049 dated 30-09-2022	64
4	SEZ Bill of Entry No. 1013940 dated 06-10-2022, subsequent SEZ to DTA Bill of Entry No. 2015522 dated 11-10-2022, and Invoice No. LS22-4043 dated 06-09-2022	65
5	SEZ Bill of Entry No. 1013244 dated 26-09-2022, subsequent SEZ to DTA Bill of Entry No. 2015360 dated 07-10-2022, and Invoice No. LS-22-4039 dated 24-08-2022	66
6	SEZ Bill of Entry No. 1011237 dated 23-08-2022, subsequent SEZ to DTA Bill of Entry No. 2012671 dated 24-08-2022, and Invoice No. LO22-4033 dated 27-07-2022	67
7	SEZ Bill of Entry No. 1012134 dated 07-09-2022, subsequent SEZ to DTA Bill of Entry No. 2013801 dated 13-09-2022, and Invoice No. LS22-4036 dated 08-08-2022	68

that after perusing the above documents he stated that the above Bills of Entry were filed for imported goods i.e. Textile Coated Fabric & Felt Woven Coated Fabric by M/s Om Enterprises, however these goods were actually ordered by M/s Jai Maa Enterprises to the overseas supplier in China; that he was shown with copy of Panchnama dated 12.11.2022[RUD-2], 13.11.2022[RUD-3] & 17.01.2023[RUD-20] all drawn at M/s OWS Warehouse Services LLP, Survey No. 169, Sector-8, Village Dhruve, Mitap Road, APSEZ, Mundra for examination of goods and drawn of samples of imported goods imported vide SEZ Bills of Entry No. 1015514 dated 31.10.2022, 1015513 dated 31.10.2022, 1015612 dated 01.11.2022, 1015777 dated 03.11.2022, 1015306 dated 27.10.2022, 1014717 dated 17.10.2022 and 1015307 dated 27.10.2022 and after perusal he stated that he agrees with the facts mentioned in the said Panchnama dated 12.11.2022, 13.11.2022 & 17.01.2023; that he was perused with copy of Test Memo and their Test Reports issued by Central Excise & Customs Laboratory, Vadodara in respect of sample of goods drawn from the goods imported vide Bills of Entry by them as mentioned here-in-under -

Bill of Entry No. & Dt.	Type of goods	Test Memo No.	Test Result as per CRCL Report
1015307 dt. 27.10.2022	Type-1	09/OM/1015307 dt. 27.10.2022 [RUD-4]	Dyed Woven Fabric Coated with compounded Polyurethane on one side.
	Type-2	10/OM/1015307 dt. 27.10.2022 [RUD-5]	Dyed knitted fabric (having raised fibres on one surface), coated with compounded Polyurethane on one side.
	Type-3	11/OM/1015307 dt. 27.10.2022 [RUD-6]	White woven fabric coated with compounded Polyurethane on one side. Dyed viscose cut fibres passed on Polyurethane layer forming check pattern.
	Type-4	12/OM/1015307 dt. 27.10.2022 [RUD-7]	White knitted fabric coated with compounded Polyurethane laminated with PVC film.



	Type-5	13/OM/1015307 dt. 27.10.2022 [RUD-8]	Non-woven bonded fabric, coated with compounded Polyurethane on one side.
	Type-6	14/OM/1015307 dt. 27.10.2022 [RUD-9]	White knitted fabric having raised fibres, coated with compounded Polyurethane.
1015306 dt. 27.10.2022	Type-1	15/OM/1015306 dt. 27.10.2022 [RUD-10]	White knitted fabric (having raised fibres on one surface), coated with Compounded Polyurethane on one side.
	Type-2	16/OM/1015306 dt. 27.10.2022 [RUD-11]	White knitted fabric coated with Compounded Polyurethane on one side.
	Type-3	17/OM/1015306 dt. 27.10.2022 [RUD-12]	Dyed Non-woven fabric coated with Compounded Polyurethane on one side
	Type-4	18/OM/1015306 dt. 27.10.2022 [RUD-13]	White knitted fabric (having raised fibres on one surface), coated with Compounded Polyurethane on one side.
	Type-5	19/OM/1015306 dt. 27.10.2022 [RUD-14]	Dyed knitted fabric having raised fibres on one side, coated with Compounded Polyurethane on one side
1015777 dt. 03.11.2022	Type-1	64/OM/1015777 dt. 03.11.2022 [RUD-31]	White knitted fabric having raised fibres on one side, of Polyester filaments yarns coated with Compounded Polyurethane on one side
	Type-2	65/OM/1015777 dt. 03.11.2022 [RUD-32]	White knitted fabric having raised fibres on one side, of Polyester filaments yarns coated with Compounded Polyurethane on one side
	Type-3	66/OM/1015777 dt. 03.11.2022 [RUD-33]	Woven fabric of spun yarns of viscose & coated with compounded polyurethane on the one side having glossy surface laminated with PVC film.

that after perusing the above Test Reports issued by CECL, Vadodara in respect of goods imported by M/s. Om Enterprise, he stated that he agrees with the reports given by CECL, Vadodara; that he was further perused with copy of Seizure Memo dated 09.01.2023[RUD-19] issued by DRI, Ahmedabad vide F.No. DRI/AZU/CI/ENQ-01(INT-21)/2023 and Seizure Memo dated 29.03.2023[RUD-34] issued by DRI, Ahmedabad vide F.No. DRI/AZU/CI/ENQ-01(INT-21)/2023 and after perusing it he states that he agrees with the facts mentioned in the above two Seizure Memo.

**8.15** Statement of Shri Kapil Kotiya, s/o Shri Ratan Lal proprietor of M/s Ocean Logistics was recorded u/s. 108 of the Customs Act, 1962 on 19.09.2024 [RUD No.70], wherein he inter alia was perused with copy of documents in relation with the import of Fabrics made by M/s. Om Enterprises as mentioned here-in-under-

S. No.	Particulars	RUD No.
1	SEZ Bill of Entry No. 1011061 dated 20-08-2022, SEZ to DTA Bill of Entry No. 2013691 dated 10-09-2022 and Invoice No. HS22-0907 dated 23-07-2022	54
2	SEZ Bill of Entry No. 1012253 dated 09-09-2022, SEZ to DTA Bill of Entry No. 2014640 dated 26-09-2022 and Invoice No. HS22-0908 dated 06-08-2022	
3	SEZ Bill of Entry No. 1012535 dated 15-09-2022, SEZ to DTA Bill of Entry No. 2014056 dated 19-09-2022 and Invoice No. 22WZSHLF004 dated 08-08-2022	55
4	SEZ Bill of Entry No. 1014717 dated 17-10-2022, SEZ to DTA Bill of Entry No. 2017089 dated 03-11-2022 and Invoice No. HS22-0909 dated 07-09-2022	57
5	SEZ Bill of Entry No. 1015514 dated 31-10-2022, SEZ to DTA Bill of Entry No. 2008159 dated 11-05-2023 and Invoice No. HS22-0910 dated 28-09-2022	58
6	SEZ Bill of Entry No. 1015513 dated 31-10-2022, subsequent SEZ to	

	DTA Bill of Entry No. 2017929 dated 16-11-2022, and Invoice No. CY22YGA008 dated 10-10-2022	<b>60</b>
7	SEZ Bill of Entry No. 1015612 dated 01-11-2022, subsequent SEZ to DTA Bill of Entry No. 2017410 dated 08-11-2022, and Invoice No. HS22-5318 dated 12-10-2022	<b>61</b>
8	SEZ Bill of Entry No. 1015777 dated 03-11-2022, subsequent SEZ to DTA Bill of Entry No. 2017411 dated 08-11-2022, and Invoice No. LS22-4047 dated 30-09-2022	<b>62</b>
9	SEZ Bill of Entry No. 1015306 dated 27-10-2022, subsequent SEZ to DTA Bill of Entry No. 2017249 dated 05-11-2022, and Invoice No. LS22-4044 dated 25-09-2022	<b>63</b>
10	SEZ Bill of Entry No. 1015307 dated 27-10-2022, subsequent SEZ to DTA Bill of Entry No. 2016889 dated 01-11-2022, and Invoice No. LS22-4049 dated 30-09-2022	<b>64</b>
11	SEZ Bill of Entry No. 1013940 dated 06-10-2022, subsequent SEZ to DTA Bill of Entry No. 2015522 dated 11-10-2022, and Invoice No. LS22-4043 dated 06-09-2022	<b>65</b>
12	SEZ Bill of Entry No. 1013244 dated 26-09-2022, subsequent SEZ to DTA Bill of Entry No. 2015360 dated 07-10-2022, and Invoice No. LS-22-4039 dated 24-08-2022	<b>66</b>
13	SEZ Bill of Entry No. 1011237 dated 23-08-2022, subsequent SEZ to DTA Bill of Entry No. 2012671 dated 24-08-2022, and Invoice No. LO22-4033 dated 27-07-2022	<b>67</b>
14	SEZ Bill of Entry No. 1012134 dated 07-09-2022, subsequent SEZ to DTA Bill of Entry No. 2013801 dated 13-09-2022, and Invoice No. LS22-4036 dated 08-08-2022	<b>68</b>

that after perusing the above documents he stated that the above Bills of Entry were filed by M/s Om Enterprises and his firm M/s Ocean Logistics have done forwarding for the same, which also included Customs Clearance work; he stated that he had subletted the Customs Clearance work of M/s Om Enterprises to Customs Broker firm M/s Rainbow Shipping Services, Gandhidham and Mr. Sabu George is proprietor of M/s Rainbow Shipping Services, Gandhidham; that he was shown with copy of Panchnama dated 12.11.2022[RUD-2], 13.11.2022[RUD-3] & 17.01.2023[RUD-20] all drawn at M/s OWS Warehouse Services LLP, Survey No. 169, Sector-8, Village Dhruve, Mitap Road, APSEZ, Mundra for examination of goods and drawn of samples of imported goods imported vide SEZ Bills of Entry No. 1015514 dated 31.10.2022, 1015513 dated 31.10.2022, 1015612 dated 01.11.2022, 1015777 dated 03.11.2022, 1015306 dated 27.10.2022, 1014717 dated 17.10.2022 and 1015307 dated 27.10.2022 and after perusal he stated that he agrees with the facts mentioned in the said Panchnama dated 12.11.2022, 13.11.2022 & 17.01.2023; that he was perused with copy of Test Memo and their Test Reports issued by Central Excise & Customs Laboratory, Vadodara in respect of sample of goods drawn from the goods imported vide Bills of Entry by them as mentioned here-in-under -

Bill of Entry No. & Dt.	Type of goods	Test Memo No.	Test Result as per CRCL Report
1014717 dt. 17.10.2022	Type-1	35/OM/1014717 dt. 17.10.2022 [RUD-15]	Dyed knitted Fabric having raised fibres, of polyester filament yarns, coated with compounded polyurethane on one side having shining surface.
	Type-2	36/OM/1014717 dt. 17.10.2022 [RUD-16]	Dyed knitted fabric having raised fibers on one side, of polyester filament yarns, coated with compounded polyurethane on one side having glossy surface laminated with polyurethane film.
	Type-3	37/OM/1014717 dt. 17.10.2022	Dyed self-designed knitted fabric of polyester filament yarns backed with white non-woven

		[RUD-17]	fabric of polyesters fibers, both layers are pasted together with polymeric material based on compounded polyurethane.
	Type-4	38/OM/1014717 dt. 17.10.2022 [RUD-18]	Dyed knitted fabric made of polyester filament yarns, coated with compounded polyurethane on one side.
1015514 dt. 31.10.2022	Type-1	57/OM/1015514 dt. 19.01.2023 [RUD-21]	Dyed Woven Fabric coated with compounded polyurethane and laminated with transparent polyester film on one side.
	Type-2	58/OM/1015514 dt. 19.01.2023 [RUD-22]	White knitted Fabric having raised fibres on one surface coated with compounded polyurethane on one side.
	Type-3	59/OM/1015514 dt. 19.01.2023 [RUD-23]	Dark Grey knitted fabric of Polyester filament yarns & coated with compounded polyurethane on one side having glossy surface laminated with PVC film.
	Type-4	60/OM/1015514 dt. 19.01.2023 [RUD-24]	White knitted fabric of Polyester filament yarns & coated with compounded polyurethane on one side having glossy surface laminated with PVC film.
	Type-5	61/OM/1015514 dt. 19.01.2023 [RUD-25]	Dark Grey knitted fabric of Polyester filament yarns & coated with compounded polyurethane on one side having glossy surface laminated with PVC film.
1015307 dt. 27.10.2022	Type-1	09/OM/1015307 dt. 27.10.2022 [RUD-4]	Dyed Woven Fabric Coated with compounded Polyurethane on one side.
	Type-2	10/OM/1015307 dt. 27.10.2022 [RUD-5]	Dyed knitted fabric (having raised fibres on one surface), coated with compounded Polyurethane on one side.
	Type-3	11/OM/1015307 dt. 27.10.2022 [RUD-6]	White woven fabric coated with compounded Polyurethane on one side. Dyed viscose cut fibres passed on Polyurethane layer forming check pattern.
	Type-4	12/OM/1015307 dt. 27.10.2022 [RUD-7]	White knitted fabric coated with compounded Polyurethane laminated with PVC film.
	Type-5	13/OM/1015307 dt. 27.10.2022 [RUD-8]	Non-woven bonded fabric, coated with compounded Polyurethane on one side.
	Type-6	14/OM/1015307 dt. 27.10.2022 [RUD-9]	White knitted fabric having raised fibres, coated with compounded Polyurethane.
1015306 dt. 27.10.2022	Type-1	15/OM/1015306 dt. 27.10.2022 [RUD-10]	White knitted fabric (having raised fibres on one surface), coated with Compounded Polyurethane on one side.
	Type-2	16/OM/1015306 dt. 27.10.2022 [RUD-11]	White knitted fabric coated with Compounded Polyurethane on one side.
	Type-3	17/OM/1015306 dt. 27.10.2022 [RUD-12]	Dyed Non-woven fabric coated with Compounded Polyurethane on one side
	Type-4	18/OM/1015306 dt. 27.10.2022 [RUD-13]	White knitted fabric (having raised fibres on one surface), coated with Compounded Polyurethane on one side.
	Type-5	19/OM/1015306 dt. 27.10.2022 [RUD-14]	Dyed knitted fabric having raised fibres on one side, coated with Compounded Polyurethane on one side
1015513 dt. 31.10.2022	Type-1	54/OM/1015513 dt. 31.10.2022 [RUD-26]	White knitted fabric (having raised fibres on one surface), coated with Compounded Polyurethane on one side.
	Type-2	55/OM/1015513 dt. 31.10.2022 [RUD-27]	Dyed knitted fabric having raised fibres on one side, coated with Compounded Polyurethane on one side
	Type-3	56/OM/1015513 dt. 31.10.2022 [RUD-28]	Dyed knitted fabric having raised fibres on one side, coated with Compounded Polyurethane on one side
1015612 dt. 01.11.2022	Type-1	62/OM/1015612 dt. 01.11.2022 [RUD-29]	Dark Grey knitted fabric having raised fibers on one side, of Polyester filament yarns, coated with compounded polyurethane on other side.

	Type-2	63/OM/1015612 dt. 01.11.2022 [RUD-30]	White knitted fabric having raised fibres on one side, of Polyester filaments yarns coated with Compounded Polyurethane on one side
1015777 dt. 03.11.2022	Type-1	64/OM/1015777 dt. 03.11.2022 [RUD-31]	White knitted fabric having raised fibres on one side, of Polyester filaments yarns coated with Compounded Polyurethane on one side
	Type-2	65/OM/1015777 dt. 03.11.2022 [RUD-32]	White knitted fabric having raised fibres on one side, of Polyester filaments yarns coated with Compounded Polyurethane on one side
	Type-3	66/OM/1015777 dt. 03.11.2022 [RUD-33]	Woven fabric of spun yarns of viscose & coated with compounded polyurethane on the one side having glossy surface laminated with PVC film.

that after perusing the above Test Reports issued by CECL, Vadodara in respect of goods imported by M/s. Om Enterprise, he stated that he agrees with the reports given by CECL, Vadodara; that he was perused with copy of seizure memo dated 09.01.2023[RUD-19] issued vide F.No. DRI/AZU/CI/ENQ-01(INT-21)/2023 for seizure of goods imported vide SEZ Bill of Entry 1015306 dated 27.10.2022, 1015307 dated 27.10.2022 & 1014717 dated 17.10.2022; that he was perused with copy of the seizure memo dated 29.03.2023[RUD-34] issued vide F.No. DRI/AZU/CI/ENQ-01(INT-21)/2023 for seizure of goods imported vide SEZ Bills of Entry No. 1015513 dated 31.10.2022, 1015514 dated 31.10.2022, 1015777 dated 03.11.2022 & 1015612 dated 01.11.2022; that he was further perused with copy of below-mentioned documents in relation to the imports made in the case -

S. No.	Particulars	RUD No.
1	Statements of Shri Hari Kishan, recorded u/s.108 of the Customs Act, 1962 on 18.09.2024 & 23.11.2022.	59 & 42
2	Statements of Shri Arun Jyoti Mahajan, Partner of M/s Jai Maa Enterprises recorded u/s.108 of the Customs Act, 1962 on 17.05.2023 & 19.09.2024.	47 & 69
3	Statement of Shri Ankur Mahajan Proprietor of M/s Bhagwati Enterprise and Son of Shri Arun Jyoti Mahajan recorded u/s.108 of the Customs Act, 1962 on 28.12.2022	44
4	Statement of Shri Narendrachand Ramniwas Moriya, authorized person of M/s Kishor Traders, Mumbai recorded u/s.108 of the Customs Act, 1962 on 10.02.2023	45
5	Statements of Shri Amit Jain, Proprietor of M/s A N Enterprises recorded u/s.108 of the Customs Act, 1962 on 29.07.2024 & 12.09.2024.	52 & 53
6	Statement of Shri Tulsi Dass Chopra, authorized representative of M/s Bharat Exports recorded u/s.108 of the Customs Act, 1962 on 21.05.2024	48
7	Statement of Shri Mohd Arif Iraqi, Manager M/s Amin Leather recorded u/s.108 of the Customs Act, 1962 on 22.05.2024	49
8	Statement of Shri Sanjay Dhingra, Authorised representative of M/s. R.S. Enterprises recorded u/s.108 of the Customs Act, 1962 on 28.05.2024.	50

that after perusing the above documents, he stated that he agrees with the facts mentioned in the above documents; that the goods imported by M/s Om Enterprises were ordered by the respective actual owner of goods as mentioned in Annexure-B; that he was perused with copy of customs tariff of chapter 59 after perusing, he stated that though he has no technical knowledge of Customs classification however, after carefully perusal of the

customs tariff along with test report of samples of goods imported by M/s Om Enterprises as detailed in Annexure-B to his statement dated 16.07.2024, he stated that goods are PU Coated Fabric and merits classification under CTH 59032090.

**8.16** Statement of Shri Sabu George, S/o Shri Kottackal Chacko George, Partner of M/s. Rainbow Shipping Services, was recorded on 03.10.2024 under section 108 of the Customs Act, 1962 [RUD-71] wherein he stated that M/s. Rainbow Shipping Services is a clearing & forwarding firm and he is a G Card Holder; that he is also a signing authority in M/s. Lara Exim Pvt. Ltd., a Customs Broker firm; that the customs clearance work related to import & export received in M/s. Rainbow Shipping Services is transferred to their sister 'concern company M/s. Lara Exim Pvt. Ltd. who does the customs clearance work of goods to be imported or exported; that they have received forwarding and Customs Clearance work of M/s. OM Enterprises, M/s. Om Enterprises & M/s. J. Bridge Worldwide; that the Customs clearance work was transferred to M/s. Lara Exim Pvt. Ltd.; that this work was provided to us by Shri Kapil Kotiya, Proprietor of M/s. Ocean Logistics, New Delhi; that they have received the Commercial Invoice, Bill of Lading, Packing List & Country of Origin Certificate on email from Kapil Kotiya for filing of Bill of Entry; that they are taking KYC of the importer before preparing the checklist for filing of Bill of Entry; that they have not taken the approval of the Importer for the checklist prepared by them as it not the trader practice followed by other forwarders; that they have not contacted or communicated with anyone else except Shri Kapil Kotiya for the import of goods made by M/s. OM Enterprises, M/s. Om Enterprises & M/s. J. Bridge Worldwide; that Shri Kapil Kotiya has forwarded the Original Bank Guarantee to him through Courier for submission to Customs for securing the provisional release of goods seized in respect of above firms.

**8.17** Statement of Shri Prince Khatri, S/o B. D. Khatri, Authorized Representative of M/s. Dee Pee Leather store was recorded u/s.108 of the Customs Act, 1962 on 21.10.2024[RUD-72], wherein he inter alia stated that M/s Dee Pee Leather Store is a proprietor firm established by his grandfather, at present his uncle Shri Dharam Pal Khatri is proprietor of this firm; that the firm is into trading business of various types of Rexin, Rubber Sheet, Elastic, Sole, Glitter, Flock, Bonded etc. and purchases goods from Domestic & International market and sales it in the Domestic Market; that he is looking after the trading business of M/s Dee Pee Leather Store; that his family owns three trading firms, which are into trading business of fabrics i.e. M/s Shree Ganesh Overseas (Proprietor Shri B.D. Khatri), M/s J M D Enterprises (Proprietor Shri Rajesh Khatri) & M/s Dee Pee Leather Store (Proprietor Shri Dharam Pal Khatri); that that Shri B.D. Khatri is his father, Shri Dharam Pal Khatri is his father's brother and Shri Rajesh Khatri is son of Shri Dharam Pal Khatri; that he was shown panchnama dated 17.01.2023 drawn at M/s OWS Warehouse Services LLP, Survey No. 169, Sector-8, Village Dhruve, Mitap Road, APSEZ, Mundra for examination of goods and drawl of samples of imported goods imported vide SEZ Bills of Entry No. 1015513 dated 31.10.2022 & 1015612 dated 01.11.2022 and after its perusal he state that he agrees with all the facts mentioned in the said panchnama dated 17.01.2023; that he was also shown Test Memo & subsequent test reports issued by Central Excise & Customs Laboratory (CECL), Vadodara in respect of samples drawn during the course of above Panchnama as detailed below-

Bill of Entry No. & Dt.	Type of goods	Test Memo No.	Test Result as per CRCL Report
1015513 dt. 31.10.2022	Type-1	54/OM/1015513 dt. 31.10.2022 [RUD-26]	White knitted fabric (having raised fibres on one surface), coated with Compounded Polyurethane on one side.
	Type-2	55/OM/1015513 dt. 31.10.2022 [RUD-27]	Dyed knitted fabric having raised fibres on one side, coated with Compounded Polyurethane on one side
	Type-3	56/OM/1015513 dt. 31.10.2022 [RUD-28]	Dyed knitted fabric having raised fibres on one side, coated with Compounded Polyurethane on one side
1015612 dt. 01.11.2022	Type-1	62/OM/1015612 dt. 01.11.2022 [RUD-29]	Dark Grey knitted fabric having raised fibers on one side, of Polyester filament yarns, coated with compounded polyurethane on other side.
	Type-2	63/OM/1015612 dt. 01.11.2022 [RUD-30]	White knitted fabric having raised fibres on one side, of Polyester filaments yarns coated with Compounded Polyurethane on one side

On being asked, he stated that he agrees with the report given in the above test reports in goods imported by Om Enterprises vide SEZ Bill of Entry No. 1015612 dated 01.11.2022 1015513 dt. 31.10.2022; that he was shown with the statements of Shri Hari Kishan recorded u/s. 108 of the Customs Act, 1962 on 18.09.2024 and after perusing it he stated that he agrees with the facts mentioned in the said statements of Shri Hari Kishan; that he was shown copy of below mentioned SEZ Bills of Entry, it's subsequent DTA Bill of Entry and invoices in respect of import made by M/s Om Enterprises in APSEZ Mundra under CTH 59119090:

1. SEZ Bill of Entry No. 1015513 dated 31-10-2022, subsequent SEZ to DTA Bill of Entry No. 2017929 dated 16-11-2022, and Invoice No. CY22YGA008 dated 10-10-2022, in respect of import of 25047 KGs Felt Woven Coated Fabric [RUD-60].
2. SEZ Bill of Entry No. 1015612 dated 01-11-2022, subsequent SEZ to DTA Bill of Entry No. 2017410 dated 08-11-2022, and Invoice No. HS22-5318 dated 12-10-2022, in respect of import of 24480 KGs Felt Woven Coated Fabric [RUD-61].

that after perusing the above documents and on being asked he stated that the above Bills of Entry were filed for imported of Felt Woven Coated Fabric by M/s Om Enterprises and these goods were ordered by his father Shri B.D. Khatri; he stated that after the after customs clearance of the goods imported vide above Bills of Entry, these goods were intended for transfer to firms belonging to their family through domestic GST invoices; that the goods were ordered by his father Shri B.D. Khatri to overseas supplier of China i.e. Wenzhou Chenyue International Trade Co., Ltd & Wenzhou Asia Star International Trading Co., Ltd. and the import documents viz. Commercial Invoice, Packing List, Bill of Lading etc. in respect of the above goods received from the overseas supplier were sent by him to Shri Kapil Kotiya for clearance of goods; that he was also shown with the copy of Seizure memo dated 29.03.2023 [RUD-34] issued vide F. No. DRI/AZU/CI/ENQ-01(INT-21)/2023 for seizure of goods imported vide SEZ Bills of Entry No. 1015513 dated 31.10.2022 & 1015612 dated 01.11.2022; that on being asked he state that he does not have the details of fund transferred for preparing Bank

Guarantee for provisional release goods imported by above mentioned Bills of Entry.

## **9. MODUS ADOPTED IN THE CASE**

The investigation conducted in the case had revealed that Shri Arun Jyoti Mahajan, Partner of M/s. Jai Maa Enterprises, an IEC Holder and importer of various types of Fabrics including PU Coated Fabrics from China, having registered address at 5289, Hardhyan Singh Road, Karol Bagh, New Delhi-110005, Shri Amit Jain, Proprietor of M/s A.N. Enterprises, Shri B.D. Khatri, Proprietor of M/s. Shree Ganesh Overseas and Shri Kapil Kotiya, Proprietor of M/s. Ocean Logistics, a firm involved in freight forwarding and customs clearance work, in collusion with each other, had devised a modus operandi to import PU Coated Fabrics falling under HS code 59032090 from China by mis-declaring it as Textile Coated Fabric or Glitter Fabric or Felt Woven Coated Fabric & further mis-classifying it under CTH 59119090 & 59050090 in order to evade payment of Customs duty at appropriate rate. PU Coated Fabrics when imported from any Country including China and produced by entities other than by M/s. Anhui Anli Material Technology Limited at the relevant period under investigation and correctly classified under HS Code 59032090, attracts Anti-dumping duty @USD 0.46 per Meters in terms of Notification No. 14/2022-Customs (ADD) dated 20.05.2022, Basic duty of 20% (i.e. 10% additional Basic duty as leviable under CTH , SWS @ 10% and IGST @ 5% of the Assessable Value, whereas goods falling under CTH 59119090 are leviable to Basic duty of 10%, SWS @ 10% and IGST @ 5% of the Assessable Value.

In the above Scheme of defrauding the Govt. Exchequer, Shri Kapil Kotiya was responsible in creating name-sake firms, by using credentials of his friends and relatives who were in dire need of livelihood. He was also roping in other firms who were interested in lending their IEC's for making imports of other firms. These persons were offered petty salaries to work as Proprietor of these firms. After setting up the firm, Shri Kapil Kotiya used to acquire IEC of these firms and the same was then lent by him to various traders who wished to import PU Coated Fabric from China. In the instant investigation, Shri Kapil Kotiya had used the IEC of M/s. Om Enterprises and the same was lent by him to M/s. Jai Maa Enterprises, M/s. A.N. Enterprises and M/s. Shree Ganesh Overseas to import their goods i.e. PU Coated Fabrics by resorting to mis-declaring the Description of the goods and its classification under Customs Tariff during the course of their import in order to evade payment of applicable Anti-Dumping duty imposed on it, in terms of Notification No. 14/2022-Customs (ADD) dated 20.05.2022.

## **10. CLASSIFICATION OF GOODS:**

Chapter 59 of the Indian Customs Tariff deals with Textile Fabrics and Textile Articles of a kind suitable for industrial use.

**10.1** The description of goods under HS CODE/ CTH 5911 as per prevailing Customs Tariff reads as under:

<b>5911</b>	<b>TEXTILE PRODUCTS AND ARTICLES, FOR TECHNICAL USES, SPECIFIED IN NOTE 8 TO THIS CHAPTER</b>	<i>Effective rate of</i>
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			duty
5911 10 00	-	Textile fabrics, felt and felt-lined woven fabrics, coated, covered or laminated with rubber, leather or other material, of a kind used for card clothing, and similar fabrics of a kind used for other technical purposes, including narrow fabrics made of velvet impregnated with rubber, for covering weaving spindles (weaving beams)	
5911 20 00	-	Bolting cloth, whether or not made up	
	-	Textile fabrics and felts, endless or fitted with linking devices, of a kind used in papermaking or similar machines (for example, for pulp or asbestos-cement) :	
5911 31	--	Weighing less than 650 g/m <sup>2</sup> :	
5911 31 10	---	Felt for cotton textile industries, woven	10%
5911 31 20	---	Woven textiles felt, whether or not impregnated or coated, of a kind commonly used in other machines	10%
5911 31 30	---	Cotton fabrics and articles used in machinery and plant	10%
5911 31 40	---	Jute fabrics and articles used in machinery or plant	10%
5911 31 50	---	Textile fabrics of metalized yarn of a kind commonly used in paper making or other machinery	10%
5911 31 90	---	Other	10%
5911 32	--	Weighing 650 g/m <sup>2</sup> or more:	
5911 32 10	---	Felt for cotton textile industries, woven	10%
5911 32 20	---	Woven textiles felt, whether or not impregnated or coated, of a kind commonly used in other machines	10%
5911 32 30	---	Cotton fabrics and articles used in machinery and plant	10%
5911 32 40	---	Jute fabrics and articles used in machinery or plant	10%
5911 32 50	---	Textile fabrics of metalized yarn of a kind commonly used in paper making or other machinery	10%
5911 32 90	---	Other	10%
5911 40 00	-	Filtering or Straining cloth of a kind used in oil presses or the like, including that of human hair	
5911 90	-	Other	
5911 90 10	---	Paper maker's felt, woven	10%
5911 90 20	---	Gaskets, washers, polishing discs and other machinery parts of textile articles	10%
5911 90 90	---	Other	10%

**10.2** Whereas, the HS CODE/ CTH 5903 as per prevailing Customs Tariff covered goods as under:

5903		Textile Fabrics, Impregnated, Coated, Covered or Laminated with Plastics, Other Than Those of Heading 5902	Effective Rate of Duty
5903 10	-	With Polyvinyl Chloride:	-
5903 10 10	---	Imitation leather fabrics of cotton	20%
5903 10 90	---	Other	20%
5903 20	-	With Polyurethane:	-
5903 20 10	---	Imitation leather fabrics, of cotton	20%
5903 20 90	---	Other	20%
5903 90	-	Other:	-
5903 90 10	---	Of cotton	20%
5903 90 20	---	Polyethylene laminated jute fabrics	20%
5903 90 90	---	Other	20%

**11.** The Classification of goods in the First Schedule - Import Tariff is governed by the General Rules for Interpretation Rules. These Rules are intended to be consulted and applied each the goods are to be classified under the Import Tariff. Rule 1 of the GIR i.e. General Interpretation Rules



provides that classification of the goods shall be determined according to the terms of the Headings and any relative Section or Chapter Notes and, provided such Headings or Notes do not otherwise require, according to the provisions at Rule 2 to Rule 5. Rule 6 of the GIR further provides that the classification of goods in the sub-headings of a heading shall be determined according to the term of those sub-headings and any related sub-heading Notes and, mutatis mutandis, to the above rules.

**12.** M/s. Om Enterprises, had filed SEZ to DTA Bills of Entry at Adani Ports and Special Economic Zone (INAJM6), Mundra for domestic clearance of imported goods as detailed below –

S. No.	SEZ B/E No. & Date	SEZ to DTA B/E No. & dt.	Declared HS CODE / CTH	Declared description of good	Declared Quantity (in Kgs.)
1	1011061 dt. 20.08.22	2013691 dt.10.09.22	59119090	Textile Coated Fabric	25354
2	1011237 dt. 23.08.22	2012671 dt.24.08.22	59119090	Textile Coated Fabric	21438
3	1012134 dt.07.09.22	2013801 dt.13.09.22	59119090	Textile Coated Fabric	20696
	1012134 dt. 07.09.22	2013801 dt.13.09.22	59119090	Glitter Fabric	3794
4	1012253 dt.09.09.22	2014640 dt.26.09.22	59119090	Textile Coated Fabric	19614
5	1012535 dt. 15.09.22	2014056 dt.19.09.22	59119090	Textile Coated Fabric	25200
6	1013244 dt.26.09.22	2015360 dt.07.10.22	59119090	Textile Coated Fabric	21420
	1013244 dt.26.09.22	2015360 dt.07.10.22	59119090	Glitter Fabric	2747
7	1013940 dt.06.10.22	2015522 dt.11.10.22	59119090	Textile Coated Fabric	25195
8	1014717 dt.17.10.22	2017089 dt.03.11.22	59119090	Textile Coated Fabric	19266
9	1015306 dt.27.10.22	2017249 dt.05.11.22	59119090	Felt Woven Coated Fabric	24876
10	1015307 dt.27.10.22	2016889 dt.01.11.22	59119090	Felt Woven Coated Fabric	24637
11	1015514 dt.31.10.22	2008159 dt.11.05.23	59119090	Felt Woven Coated Fabric	25378
12	1015513 dt.31.10.22	2017929 dt.16.11.22	59119090	Felt Woven Coated Fabric	25047
13	1015612 dt.01.11.22	2017410 dt.08.11.22	59119090	Felt Woven Coated Fabric	24480
14	1015777 dt.03.11.22	2017411 dt.08.11.22	59119090	Felt Woven Coated Fabric	25080
15	1013946 dt.06.10.22	2015954 dt.15.10.22	59119090	Textile Coated Fabric	25330
16	1013941 dt.06.10.22	2015499 dt.10.10.2	59119090	Textile Coated Fabric	20393
17	1013953 dt.06.10.22	2015684 dt.12.10.22	59119090	Textile Coated Fabric	25642

**12.1** Out of the above 17 import consignments, 03 consignments mentioned at Sr. No.15 to 17 were provisionally assessed by Officers of SEZ and as such the same are not included in the instant investigation.

**12.2** The present investigation covers the remaining 14 consignments which were imported by M/s. Om Enterprises at APSEZ, Mundra as detailed below –

S. No.	SEZ B/E No. & Date	SEZ to DTA B/E No. & Dt.	Declared HS CODE / CTH	Declared description of good	Declared Quantity (in Kgs.)	Ass. Value (Rs.)
1	1011061 dt. 20.08.22	2013691 dt.10.09.22	59119090	Textile Coated Fabric	25354	24,47,675/-
2	1011237 dt. 23.08.22	2012671 dt.24.08.22	59119090	Textile Coated Fabric	21438	20,70,911/-
3	1012134 dt.07.09.22	2013801 dt.13.09.22	59119090	Textile Coated Fabric	20696	19,97,992/-
	1012134 dt. 07.09.22	2013801 dt.13.09.22	59119090	Glitter Fabric	3794	2,59,443/-
4	1012253 dt.09.09.22	2014640 dt.26.09.22	59119090	Textile Coated Fabric	19614	18,92,359/-
5	1012535 dt. 15.09.22	2014056 dt.19.09.22	59119090	Textile Coated Fabric	25200	24,31,296/-
6	1013244 dt.26.09.22	2015360 dt.07.10.22	59119090	Textile Coated Fabric	21420	21,19,295/-
	1013244 dt.26.09.22	2015360 dt.07.10.22	59119090	Glitter Fabric	2747	1,92,517/-
7	1013940 dt.06.10.22	2015522 dt.11.10.22	59119090	Textile Coated Fabric	25195	24,92,793/-
8	1014717 dt.17.10.22	2017089 dt.03.11.22	59119090	Textile Coated Fabric	19266	19,39,701/-
9	1015306 dt.27.10.22	2017249 dt.05.11.22	59119090	Felt Woven Coated Fabric	24876	26,05,761/-
10	1015307 dt.27.10.22	2016889 dt.01.11.22	59119090	Felt Woven Coated Fabric	24637	25,83,805/-
11	1015514 dt.31.10.22	2008159 dt.11.05.23	59119090	Felt Woven Coated Fabric	25378	26,20,279/-
12	1015513 dt.31.10.22	2017929 dt.16.11.22	59119090	Felt Woven Coated Fabric	25047	26,23,673/-
13	1015612 dt.01.11.22	2017410 dt.08.11.22	59119090	Felt Woven Coated Fabric	24480	25,64,280/-
14	1015777 dt.03.11.22	2017411 dt.08.11.22	59119090	Felt Woven Coated Fabric	25080	26,27,130/-

**12.3** The consignment mentioned at Sr. No.01 to 07 of the Table under Para 12.2 are past consignment which were already cleared by the M/s. Om Enterprise for Home consumption. Further, in respect of 07 consignment mentioned at Sr. No.08 to 14 of the above Table, the "Out of Charge (OOC)" Order were not given by Customs Authorities in respect of goods and these goods were lying at M/s. OWS Warehouse Services LLP, APSEZ, Mundra. These goods were examined and samples thereof were drawn by the officer of DRI under Panchnama. Subsequently, on the basis of the test report of the CRCL, Vadodara which revealed them to be PU Coated Fabric, these goods were put under Seizure.

**12.4** During the investigation, it was also found that M/s. Om Enterprise had filed Bill of Entry B/E No.2019764 dt. 13.12.2022 and B/E No.2019668 dt. 12.12.2022, B/E No.1018010 dt.09.12.2022, 2019665 dt.12.12.2022 and 2019693 dt.12.12.2022 wherein the description of the goods was mentioned as "PU Fabric" under CTH 59032090, whereas in the corresponding Bills of Lading, Invoices and Packing List of the import, the description of these goods was mentioned as "Fabric" falling under CTH 59119090. Since the Goods declaration in the above Bills of Entry was "PU Fabric the instant investigation does not cover and above mentioned import. Further, concerned Customs authorities was informed in the above matter to take appropriate course of action in the matter. The change of correct declaration of the imported goods by the importer is a testimony of the rampant mis-declaration of PU Coated Fabric made by many traders during their import. It is the result of DRI intervention which has made these importers in declaring the true description of the goods.

**13.** The investigation conducted in the case revealed that the goods imported by M/s Om Enterprise vide 14 Bills of Entry from the Table mentioned at para 12.2 above were "PU Coated Fabric" which merited rightly

to be classifiable under HS CODE/ CTH 59032090, whereas the same were imported by M/s. Om Enterprise by mis-declaring it as Textile Coated Fabric", "Felt Woven Coated Fabric" and "Glitter Fabric" and further mis-classifying it under HS CODE/ CTH 59119090 & 59050090. The above act of mis-declaring it as "Textile Coated Fabric" and "Felt Woven Coated Fabric" classifying it under HS CODE/ CTH 59119090 & 59050090 by M/s. Om Enterprise was made with the sole intention to evade payment of applicable Anti-dumping duty leviable on it in terms of Notification No.14/2022-Customs (ADD) dated 20.05.2022.

14. During the course of Investigation, examination of goods imported vide 07 Bills of Entry was conducted under Panchnama dated 12.11.2022, 13.11.2022 & 17.01.2023. The Test Reports issued by Central Excise & Customs Laboratory, Vadodara in respect of these goods is as detailed below -

Bill of Entry No. & Dt.	Type of goods	Test Memo No.	Test Result as per CRCL Report
1014717 dt. 17.10.2022	Type-1	35/OM/1014717 dt. 17.10.2022 [RUD-15]	Dyed knitted Fabric having raised fibres, of polyester filament yarns, coated with compounded polyurethane on one side having shining surface.
	Type-2	36/OM/1014717 dt. 17.10.2022 [RUD-16]	Dyed knitted fabric having raised fibers on one side, of polyester filament yarns, coated with compounded polyurethane on one side having glossy surface laminated with polyurethane film.
	Type-3	37/OM/1014717 dt. 17.10.2022 [RUD-17]	Dyed self-designed knitted fabric of polyester filament yarns backed with white non-woven fabric of polyesters fibers, both layers are pasted together with polymeric material based on compounded polyurethane.
	Type-4	38/OM/1014717 dt. 17.10.2022 [RUD-18]	Dyed knitted fabric made of polyester filament yarns, coated with compounded polyurethane on one side.
1015514 dt. 31.10.2022	Type-1	57/OM/1015514 dt. 19.01.2023 [RUD-21]	Dyed Woven Fabric coated with compounded polyurethane and laminated with transparent polyester film on one side.
	Type-2	58/OM/1015514 dt. 19.01.2023 [RUD-22]	White knitted Fabric having raised fibres on one surface coated with compounded polyurethane on one side.
	Type-3	59/OM/1015514 dt. 19.01.2023 [RUD-23]	Dark Grey knitted fabric of Polyester filament yarns & coated with compounded polyurethane on one side having glossy surface laminated with PVC film.
	Type-4	60/OM/1015514 dt. 19.01.2023 [RUD-24]	White knitted fabric of Polyester filament yarns & coated with compounded polyurethane on one side having glossy surface laminated with PVC film.
	Type-5	61/OM/1015514 dt. 19.01.2023 [RUD-25]	Dark Grey knitted fabric of Polyester filament yarns & coated with compounded polyurethane on one side having glossy surface laminated with PVC film.
1015307 dt. 27.10.2022	Type-1	09/OM/1015307 dt. 27.10.2022 [RUD-4]	Dyed Woven Fabric Coated with compounded Polyurethane on one side.
	Type-2	10/OM/1015307 dt. 27.10.2022 [RUD-5]	Dyed knitted fabric (having raised fibres on one surface), coated with compounded Polyurethane on one side.
	Type-3	11/OM/1015307 dt. 27.10.2022 [RUD-6]	White woven fabric coated with compounded Polyurethane on one side. Dyed viscose cut fibres passed on Polyurethane layer forming check pattern.
	Type-4	12/OM/1015307 dt. 27.10.2022 [RUD-7]	White knitted fabric coated with compounded Polyurethane laminated with PVC film.
	Type-5	13/OM/1015307 dt. 27.10.2022 [RUD-8]	Non-woven bonded fabric, coated with compounded Polyurethane on one side.
	Type-6	14/OM/1015307 dt. 27.10.2022 [RUD-9]	White knitted fabric having raised fibres, coated with compounded Polyurethane.
	Type-1	15/OM/1015306 dt. 27.10.2022 [RUD-10]	White knitted fabric (having raised fibres on one surface), coated with Compounded Polyurethane on one side.
	Type-2	16/OM/1015306	White knitted fabric coated with Compounded

1015306 dt. 27.10.2022		dt. 27.10.2022 [RUD-11]	Polyurethane on one side.
	Type-3	17/OM/1015306 dt. 27.10.2022 [RUD-12]	Dyed Non-woven fabric coated with Compounded Polyurethane on one side
	Type-4	18/OM/1015306 dt. 27.10.2022 [RUD-13]	White knitted fabric (having raised fibres on one surface), coated with Compounded Polyurethane on one side.
	Type-5	19/OM/1015306 dt. 27.10.2022 [RUD-14]	Dyed knitted fabric having raised fibres on one side, coated with Compounded Polyurethane on one side
1015513 dt. 31.10.2022	Type-1	54/OM/1015513 dt. 31.10.2022 [RUD-26]	White knitted fabric (having raised fibres on one surface), coated with Compounded Polyurethane on one side.
	Type-2	55/OM/1015513 dt. 31.10.2022 [RUD-27]	Dyed knitted fabric having raised fibres on one side, coated with Compounded Polyurethane on one side
	Type-3	56/OM/1015513 dt. 31.10.2022 [RUD-28]	Dyed knitted fabric having raised fibres on one side, coated with Compounded Polyurethane on one side
1015612 dt. 01.11.2022	Type-1	62/OM/1015612 dt. 01.11.2022 [RUD-29]	Dark Grey knitted fabric having raised fibers on one side, of Polyester filament yarns, coated with compounded polyurethane on other side.
	Type-2	63/OM/1015612 dt. 01.11.2022 [RUD-30]	White knitted fabric having raised fibres on one side, of Polyester filaments yarns coated with Compounded Polyurethane on one side
1015777 dt. 03.11.2022	Type-1	64/OM/1015777 dt. 03.11.2022 [RUD-31]	White knitted fabric having raised fibres on one side, of Polyester filaments yarns coated with Compounded Polyurethane on one side
	Type-2	65/OM/1015777 dt. 03.11.2022 [RUD-32]	White knitted fabric having raised fibres on one side, of Polyester filaments yarns coated with Compounded Polyurethane on one side
	Type-3	66/OM/1015777 dt. 03.11.2022 [RUD-33]	Woven fabric of spun yarns of viscose & coated with compounded polyurethane on the one side having glossy surface laminated with PVC film.

**14.1** Shri Kapil Kotiya, Proprietor of M/s. Ocean Logistics and forwarding and customs agent of M/s. Om Enterprise in his statement dated 16.07.2024 [RUD-51] had produced consignment wise details of actual owner of the goods who had ordered these goods from the overseas supplier through M/s. Om Enterprises in Annexure-B. According to the details produced in Annexure-B, the order for the goods imported under Bills of Entry No.1015306 dt.27.10.2022, 1015307 dt.27.10.2022 and 1015777 dt.03.11.2022 were placed to their Overseas Supplier by M/s. Jai Maa Enterprise i.e. the actual owner of the goods. Similarly, the order for the goods imported under Bills of Entry No.1014717 dt.17.10.2022 & 1015514 dt.31.10.2022 were placed to their Overseas Supplier by M/s. A.N. Enterprise i.e. the actual owner of the goods and the order for the goods imported under Bills of Entry No.1015513 dt.31.10.2022 and 1015612 dt.01.11.2022 were placed to their Overseas Supplier by M/s. Dee Pee Leather i.e. the actual owner of the goods.

**14.2** Shri Arun Jyoti Mahajan, S/o Shri Hansraj Mahajan, Partner of M/s. Jai Maa Enterprises in his statement recorded on 19.09.2024 under section 108 of the Customs Act, 1962 [RUD-69] was perused with the above Test Memo and their Test Reports issued by Central Excise & Customs Laboratory, Vadodara mentioned at para 14.1, in respect of sample of goods drawn from the goods imported vide Bills of Entry No.1015306 dt.27.10.2022, 1015307 dt.27.10.2022 and 1015777 dt.03.11.2022 (DTA Bill of Entry No.2017249 dt.05.11.2022, 2016889 dt.01.11.2022 & 2017411 dt.08.11.2022) and after perusing the same, he agreed with the facts/reports mentioned & expressed in the Test Report and admitted that Felt Woven Coated Fabric ordered by their firm from the overseas supplier and imported by M/s. Om Enterprise vide Bills of Entry No.1015306 dt.27.10.2022, 1015307 dt.27.10.2022 and 1015777 dt.03.11.2022 (DTA Bill of Entry No.2017249 dt.05.11.2022,

2016889 dt.01.11.2022 & 2017411 dt.08.11.2022) were actually PU Coated Fabrics and he has sold these goods various firms in domestic market. He further also agreed that they have placed order for PU Coated Fabrics from overseas suppliers which were later imported and cleared by M/s. Om Enterprises. He was also perused with the details of the actual owners of the imported goods by M/s. Om Enterprise, which was submitted under Annexure-B by Shri Kapil Kotiya in his statement dated 16.07.2024 **[RUD-51]** and after perusing it he admitted that goods mentioned at Sr. No.2, 3, 6, 7, 9, 10 & 14 of Annexure-B submitted by Shri Kapil Kotiya in his statement dated 16.07.2024 were directly ordered by him from the Overseas Supplier and were later imported through M/s. Om Enterprise. He further stated these goods imported by M/s Om Enterprises were transferred to them by M/s.Om Enterprise through domestic sale under GST after Customs Clearance. He further also agreed that all the "Textile Coated Fabric", "Felt Woven Coated Fabric" & "Glitter Fabric" as mentioned at Sr. No.2, 3, 6, 7, 9, 10 & 14 of Annexure-B submitted by Shri Kapil Kotiya in his statement dated 16.07.2024 were ordered by them from overseas suppliers and later imported by M/s. Om Enterprise were PU Coated Fabric and they were mis-declared and mis-classified and Anti-dumping duty on it was not paid during the import. He further also stated/admitted that he has furnished Bond & Bank Guarantee for provisional release of the above seized goods of M/s. Om Enterprises for securing and safeguarding his ownership of the goods.

**14.3** Shri Amit Jain, s/o Shri Abhinandan Jain, proprietor of M/s A.N. Enterprises in his statement recorded on 12.09.2024 under section 108 of the Customs Act, 1962 **[RUD-53]** was perused with the above Test Memo and their Test Reports issued by Central Excise & Customs Laboratory, Vadodara, in respect of sample of goods drawn from the goods imported vide Bills of Entry No.1014717 dt.17.10.2022 and 1015514 dt.31.10.2022 (SEZ to DTA Bill of Entry No.2017089 dt.03.11.2022 & 2008159 dt.11.05.2023 respectively) and after perusing the same, he stated that he agrees with the above test report in respect of goods imported by Om Enterprises which has revealed it to be various fabrics Coated with compounded Polyurethane on one side. He further also admitted that Shri Kapil Kotiya had introduced M/s. Om Enterprises to him and had told him to imports goods through this firm. He also stated that he has ordered PU Coated Fabric through Bill of Entry No. 1014717 dt. 17.10.2022 (DTA Bill of Entry No.2017089 dt. 03.11.2022) and Bill of Entry No.1015514 dt. 31.10.2022 (DTA Bill of Entry No.2008159 dt. 11.05.2023), but these goods were seized by DRI. He stated that the Overseas Suppliers in China suggested to declare PU Coated Fabric as Textile Coated Fabric or Felt Woven Coated Fabric to avoid Anti-dumping duty imposed on import and he agreed to their suggestion. He was perused with the statement of Shri Kapil Kotiya dated 16.07.2024**[RUD-51]** along with Annexure-B (M/s Om Enterprise) submitted by Shri Kapil Kotiya in the said statement and after perusing it he agreed that he had ordered the goods to overseas supplier which were imported vide Bills of Entry of M/s. Om Enterprise as mentioned in Sr. No. 1, 4, 5, 8 & 11. He further also stated that he had actually sold PU Coated Fabric by declaring the same as Textile Coated Fabric in the invoices issued by his firm i.e. A.N. Enterprises.

**14.4** Shri Prince Khatri, S/o B. D. Khatri, Authorized Representative of M/s.Deer Pee Leather Store, in his statement recorded u/s.108 of the Customs Act, 1962 on 21.10.2024 **[RUD-72]** wherein he interalia stated that he looking

after the trading business of M/s Dee Pee Leather Store. He was perused with the above Test Memo and their Test Reports issued by Central Excise & Customs Laboratory, Vadodara, in respect of sample of goods drawn from the goods imported vide Bills of Entry No.1015513 dt.31.10.2022 and 1015612 dt.01.11.2022 (SEZ to DTA Bill of Entry No.2017929 dt.16.11.2022 & 2017410 dt.08.11.2022 respectively) and after perusing the same, he stated that he agrees with the report given in the above test reports in goods imported by Om Enterprises vide SEZ Bill of Entry No. 1015612 dated 01.11.2022 & 1015513 dt. 31.10.2022. He stated that the above Bills of Entry were filed for imported of Felt Woven Coated Fabric by M/s Om Enterprises and these goods were ordered by his father Shri B.D. Khatri and after the after customs clearance of the goods imported vide above Bills of Entry, these goods were intended for transfer to firms belonging to our family through domestic GST invoices. He further stated that his family owns three trading firms, which are into trading business of fabrics i.e. M/s Shree Ganesh Overseas (Proprietor Shri B.D. Khatri), M/s J M D Enterprises (Proprietor Shri Rajesh Khatri) & M/s Dee Pee Leather Store (Proprietor Shri Dharam Pal Khatri). He further clarified that that Shri B.D. Khatri is his father, Shri Dharam Pal Khatri is his father's brother and Shri Rajesh Khatri is son of Shri Dharam Pal Khatri. He also stated that his father Shri B.D. Khatri had ordered these goods from overseas supplier of China i.e. Wenzhou Chenyue International Trade Co., Ltd & Wenzhou Asia Star International Trading Co., Ltd. and the import documents viz. Commercial Invoice, Packing List, Bill of Lading etc. in respect of the above goods received from the overseas supplier were sent by him to Shri Kapil Kotiya for clearance of goods.

**14.4.1** It is noteworthy to mention here that investigation against a number of firms including M/s. JMV Enterprise and M/s. Shree Ganesh Overseas for evasion of Anti-dumping duty in import of PU Coated Fabric has been carried out by this office. Shri B.D.Khatri is the Proprietor of the firm, M/s.Shree Ganesh Overseas and after completion of investigation against the firm, the report u/s. 28BB of the Customs Act, 1962 has also been forwarded to the jurisdictional Customs authority at Customs House has also been sent by this office.

**14.4.2** During the investigation in the case of M/s. JMV Enterprise, search at their registered premises was made under Panchnama dated 21.11.2022 [RUD-41]. During the search, Shri Kapil Kotiya was found present there and had introduced himself as the representative of M/s. JMV Enterprise. He also informed that he is providing freight forwarding services to M/s. Om Enterprises also. On being asked about the documents connected to import of Fabrics, Shri Kapil Kotiya had informed that all the documents are available in his email [kapillogis@gmail.com](mailto:kapillogis@gmail.com) and provided the printout of it from the computer installed at the premises. These documents were resumed by the officers in a made-up file containing pages from 01 to 671 under the Panchnama dated 21.11.2022. Documents at Page No.479 to 495 of the above made-up file [RUD-73] which was resumed during the Panchnama dt.21.11.2022 drawn at the premises of M/s. JMV Enterprise is a copy of email dt. 31.10.2022 which was forwarded by Shri B.D.Khatri from his email Id [bdass34@gmail.com](mailto:bdass34@gmail.com) to Shri Kapil Kotiya on his email Id [kapillogis@gmail.com](mailto:kapillogis@gmail.com). Vide above email copy of Commercial Invoice No.HS22-5318 dt. 12.10.2022 issued by M/s. Wenzhou Asia Star International Trading Co. Ltd., Packing list of goods covered under Commercial Invoice No.HS22-

5318 dt. 12.10.2022 issued by M/s. Wenzhou Asia Star International Trading Co. Ltd., Test Report of goods under Invoice No. HS22-5318 issued by M/s. Wenzhou Asia Star International Trading Co. Ltd., Bill of Lading No.GOSUNGB9964845 and Country of Origin Certificate have been forwarded by Shri B.D.Khatri to Shri Kapil Kotiya. All the above documents are part of the Import documents in respect of import of goods made by M/s. Om Enterprise under SEZ Bill of Entry No.1015612 dt. 01.11.2022 (SEZ to DTA B/E No.2017410 dt. 08.11.2022) at APSEZ, Mundra. Similarly documents at Page No.461 to 477 of the above made-up file **[RUD-74]** which was resumed during the Panchnama dt.21.11.2022 drawn at the premises of M/s. JMV Enterprise is a copy of email dt. 26.10.2022 which was forwarded by Shri B.D.Khatri from his email Id bdass34@gmail.com to Shri Kapil Kotiya on his email Id kapillogis@gmail.com. Vide above email copy of Commercial Invoice No.CY22YGA008 dt. 10.10.2022 issued by M/s. Wenzhou Asia Star International Trading Co. Ltd., Packing list of goods covered under Commercial Invoice No.CY22YGA008 dt. 10.10.2022 issued by M/s. Wenzhou Asia Star International Trading Co. Ltd., Test Report of goods under Invoice No. CY22YGA008, Bill of Lading No.EGLV143269214730 and Country of Origin Certificate have been forwarded by Shri B.D.Khatri to Shri Kapil Kotiya. All the above documents are part of the Import documents in respect of import of goods made by M/s. Om Enterprise under SEZ Bill of Entry No.1015513 dt. 31.10.2022 (SEZ to DTA B/E No.2017929 dt. 16.11.2022) at APSEZ, Mundra. Further, documents at Page No.345 to 365 of the above made-up file **[RUD-75]** which was resumed during the Panchnama dt.21.11.2022 drawn at the premises of M/s. JMV Enterprise is a copy of email dt. 10.09.2022 which was also forwarded by Shri B.D.Khatri from his email Id bdass34@gmail.com to Shri Kapil Kotiya on his email Id kapillogis@gmail.com. Vide above email copy of Commercial Invoice No.HS22-5316 dt.26.08.2022 issued by M/s. Wenzhou Asia Star International Trading Co. Ltd., Packing list of goods covered under Commercial Invoice No.HS22-5316 dt.26.08.2022 issued by M/s. Wenzhou Asia Star International Trading Co. Ltd., Test Report of goods under Invoice No. HS22-5316 and Bill of Lading /Country of Origin Certificate, in respect of the goods have been forwarded by Shri B.D.Khatri to Shri Kapil Kotiya. All the above documents are part of the Import documents filed by M/s. Shree Ganesh in their import of goods made under SEZ Bill of Entry No.1012627 dt. 17.09.2022 (SEZ to DTA B/E No.2014060 dt. 19.09.2022). The investigation conducted by this office in the case of M/s. Shree Ganesh Overseas has covered the above import and the duty evaded in the import has been covered in the SCN.

**14.4.3** The customs clearance and forwarding work of both the firms viz. M/s. Shree Ganesh Overseas and M/s. Om Enterprise were carried out by Shri Kapil Kotiya. Shri Prince Khatri, Authorised representative of M/s. Dee Pee Leather Stores in his statement recorded u/s. 108 of the Customs Act, 1962 on 21.10.2024**[RUD-72]** has stated that the goods imported by M/s. Om Enterprise vide SEZ Bill of Entry No.1015513 dt.31.10.2022 (SEZ to DTA Bill of Entry No.2017929 dt.16.11.2022) and SEZ Bill of Entry No.1015612 dt.01.11.2022 (SEZ to DTA Bill of Entry No.2017410 dt.08.11.2022) were ordered by his father Shri B.D.Khatri. He has also stated that the documents viz. Commercial Invoice, Packing List, Bill of Lading etc. received from the overseas supplier were sent to Shri Kapil Kotiya for clearance of goods by his father Shri B.D. Khatri. Documents at Page No.345 to 365 of the made-up file **[RUD-75]** which was resumed during the Panchnama dt.21.11.2022 drawn at



the premises of M/s. JMV Enterprise clearly states that Shri B.D.Khatri in the capacity of being Proprietor of M/s. Shree Ganesh Overseas has forwarded the documents related to import made by his firm from his email Id bdass34@gmail.com to Shri Kapil Kotiya on their email Id kapillogis@gmail.com. The Documents at Page No. 479 to 4959 **[RUD-73]** & Page No. 461 to 477 **[RUD-74]** of the same made-up file which was resumed during the Panchnama dt.21.11.2022 **[RUD41]** drawn at the premises of M/s. JMV Enterprise also clearly states that Shri B.D.Khatri in the capacity of being Proprietor of M/s. Shree Ganesh Overseas has forwarded the documents related to import made by M/s. Om Enterprise firm from his same email Id bdass34@gmail.com to Shri Kapil Kotiya on their email Id kapillogis@gmail.com. The email id of both Shri B.D.Khatri and Shri Kapil Kotiya in forwarding the documents of M/s. Shree Ganesh Overseas and M/s. Om Enterprise are same and this unrefutably establish the fact that was stated by Shri Prince Khatri in his statement dt. 21.10.2024 that his father has ordered the goods from the Overseas Supplier in respect of goods imported by M/s. Om Enterprise vide SEZ Bill of Entry No.1015513 dt.31.10.2022 (SEZ to DTA Bill of Entry No.2017929 dt.16.11.2022) and SEZ Bill of Entry No.1015612 dt.01.11.2022 (SEZ to DTA Bill of Entry No.2017410 dt.08.11.2022) and by virtue of the above fact becomes the *de jure* owner of the goods.

**14.5** Shri Narendrachand Ramniwas Moriya S/o Shri Ramniwas Moriya, Authorized person of M/s. Kishor Traders & M/s.Ritika Traders , Mumbai in his statement dated 10.02.2023 **[RUD No.45]** was perused with Panchnama dated 16.12.2023 **[RUD-38]** drawn at the premises of Kishor Traders, Mumbai wherein samples of goods from the lot having Product Mark(PM) as "Kishor/54 which were purchased by M/s. Kishor Traders from M/s. Jai Maa Enterprises, New Delhi, under Invoice No.2022-23/1405 dated 12.11.2022 and from the lot having Product Mark (PM) as RITIKA/47 which were purchased by Ritika Traders from M/s Jai Maa Enterprises, New Delhi under Invoice no. 2022-23/1312 dated 20.11.2022 were drawn by the DRI officers. He was also perused test report issued by CRCL, Vadodara under lab No. RCL/AZU/DRI/3351/22-13-2022 in respect of the sample of M/s. Kishore Traders, Mumbai & forwarded to CRCL Vadodara under test memo No. 52/KISHOR/54 dated 19.12.2022**[RUD-39]**, wherein it was reported by CRCL, Vadodara that the sample of goods are tested as "made of dyed knitted fabric (having raised fibers on one surface), Coated with compounded Polyurethane on one side". He was further also perused test report issued by CRCL, Vadodara under lab No. RCL/AZU/DRI/3352/22-12-2022 in respect of the sample forwarded under test memo No. 53/RITIKA/47 dated 19.12.2022**[RUD-40]** wherein it was reported by CRCL, Vadodara that the sample of goods are tested as "made of dyed knitted fabric (having raised fibers on one surface), Coated with compounded Polyurethane on one side". He was further perused with Invoice No.2022-23/1405 dated 12.11.2022 issued by M/s. Jai Maa Enterprises to M/s. Kishor Traders with goods description "Textile Coated Fabric" and after perusal of the same he stated that the goods ordered and received by them under Invoice No.2022-23/1405 dated 12.11.2022 from M/s. Jai Maa Enterprises was PU Coated Fabric. They have ordered goods viz. Napa, Firangi, Wrinkle Free Jelly etc. (local trade name for PU Coated fabric) from their domestic suppliers (M/s. Jai Maa Enterprises) and have received these goods from the suppliers but the description of the goods is mentioned as Textile Coated Fabric in the invoice



issued by M/s. Jai Maa Enterprises. He was also perused with Invoice No.2022-23/1312 dated 20.11.2022 issued by M/s. Jai Maa Enterprises to M/s. Ritika Traders with goods description "Glitter Fabric" and after perusal of the same he stated that the goods ordered and received by them under Invoice No.2022-23/1312 dated 20.11.2022 from M/s. Jai Maa Enterprises was PU Coated Fabric. They have ordered PU Coated fabric from their domestic suppliers (M/s.Jai Maa Enterprises) and have received these goods from the suppliers but the description of these goods are mentioned as Glitter Fabric in the invoice issued by M/s. Jai Maa Enterprises.

**15.** The evidences and facts divulged in the form of above Statements recorded during the course of investigation and Test reports issued by CECL, Vadodara in respect of seized goods clearly establishes that the goods in the case which were declared as Textile Coated Fabric, Felt Woven Coated Fabric and Glitter Fabric and imported by M/s. OM Enterprise vide 14 Bills of Entry as mentioned above under para 12.2 were "Textile Fabrics Coated with Polyurethane on one side". Therefore, these goods appear to be rightly classified under CTH 59032090.

**16.** Further, the above goods imported by M/s.Om Enterprise by declaring it as "Felt Woven Coated Fabric" or "Textile Coated Fabric" or "Glitter Fabric" and by classifying it under CTI 59119090 & 59050090 were actually found to be "PU (Polyurethane) coated fabrics" correctly classified under CTI 59032090. These goods when imported under correct CTH i.e. 59032090 are leviable to Basic duty @ 20%, SWS @ 10%, IGST @ 12%, Anti-Dumping Duty @ 0.46 USD per meters in terms of Notification No. 14/2022-Customs (ADD) dated 20.05.2022 and IGST @ 12%. on Anti-Dumping Duty. By way of mis-declaration and mis-classification, M/s. OM appears to have evaded payment of Basic Customs duty at appropriate rate and payment of Anti-dumping duty in their import against 14 Bills of Entry.

**17.** The differential duty evaded in respect of seized goods covered under 07 Bill of Entry as mentioned at Sr. No.08 to 14 of the Table at para 12.2 to this SCN is calculated at Rs.2,11,66,372/-. The duty calculation in this regard is as per Annexure-X [RUD-76]

**17.1** Further, the differential duty evaded in respect of the remaining past import consignment covered under 07 Bill of Entry mentioned at Sr. No.01 to 07 of the Table at para 12.2 of the report is calculated at Rs. 1,15,64,091/-. The duty calculation in this regard is as per Annexure-Y [RUD-77]

**18.** In view of the above facts, it appears that M/s. Om Enterprise has indulged themselves in the evasion of Customs Duty by way of misdeclaration and mis-classification of imported goods. It is noticed that total Assessable value of the goods imported under above Bills of Entry is Rs. 3,34,68,909/- and the total evasion of duty in the case is Rs. 3,27,30,463/- as calculated under Annexure-X & Annexure-Y of this Show Cause Notice.

**VIOLATION OF VARIOUS LEGAL PROVISIONS OF CUSTOMS ACT, 1962 BY M/s. OM ENTERPRISE -**

**19.** Under the Self-Assessment regime, it is the responsibility & duty of the importer/exporter to ensure correct declaration & classification of the goods, applicable rate of duty, value, and benefit or exemption notification claimed, if any, in respect of the imported or exported goods while presenting Bill of Entry or Shipping Bill. In the present case, it appears that the M/s. OM has willfully indulged themselves in the contravention of the above provisions with a mala fide intention to evade applicable payment of applicable Customs Duty & Anti-Dumping duty on their imported goods as in terms of Notification No. 14/2022-Customs (ADD) dated 20.05.2022. By their above act, they appear to have violated the provisions of Section 17 read with Section 46 of the Customs Act, 1962.

**19.1** In terms of Section 46(4) of the Customs Act, 1962, it is mandatory for the importer to make and subscribe to a declaration as to the truth of the contents of the bill of entry being presented.

**19.2** Further, in terms of Section 17 of the Customs Act, 1962, relating to Assessment of duty, it is mandatory for the importer, save as otherwise provided in Section 85 of the Act, to self-assess the duty, and in case 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 the Act, re-assess the duty leviable on such goods.

**19.3** In terms of sub-section 2 of Section 2 of the Customs Act, 1962, "assessment" means determination of the duty of any goods and the amount of duty, tax, Cess or any other sum so payable, if any, under this Act or under the Customs Tariff Act, 1975 (51 of 1975) or under any other law for the time being in force, with reference to-

- (a) the tariff classification of such goods as determined in accordance with the provisions of the Customs Tariff Act;
- (b) the value of such goods as determined in accordance with the provisions of this Act and the Customs Tariff Act;
- (c) exemption or concession of duty, tax, Cess or any other sum, consequent upon any notification issued therefor under this Act or under the Customs Tariff Act or under any other law for the time being in force;
- (d) the quantity, weight, volume, measurement or other specifics where such duty, tax, Cess or any other sum is leviable on the basis of the quantity, weight, volume, measurement or other specifics of such goods;
- (e) the origin of such goods determined in accordance with the provisions of the Customs Tariff Act or the rules made thereunder, if the amount of duty, tax, Cess or any other sum is affected by the origin of such goods;
- (f) any other specific factor which affects the duty, tax, Cess or any other sum payable on such goods and includes provisional assessment, self-assessment, re-assessment and any assessment in which the duty assessed is nil.

**19.4** In terms of Section 28(4) of the Customs Act, 1962 - Where any duty has not been levied or has been short-levied or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of, - (a) collusion; or (b) any willful mis-statement; or

(c) suppression of facts, by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

**19.5** Further, Section 28AA(l) stipulates that - the person, who is liable to pay duty in accordance with the provisions of Section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-Section (2), whether such payment is made voluntarily or after determination of the duty under that Section.

**19.6** As per Section 114A of the Customs Act, 1962 - Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any willful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-Section (8) of Section 28 shall also be liable to pay a penalty equal to the duty or interest so determined.

**19.7** Section 114AA of the Customs Act provides penalty for use of false and incorrect material. If a person knowingly or unknowingly 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 purpose of this Act, shall be liable to a penalty not exceeding five times the value of the goods.

**19.8** Further, Section 111(m) of the Customs Act, 1962, specifies 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, are liable to confiscation.

**19.9** As per Section 112 of the Customs Act, 1962 - 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, harboring, 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, to penalty.

## **20. Role and culpability of the importer/person/firm involved -**

### **20.1 Role and culpability of Shri Kapil Kotiya in the case:**

**20.1.1** The modus adopted for defrauding the Govt. Exchequer involved engaging of Name-Sake IEC holder firms who sublated their IEC to facilitate the imports. This arrangement was made by Shri Kapil Kotiya, by roping in his friends, known persons/relatives who had lost their jobs during and post Covid period and offering them with a regular salary to act as the Proprietor of these firm. Shri Kapil Kotiya used to take their credentials and created/established such IEC holding firms and their Bank Account. He used to exercise overall control on all the activities of such firms viz. banking

transactions and other import related activities. The IEC of M/s. Om Enterprises was used by him for effecting the import of goods ordered by the actual owner of the goods viz. M/s. Jai Maa Enterprise, M/s. A.N. Enterprise and M/s. Shree Ganesh Overseas by adopting the above modus.

**20.1.2** Shri Hari Kishan, Proprietor of M/s. Om Enterprises, in his Statement recorded u/s. 108 of the Customs Act, 1962 on 23.11.2022 **[RUD-42]** had categorically stated that he has never met any person of the firms who are using the IEC of M/s. Om Enterprise and his nephew Shri Kapil Kotiya is lending the IEC of his firm to various domestic firms to import their goods through our firms IEC. He also stated that he is being paid by Shri Kapil Kotiya for allowing this arrangement. He further also stated that he is not handling any work of his firm other than signing bank documents and all the work is being handled by Shri Kapil Kotiya.

**20.1.3** Shri Kapil Kotiya, Proprietor of M/s. Ocean Logistics, in his statement recorded u/s.108 of the Customs Act, 1962 on 27.11.2022 **[RUD-43]** has admitted to the fact that he is handling all day-to-day work of M/s. Om Enterprise and he used to lend the IEC of the firm to other local Traders/Firms for importing their required goods. He also stated that in the whole process of import, the actual owner of the goods i.e. Domestic/Local Traders directly used to contact the Overseas Suppliers of the goods and their place order of their intended goods and also used to provide the details of the IEC lending firm to the Overseas Suppliers. The Overseas Suppliers provide the Import documents directly to these Domestic/Local Traders who are the actual Buyers/Owners of the goods who in turn used to forwarded it to him for Customs Clearance and after Customs Clearance these imported goods were directly transported to the premises of the said Domestic Trader under Sale Invoices generated by IEC lending firm. All the finance related to the above transaction is being borne by the actual owner/Local Traders of the goods. He further stated that these Domestic/Local Traders are his regular clients and he used to attend their work related to customs clearance and freight forwarding in the past and as they required such IEC holding firms, he had provided it to them for making import. He also stated that the Proprietor of the IEC holding firm didn't indulge in any work related to the firm except putting signatures on the Banking documents. He further also stated that his clients i.e. the Domestic/Local Traders or Actual Owner of the goods used to import PU Coated Fabric from China before imposition of Anti-Dumping duty on it but later on they stopped such import after imposition of Anti-Dumping duty.

**20.1.4** Shri Arun Jyoti Mahajan, Partner of M/s. Jai Maa Enterprises, in his statement recorded u/s.108 of the Customs Act, 1962 on 17.05.2023 **[RUD-47]** has admitted that they have purchased various type of Fabrics including PU coated fabrics from M/s. Om Enterprises. He also admitted that they used to place order for such fabrics to Overseas Supplier and the same were imported through the IEC of M/s. Om Enterprises. He further also stated that Shri Kapil Kotiya is the person who looks after all the work of M/s. Om Enterprises and in the import of goods through M/s. Om Enterprises, his role is placing order directly to the Overseas suppliers and rest of all the work is handled by Shri Kapil Kotiya. He further clarified the character and usage of various types of fabrics wherein he stated that PU coated fabric is a type of artificial leather which is used in footwear and as

garment. He further also clarified that the fabric known by the term Textile Coated Fabrics is actually used for PU Coated Fabrics. He further stated that he had received PU Coated Fabrics but, in their Invoice, the goods were mentioned as Textile Coated Fabrics and these goods were further sold by him mentioning the same description of the goods i.e. Textile Coated Fabrics. He also stated that such above mentioned goods have been sold by them to M/s. Kishore Traders, Mumbai

**20.1.5** Shri Ankur Mahajan, Son of Shri Arun Jyoti Mahajan, Partner of M/s. Jai Maa Enterprises, in his statement recorded u/s.108 of the Customs Act, 1962 on 28.12.2022 **[RUD-44]** has stated that he and his father Shri Arun Jyoti Mahajan looks after the business of M/s. Jai Maa Enterprises. He stated that they have order PU Coated Fabrics from China and have received the same from M/s. Om Enterprises through Invoices wherein the goods have been mentioned as Textile Coated Fabrics. He also stated that he does not know about the Proprietor of M/s. Om Enterprises but they contact Kapil for purchase of goods. He stated that he takes samples of goods from the manufacturers in China and gives details of the shortlisted samples and desired quantity to Shri Kapil Kotiya or himself places the order of goods directly to the Suppliers of goods in China through Phone. The Invoices, Packing list and Bill of Lading is received either by him or by Kapil Kotiya.

**20.1.6** Shri Amit Jain, Proprietor of M/s. A.N. Enterprise, in his statement recorded u/s. 108 of the Customs Act, 1962 on 12.09.2024 **[RUD-53]** has inter alia stated that the firm M/s Om Enterprises was introduced to me by Shri Kapil Kotiya and Shri Kapil Kotiya has further told me that the imports of goods ordered by me will be made through this firm. He admitted that the order of the goods to the Overseas Suppliers in respect of the goods imported by M/s. Om Enterprise vide SEZ Bills of Entry No.1011061 dt.20.08.2022, No.1012253dt. 09.09.2022, No.1012535 dt. 15.09.2022, 1014717 dt. 17.10.22 & 1015514 dt. 31.10.22 were placed by him

**20.1.7** The above facts emerged from the Statements recorded during the course of investigation in the case clearly reveals that Shri Kapil Kotiya is the kingpin, instrumental in effecting whole scheme of evasion of Anti-dumping duty in the import of PU Coated Fabrics and payment of appropriate Customs duty in the import of Non-woven Fabrics, thereby defrauding the Government Exchequer. Shri Kapil was well versed with the procedure for importing the goods as well as its customs clearance work undertaken by Customs Broker as he had formerly dealt with freight forwarding work and also used to indulge in customs clearance of imported goods by taking assistance of Customs Brokers. His clients were regular importer of PU Coated Fabrics from Overseas Suppliers based in China. After the imposition of Anti-dumping duty on PU Coated Fabrics imported from China, vide Notification No. 14/2022-Customs (ADD) dated 20.05.2022, the landing cost of these PU Coated Fabrics increased significantly. Shri Kapil Kotiya devised the modus to evade the applicable Anti-dumping duty in the import of PU Coated Fabrics imposed vide Notification No. 14/2022-Customs (ADD) dated 20.05.2022, wherein he used to create dummy / name sake type of IEC based firms using credentials of his friends and known persons and further used to offered it to his potential clients on lending basis for importing PU Coated Fabrics by way of mis-declaring the same as Fabrics other than PU Coated Fabrics. The interested firms used to place order directly to the Overseas Suppliers of PU

Coated Fabrics in China and forward the import documents received by them from Overseas suppliers to Shri Kapil Kotiya. They also used to forward the remittance against the import to Overseas Suppliers through these dummy /name sake type of firm i.e. the Importer in the instant case. The work related to import of the above goods through dummy / name sake type of firm using its IEC its subsequent customs clearance of the goods and the direct supply of these goods from the port to the premises of the actual owner (interested firm) was looked after by Shri Kapil Kotiya. The interested firms (Actual Owner of the goods) who also used to import PU Coated Fabrics before imposition of Anti-dumping duty, would stand benefitted of the duty portion (Anti-dumping duty) by resorting to such malpractice in connivance with Shri Kapil Kotiya, who also stands benefitted monetarily. The so-called Proprietors of the dummy /name-sake firms established by Shri Kapil Kotiya were only required to append signatures on Banking/Import transaction documents and had no other role in the import and local sale of the goods. They were paid monthly salary of Rs.15000/- by the Shri Kapil Kotiya who used to exercise overall control on all the affairs of these Dummy firms. The above acts of Kapil Kotiya demonstrate his culpable/criminal mindset and undoubtedly prove his mens-rea in the whole act of defrauding the Govt Exchequer by evading the applicable payment of Anti-dumping Duty imposed vide Notification No. 14/2022-Customs (ADD) dated 20.05.2022. The above facts clearly reveals that Shri Kapil Kotiya has employed himself in receiving import documents from these firms (Beneficial owners of the goods) and has also further forwarded these documents to Customs Brokers to facilitate import of the goods using the IEC of these name-sake/dummy firms created by him. He is also found to indulge in forwarding the imported goods from the port to the beneficiary owner's premises. By indulging himself in the above acts, Shri Kapil Kotiya is found to have indulged himself in the act or omission, in relation of the goods, which would render such goods liable to confiscation under section 111 of the Customs Act, 1962 and by indulging in such acts, he has rendered himself liable for penalty under section 112(a) & (b) of the Customs Act, 1962. Further, Shri Kapil Kotiya was well aware about the levy of Anti-dumping duty on the mis-declared goods imported through IEC of M/s. OM but even though he had intentionally/knowingly causes to be made (to make something happen or exist) declaration, documents which is false or incorrect in any material particular, in the transaction of any business for the purpose of this Act and thereby has also rendered himself liable for penalty u/s. 114AA of the Customs Act, 1962.

## **20.2 Role and culpability of M/s. Jai Maa Enterprises and Shri Arun Jyoti Mahajan, Partner of M/s. Jai Maa Enterprises in the case:**

**20.2.1** Shri Ankur Mahajan, Son of Shri Arun Jyoti Mahajan, Partner of M/s. Jai Maa Enterprises, in his statement recorded u/s.108 of the Customs Act, 1962 on 28.12.2022 [RUD-44] has stated that he and his father Shri Arun Jyoti Mahajan looks after the business of M/s. Jai Maa Enterprises. He stated that they have order PU Coated Fabrics from China and these goods were imported through by M/s. Om Enterprises and later were received from them through Invoices wherein the goods have been mentioned as Textile Coated Fabrics. He had further elaborated about the process involved in these types of import and stated that he used to take samples of goods from the manufacturers in China and would then give the details of the shortlisted samples and desired quantity to Shri Kapil Kotiya to place the order or

himself used to place the order of goods directly to the Suppliers of goods in China through Phone. He further also stated that they mostly mention the trading name of PU Coated Fabric viz. Napa, Wrinkle Free, A-one, Jazz Napa Zarina, Check Zarina, TC Lycra, Eva BB etc., while placing order to overseas suppliers in China.

**20.2.2** Shri Arun Jyoti Mahajan, Partner of M/s. Jai Maa Enterprises, in his statement recorded u/s.108 of the Customs Act, 1962 on 17.05.2023 [RUD-47] & 19.09.2024 [RUD-69] has admitted that they have purchased various type of Fabrics including PU coated fabrics from M/s. Om Enterprises. He also admitted that they used to place order for such fabrics to Overseas Supplier and the same were imported through the IEC of M/s. Om Enterprises. He further also stated that Shri Kapil Kotiya is the person who looks after all the work of M/s. Om Enterprises including the import of goods through M/s. Om Enterprises and its local sale and his role in the entire import is limited to placing the order of the goods directly to the Overseas suppliers and rest of all the work is handled by Shri Kapil Kotiya. He further also admitted that he had received PU Coated Fabrics from M/s.Om Enterprise but in its Invoice, the goods were mentioned by M/s. Om Enterprise as Textile Coated Fabrics and he had further sold these goods to M/s. Kishore Traders, Mumbai by mentioning the same description of the goods i.e. Textile Coated Fabrics. He further also clarified the identity of the goods with description "Textile Coated Fabric", "Felt Woven Coated Fabrics" and "Glitter Fabric" imported by him through M/s.Om Enterprise are actually PU Coated Fabric. He further stated that he did not know the reason of using term Textile Coated Fabric or Felt Woven Coated Fabric or Glitter Fabric for declaring PU Coated Fabric but admitted they have received invoices mentioning these descriptions instead of PU Coated Fabric.

**20.2.3** Shri Narendrachand Ramniwas Moriya S/o Shri Ramniwas Moriya, Authorized person of M/s.Kishor Traders, Mumbai, in statement recorded on 10.02.2023 [RUD No.45] stated that the Textile Coated Fabric purchased by them from M/s. Jai Maa Enterprises was PU Coated Fabric. He also stated that the PU Coated fabric is mostly known as Napa, Firangi, Wrinkle Free Jelly etc. and they have ordered to supply goods viz. Napa, Firangi, Wrinkle Free Jelly etc. and have received it as ordered but M/s. Jai Maa Enterprise has mentioned the description of the same in invoices as Textile Coated Fabric. He was perused with the Panchnama dated 16.12.2023 (RUD-) drawn at Thakkar Bapa Nagar, CST Road, Chembur, Mumbai under which goods having Product Mark (PM) as "Kishor/54" purchased by them from M/s. Jai Maa Enterprises, New Delhi, through Invoice No.2022-23/1405 dated 12.11.2022 and transported vide E-way Bill Number 741297609478 dated 12.11.2022 and Transportation Bill/invoice No.274769 dated 15.11.2022 issued by M/s. Satkartar Roadlines. He was also perused with Test Memo No.52/KISHOR/54 dated 19.12.2022 and its Test Report of CRCL Vadodara bearing Lab No.RCL/AZU/DRI/3351/22-12-2022 dated 04.01.2023[RUD-39] issued by CRCL Vadodara in respect of the Sample of the goods drawn under above Panchnama dated 16.12.2023 in respect of goods received under Invoice No.2022-23/1405 of M/s. Jai Maa Enterprises and after perusing the above documents, he agreed with the Test Report of CRCL Vadodara holding that the goods forwarded under the Test Memo No.52/KISHOR/54 dated 19.12.2022 are found to be coated with Compounded Polyurethane on one side.



**20.2.4** The facts emerged from the above Statements recorded during the course of investigation in the case clearly reveals that M/s. Jai Maa Enterprises represented through its Partner Shri Arun Jyoti Mahajan is the major beneficiary of the duty evaded in the case. Shri Arun Jyoti Mahajan had indulged themselves in the entire scheme of fraud in connivance with Shri Kapil Kotiya with the sole intention of defrauding the Govt Exchequer by way of evading the Anti-dumping duty on import of goods. Shri Kapil Kotiya was known to them as he had handled their imports made during earlier period also. After imposition of Anti-dumping duty vide Notification No. 14/2022-Customs (ADD) dated 20.05.2022, they had, in active connivance of Shri Kapil Kotiya hatched the modus to hire dummy/name sake IEC holding firms to facilitate their import of PU Coated Fabrics by mis-declaring the same as "Textile Coated Fabric" and "Felt Woven Coated Fabrics". The placing of Order of goods were directly made by them and their outward remittances were also borne by them, whereas, their counterpart Shri Kapil Kotiya was entrusted with the role of customs clearing the goods and further transporting it to their premises by way of showing it as Local Sale. The above acts demonstrate their culpable/criminal mindset and undoubtedly prove their mens-rea in the whole act of defrauding the Govt Exchequer by evading the applicable payment of Anti-dumping Duty imposed vide Notification No. 14/2022-Customs (ADD) dated 20.05.2022.

**20.2.5** The above facts further also clearly reveal that M/s. Jai Maa Enterprise represented through Shri Arun Jyoti Mahajan, Partner, received import documents from overseas supplier as an Beneficial owner of the goods and Shri Arun Jyoti Mahajan has further forwarded these documents to Shri Kapil Kotiya to facilitate import of the goods using the IEC of these name-sake/dummy firms created by him. From the investigation, it reveals that M/s Jai Maa Enterprises is the beneficial owner for the corresponding goods mentioned in table in para 24.1 of this Show Cause Notice. Hence, M/s Jai Maa Enterprises is liable to pay the differential Customs Duty (BCD+SWS+IGST+ADD+IGST on ADD) for the goods imported by them (as a beneficial owner). In the investigation it was found that M/s Jai Maa Enterprises acted in collusion with different persons for suppressing the facts and mis-declaring the goods to evade the Customs duty. Accordingly, it appears that they are liable for penalty under section 114 A of the Customs Act, 1962. By commission of above acts, Shri Arun Jyoti Mahajan, Partner of M/s. Jai Maa Enterprise, is found to have indulged himself in the act or omission, in relation of the goods, which would render such goods liable to confiscation under section 111 of the Customs Act, 1962. Further by indulging in the above act, he has rendered himself liable for penalty under section 112(a) & (b) of the Customs Act, 1962. Further, Shri Arun Jyoti Mahajan, Partner of M/s. Jai Maa Enterprise was well aware about the levy of Anti-dumping duty on the mis-declared goods imported through IEC of M/s. Om Enterprises but even though, he had intentionally/knowingly causes to be made (to make something happen or exist) declaration, documents which is false or incorrect in any material particular, in the transaction of any business for the purpose of this Act and thereby has also rendered himself liable for penalty u/s. 114AA of the Customs Act, 1962.

**20.3 Role and culpability of M/s. Shri Banarsi Dass Khatri, Proprietor of M/s. Shree Ganesh Overseas in the case :**

**20.3.1** Shri Kapil Kotiya, Proprietor of M/s. Ocean Logistics and Mastermind of the whole scheme of evasion of duty in the case, in his statement recorded on 16.07.2024 u/s.108 of the Customs Act, 1962 has stated that M/s. Jai Maa Enterprise, M/s. A.N. Enterprise and M/s. Dee Pee Leather Store are the actual owner of the goods imported by M/s. Om Enterprise. He further also produced consignment wise details of the owner of the goods which were imported by M/s. Om Enterprise at Annexure-B under his statement. As per the details in the Annexure-B, the actual owner of the goods imported by M/s. Om Enterprise vide SEZ Bill of Entry No.1015513 dt. 31.10.2022 & 1015612 dt. 01.11.2022 are M/s. Dee Pee Leather Store.

**20.3.2** Shri Hari Kishan, Proprietor of M/s. Om Enterprise, in his statement recorded on 18.09.2024 [RUD-59] u/s. 108 of the Customs Act, 1962 has stated that the actual owner of the goods imported by his firm vide SEZ Bill of Entry No.1015513 dt. 31.10.2022 & 1015612 dt. 01.11.2022 were M/s. Dee Pee Leather Store and the same after import were sold to M/s. Anand Garments Pvt. Ltd. on their instructions.

**20.3.3** Shri Prince Khatri, Authorized representative of M/s. Dee Pee Leather Store, in his statement recorded on 21.10.2024 [RUD-72] u/s. 108 of the Customs Act, 1962 has stated that his family owns three firms involved in trading of fabrics, M/s. Shree Ganesh Overseas, Proprietor Shri Banarsi Dass Khatri (his Father), M/s. Dee Pee Leather Store, Proprietor Shri Dharam Pal Khatri (his Uncle) and M/s. J.M.D. Enterprise, Proprietor Shri Rajesh Khatri (his nephew). He stated that he is also looking after the work related to all these firms. He stated that the goods in respect of Import made by M/s. Om Enterprise vide SEZ Bill of Entry No.1015513 dt. 31.10.2022 & 1015612 dt. 01.11.2022 were ordered from the overseas supplier by his father (Shri Banarsi Dass Khatri) and the import documents in respect of the same were forwarded by his father to Shri Kapil Kotiya for customs clearance.

**20.3.4** Following documents were resumed under Panchnama dt.21.11.2022 during the search at the registered premises of M/s.JMV Enterprise [RUD-41]-

- (i) copy of email correspondence dt.10.09.2022 made by Shri Banarsi Dass Khatri (his father) from his email Id [bdass34@gmail.com](mailto:bdass34@gmail.com) to Shri Kapil Kotiya on their email Id [kapillogis@gmail.com](mailto:kapillogis@gmail.com) forwarding import documents against SEZ Bill of Entry No.1012627 dt. 17.09.2022 (SEZ to DTA B/E No.2014060 dt. 19.09.2022) in respect of his firm M/s.Shree Ganesh Overseas[RUD-75].
- (ii) copy of email correspondence dt. 26.10.2022 made by Shri Banarsi Dass Khatri (his father) from his email Id [bdass34@gmail.com](mailto:bdass34@gmail.com) to Shri Kapil Kotiya on their email Id [kapillogis@gmail.com](mailto:kapillogis@gmail.com) forwarding import documents in SEZ Bill of Entry No.1015513 dt. 31.10.2022 (SEZ to DTA B/E No.2017929 dt. 16.11.2022) made by M/s. Om Enterprise[RUD-74].
- (iii) copy of email correspondence dt. 31.10.2022 made by Shri Banarsi Dass Khatri (his father) from his email Id [bdass34@gmail.com](mailto:bdass34@gmail.com) to Shri Kapil Kotiya on their email Id [kapillogis@gmail.com](mailto:kapillogis@gmail.com) forwarding import documents of SEZ Bill of Entry No.1015612 dt. 01.11.2022 (SEZ to

DTA B/E No.2017410 dt. 08.11.2022) in respect of M/s. Om Enterprise[RUD-73].

A bare perusal of the above details can conclude that vide above emails, the sender of this email i.e. Shri Banarsi Dass Khatri, Proprietor of M/s. Shree Ganesh Overseas has not only forwarded the import documents in respect of his firm i.e. M/s. Shree Ganesh Overseas to Shri Kapil Kotiya, but has also forwarded the import documents of the goods imported by M/s. Om Enterprise vide SEZ Bill of Entry No.1015513 dt. 31.10.2022 & 1015612 dt. 01.11.2022 to Shri Kapil Kotiya. Shri Kapil Kotiya, during the investigation has already stated that the Overseas Suppliers send the import documents in respect of the goods ordered to the actual owners of the goods and same were then forwarded by them to him. In the instant case, it has been unrefutably proved that Shri Banarsi Dass Khatri, Proprietor of M/s. Shree Ganesh Overseas, in the capacity of being the actual owner of the goods has received these import documents and same were forwarded by him to Shri Kapil Kotiya vide his email dated 26.10.2022 & 31.10.2022.

**20.3.4** The facts and the Statements recorded during the course of investigation in the case clearly reveals that Shri Banarsi Dass Khatri, Proprietor of M/s. Shree Ganesh Overseas is also one of the beneficiaries of the duty evaded in the case. He has indulged himself in the entire scheme of fraud in connivance with Shri Kapil Kotiya with the sole intention of defrauding the Govt Exchequer by way of evading the payment of appropriate Customs duty on import of goods. Shri Banarsi Dass Khatri, Proprietor of M/s. Shree Ganesh Overseas has indulged himself in importing of PU Coated Fabrics by mis-declaring and mis-classifying their true identity and engaging freight forwarders i.e. Shri Kapil Kotiya. Shri Kapil Kotiya in the entire modus had employed dummy/name sake IEC holding firms to facilitate their import of PU Coated Fabric mis-declaring the same as "Felt Woven Coated Fabric". The placing of Order of goods were directly made by Shri Banarsi Dass Khatri, Proprietor of M/s. Shree Ganesh Overseas, whereas, his counterpart Shri Kapil Kotiya was entrusted with the role of customs clearing the goods and further transporting it to their premises or to the premises he identifies, by way of showing it as Local Sale. The above acts demonstrate the culpable/criminal mindset of Shri Banarsi Dass Khatri, Proprietor of M/s. Shree Ganesh Overseas and undoubtedly prove his mens-rea in the whole act of defrauding the Govt Exchequer by evading the applicable payment of Customs Duty.

**20.3.5** The above facts clearly reveal that Shri Banarsi Dass Khatri, Proprietor of M/s. Shree Ganesh Overseas, has employed himself in receiving import documents from overseas supplier being the Beneficial owner of the goods and further forwarding these documents to Shri Kapil Kotiya to facilitate import of the goods using the IEC of these name-sake/dummy firms created by him. By indulging himself in the above acts, Shri Banarsi Dass Khatri, Proprietor of M/s. Shree Ganesh Overseas, is found to have indulged himself in the act or omission, in relation of the goods, which would render such goods liable to confiscation under section 111 of the Customs Act, 1962. Further by indulging in the above act, he has rendered himself liable for penalty under section 112(a) & (b) of the Customs Act, 1962. Further, Shri Banarsi Dass Khatri, Proprietor of M/s. Shree Ganesh Overseas was also an importer of PU Coated Fabric and being such importer was well aware about

the levy of Customs duty at higher rate on the mis-declared goods imported through IEC of M/s. Om Enterprise but even though, he had intentionally/knowingly causes to be made (to make something happen or exist) declaration, documents which is false or incorrect in any material particular, in the transaction of any business for the purpose of this Act and thereby has also rendered himself liable for penalty u/s. 114AA of the Customs Act, 1962.

**20.4 Role and culpability of M/s. A.N. Enterprise and Shri Amit Jain, Proprietor of M/s. A.N. Enterprise in the case:**

**20.4.1** Shri Hari Kishan, Proprietor of M/s. Om Enterprises, in his Statement recorded u/s. 108 of the Customs Act, 1962 on 23.11.2022 [RUD-42] & 18.09.2024 [RUD-59] had admitted that the IEC of his firm was utilized by M/s. A.N. Enterprises for importing goods and his nephew Shri Kapil Kotiya is dealing with the concerned person of M/s. A.N. Enterprise for import of goods. Shri Hari Kishan was also perused with Annexure-B (A chart showing the Bill of Entry wise imported goods and their actual beneficial owners) which was submitted by Shri Kapil Kotiya under his statement dated 16.07.2024 [RUD-51] and after perusing the same, he has concord that the goods imported by M/s. Om Enterprise were ordered by the respective beneficial owners of the goods, as mentioned in Annexure-B (in case of the beneficial owner of the goods i.e. M/s. A.N. Enterprise, imports made by M/s. Om Enterprise vide SEZ Bills of Entry No.1011061 dt. 20.08.2022, 1012253 dt. 09.09.2022, 1012535 dt. 15.09.2022, 1014717 dt. 17.10.2022 & 1015514 dt. 31.10.2022). Shri Hari Kishan was further also perused with Annexure-I (A chart showing Bill of Entry wise domestic buyers of the goods with DTA Sale Invoice details) and after perusing the same, he agreed that after customs clearance of the goods imported by his firm, it was sold to the firm under the Invoice, as mentioned in Annexure-I.

**20.4.2** Shri Kapil Kotiya, Proprietor of M/s Ocean Logistics in his statement recorded u/s. 108 of the Customs Act, 1962 on 16.07.2024 [RUD-51], has stated that M/s. Jai Maa Enterprise, M/s. A.N. Enterprise and M/s. Dee Pee Leather Store are the actual owner of the goods imported by M/s. Om Enterprise. The order of the respective goods is placed to the Overseas Supplier by the above actual owner of the goods. He further also stated that Shri Amit Jain, Proprietor of M/s. A.N. Enterprises had also forwarded funds amounting to Rs.73,08,021/- in the bank account of M/s. Om Enterprise for securing the provisional release of the goods seized in respect of SEZ Bills of Entry 1014717 dt. 17.10.2022 (DTA to SEZ Bill of Entry No. 2017089 dt. 03.11.2022) and SEZ Bill of Entry No.1015514 dt. 31.10.2022 (SEZ to DTA Bill of Entry No.2008159 dt. 11.05.2023).

**20.4.3** Shri Amit Jain, s/o Shri Abhinandan Jain, proprietor of M/s A.N. Enterprises in his statement recorded on 29.07.2024[RUD-52] under section 108 of the Customs Act, 1962 wherein he was inter alia perused with Statement dt. 21.05.2024 [RUD-48] of Shri Tulsi Dass Chopra, Authorized representative of M/s. Bharat Export, Statement dt. 22.05.2024 [RUD-49] of Shri Mohd. Arif Iraqi, Manager of M/s. Amin Leather and Statement dt. 28.05.2024 [RUD-50] of Shri Sanjay Dhingra, Authorized representative of M/s. R.S. Enterprise. After perusing the above statements, he agreed with all the facts mentioned in the above statement and stated that the goods

imported by him thorough the IEC of M/s. Om Enterprises were further domestically sold by him to these Traders.

**20.4.4** Shri Amit Jain, s/o Shri Abhinandan Jain, proprietor of M/s A.N. Enterprises in his further statement recorded on 12.09.2024 under section 108 of the Customs Act, 1962 [RUD-53] stated that Shri Kapil Kotiya had introduced M/s. Om Enterprises to him and had told him to imports goods through this firm. He was perused with the statement of Shri Kapil Kotiya dated 16.07.2024 [RUD-51] along with Annexure-B (M/s Om Enterprise) submitted by Shri Kapil Kotiya in the said statement and after perusing it he agreed that he had ordered the goods to overseas supplier which were imported vide Bills of Entry of M/s. Om Enterprise as mentioned in Sr. No. 1, 4, 5, 8 & 11. He further also stated that he had actually sold PU Coated Fabric by declaring the same as Textile Coated Fabric in the invoices issued by his firm i.e. A.N. Enterprises. He was further perused with the Test Memo and their Test Reports issued by Central Excise & Customs Laboratory, Vadodara, in respect of sample drawn from the goods imported by M/s. Om Enterprise vide Bills of Entry No.1014717 dt.17.10.2022 and 1015514 dt.31.10.2022 (SEZ to DTA Bill of Entry No.2017089 dt.03.11.2022 & 2008159 dt.11.05.2023 respectively) and after perusing the same, he stated that he agrees with the above test report in respect of goods imported by M/s.Om Enterprises which has revealed it to be various fabrics Coated with compounded Polyurethane on one side.

**20.4.5** The facts emerged from the above Statements recorded during the course of investigation in the case clearly reveals that Shri Amit Jain, Proprietor of M/s. A.N. Enterprises is also one of the major beneficiary of the duty evaded in the case. Shri Amit Jain had indulged himself in the entire scheme of fraud in connivance with Shri Kapil Kotiya with the sole intention of defrauding the Govt Exchequer by way of evading the Anti-dumping duty on import of goods. Shri Kapil Kotiya was known to them as he had handled their imports made during earlier period also. After imposition of Anti-dumping duty vide Notification No. 14/2022-Customs (ADD) dated 20.05.2022, they had, in active connivance of Shri Kapil Kotiya hatched the modus to hire dummy/name sake IEC holding firms to facilitate their import of PU Coated Fabrics by mis-declaring the same as "Textile Coated Fabric" and "Felt Woven Coated Fabrics". The placing of Order of goods to the overseas supplier was directly made by him and their outward remittances was also borne by him, whereas, their counterpart Shri Kapil Kotiya was entrusted with the role of customs clearing the goods and further transporting it to their premises by way of showing it as Local Sale. The above acts demonstrate his culpable/criminal mindset and undoubtedly prove his mens-rea in the whole act of defrauding the Govt Exchequer by evading the applicable payment of Anti-dumping Duty imposed vide Notification No. 14/2022-Customs (ADD) dated 20.05.2022.

**20.4.6** The above facts further also clearly reveal that M/s. A.N. Enterprise represented through Shri Amit Jain, Proprietor received import documents from the overseas supplier as a beneficial owner of the goods and Shri Amit Jain has further forwarded these documents to Shri Kapil Kotiya to facilitate import of the goods using the IEC of these name-sake/dummy firms created by him. From the investigation, it reveals that M/s. A.N. Enterprise is the beneficial owner for the corresponding goods mentioned in table in para 24.1 of this Show Cause Notice. Hence, M/s. A.N. Enterprise is liable to pay the

differential Customs Duty (BCD+SWS+IGST+ADD+IGST on ADD) for the goods imported by them (as a beneficial owner). In the investigation it was found that M/s. A.N. Enterprise acted in collusion with different persons for suppressing the facts and mis-declaring the goods to evade the Customs duty. Accordingly, it appears that they are liable for penalty under section 114 A of the Customs Act, 1962. By indulging himself in the above acts, Shri Amit Jain, Proprietor of M/s. A.N. Enterprises, is found to have indulged himself in the act or omission, in relation of the goods, which would render such goods liable to confiscation under section 111 of the Customs Act, 1962. Further by indulging in the above act, he has rendered himself liable for penalty under section 112(a) & (b) of the Customs Act, 1962. Further, Shri Amit Jain, Proprietor of M/s. A.N. Enterprises was well aware about the levy of Anti-dumping duty on the mis-declared goods imported through IEC of M/s. Om Enterprises but even though, he had intentionally/knowingly causes to be made (to make something happen or exist) declaration, documents which is false or incorrect in any material particular, in the transaction of any business for the purpose of this Act and thereby has also rendered himself liable for penalty u/s. 114AA of the Customs Act, 1962.

## **20.5 Role and culpability of Shri Hari Kishan, Proprietor of M/s. Om Enterprise in the case:**

**20.5.1** Shri Hari Kishan, Proprietor of M/s. Om Enterprises, in his Statement recorded u/s. 108 of the Customs Act, 1962 on 23.11.2022 [RUD-42] & 18.09.2024 [RUD-59] had admitted that the goods imported by his firm were actually owned by domestic traders M/s. Jai Maa Enterprise, M/s. A.N. Enterprise etc. and these imported goods after securing its customs clearance, were directly forwarded to the premises of these domestic traders. After perusing the Test Reports of CRCL, Vadodara, he agreed that the imported goods which were declared as Textile Coated Fabric and Felt Woven Coated Fabric were actually PU Coated Fabric and Non-Woven Fabric. He also agreed to the fact that he has provided the IEC of his firm to Shri Kapil Kotiya for lending it to other domestic traders for facilitating their imports. He further also agreed that Shri Kapil Kotiya used to exercise over-all control on the activities of M/s. Om Enterprise and he was paid amount by Shri Kapil Kotiya for allowing imports of other domestic traders through the IEC of his firm.

**20.5.2** Shri Kapil Kotiya, Proprietor of M/s Ocean Logistics in his statement recorded u/s. 108 of the Customs Act, 1962 on 27.11.2022[RUD-43] & 03.03.2023 [RUD-46], has admitted that he is looking after all the business activity of M/s. Om Enterprises. He further stated that the Letter dated 19.01.2023 of M/s. OM Enterprises addressed to the Deputy Commissioner, SEZ Mundra requesting for clearance of goods PU Fabrics covered under (DTA) Bill of Entry No.2019872 dt. 14.12.2022 and B/E No.2019670 dt. 12.12.2022 was issued and signed by Shri Hari Kishan under his instructions. He also provided the details of those Domestic traders who had utilized the IEC of M/s. Om Enterprises for importing their consignments.

**20.5.3** Shri Arun Jyoti Mahajan S/o Shri Hansraj Mahajan, Partner of M/s Jai Maa Enterprises in his statement recorded u/s. 108 of Customs Act, 1962 on 17.05.2023 **[RUD No.47]**, has stated that they purchased Glitter Fabric, Polyester Bonded, PU Coated Fabric, Textile Coated Fabric etc. from M/s.OM Enterprises. On being asked about the Proprietor of M/s. OM Enterprise, he further stated that Shri Kapil Kotiya is looking after all the work of M/s.Om Enterprises and he does not know what was his designation in the firm.

**20.5.4** Shri Ankur Mahajan S/o Shri Arun Jyoti Mahajan Proprietor of M/s Bhagwati International in his statement recorded u/s. 108 of Customs Act, 1962 on 28.12.2022 **[RUD No.44]**, stated that they had purchased PU Coated Fabric, Textile Coated Fabric, Bonded Fabric etc. from M/s.Om Enterprises. He further stated that he did not know Shri Sanjeev Shekhar Malhotra. He also stated that he did not know the Proprietor/Partner/Employee of M/s. Om Enterprises and only contacts Shri Kapil Kotiya for purchase of goods from this firm.

**20.5.5** The facts in the above Statements recorded during the course of investigation in the case clearly reveals that Shri Hari Kishan, Proprietor of M/s. Om Enterprise has not practiced proper due diligence in exercising the work of the firm. When provided with monetary benefits, he as the Proprietor of the firm has agreed to act and had indulged in effecting imports of goods owned by other domestic traders without checking the credentials and actual details of the goods to be imported. He had indulged himself in the entire scheme of fraud in connivance with Shri Kapil Kotiya which resulted in evading the payment of appropriate Customs duty leviable on PU Coated Fabric and Non-woven Fabric during their import. Shri Hari Kishan, Proprietor of M/s. OM Enterprise had indulged himself in importing of PU Coated Fabric by mis-declaring and mis-classifying their true identity at the behest of Shri Kapil Kotiya. The above acts clearly demonstrate the culpable/criminal mindset of Shri Hari Kishan, Proprietor of M/s. Om Enterprise and undoubtedly establish his mens-rea in the whole act of defrauding the Govt Exchequer by evading the applicable payment of Customs Duty.

**20.5.6** The above facts clearly establish that Shri Hari Kishan, Proprietor of M/s. Om Enterprise, has employed himself in importing goods on the basis of mis-declared and mis-classified document. By indulging himself in the above acts, Shri Hari Kishan, Proprietor of M/s. Om Enterprise, is found to have indulged himself in the act or omission, in relation of the goods, which would render such goods liable to confiscation under section 111 of the Customs Act, 1962. Further by indulging in the above act, he has rendered himself liable for penalty under section 117 of the Customs Act, 1962.

**21.** From the evidences as elaborated in foregoing paras as well as confirmatory statements on record it appears that M/s. Om Enterprise have willfully mis-stated & suppressed the correct description & classification of PU Coated Fabric during their import before the Customs authorities at APSEZ Mundra with an intent to evade the Anti-Dumping Duty in terms of Notification No. 14/2022-Customs (ADD) dated 20.05.2022 and payment of other Customs Duty at the time of its domestic clearance.



**22.** Further, it also appears from the foregoing paras that M/s. Om Enterprise have intentionally and willfully mis-stated, suppressed actual facts in collusion with different entities, in contravention to the provisions u/s. 46(4) & (4A) of the Customs Act, 1962 and thereby have evaded duty to the tune of Rs.3,27,30,463/- as discussed supra.

**23.** It also appears from the foregoing paras that M/s. Om Enterprise have and made declarations and produced documents etc., which are false and incorrect in nature. By indulging in these acts during the transaction of their business, M/s. Om Enterprise have rendered themselves to be liable for penalty under Section 112(a) & 112(b) of the Customs Act, 1962.

**24.** It was also found during the course of investigation that Shri Sabu George has failed to exercise proper due diligence in discharging his obligations mandated under Customs Brokers Licensing Regulations, 2018. Shri Sabu George, S/o Shri Kottackal Chacko George, Partner of M/s. Rainbow Shipping Services, in his statement recorded on 03.10.2024 u/s.108 of the Customs Act, 1962 (**RUD-41**) has stated that he has taken KYC of the importer from Shri Kapil Kotiya before preparing the checklist for filing of Bill of Entry but they have not taken the approval of the Importer for the checklist prepared by them. He further stated that he has not contacted or communicated with anyone else except Shri Kapil Kotiya for the import of goods made by M/s. Om Enterprises. The investigation has revealed that the evasion of duty in the case was orchestrated by Shri Kapil Kotiya and other domestic traders of fabrics and in the above scheme the proper discharge of the responsibility entrusted on the Customs Brokers could have proven as an deterrent if Shri Sabu George, Customs Broker would have exercised due diligence in discharging his duties entrusted under CBLR, 2018. By indulging in the above act, Shri Sabu George, G Card bearing number CHM/G/18/2018 dated 29.05.2018 issued by Mundra Customs appears to have committed offence punishable under 117 of the Customs Act, 1962.

## **25. Confiscation of the goods -**

It is evident from the facts divulged during the course of investigation that M/s.Om Enterprise has indulged themselves in mis-declaration and mis-classification of the goods covered under Bills of Entry filed during their imports before APSEZ, Mundra as mentioned below -

S. No.	SEZ B/E No. & Date	SEZ to DTA B/E No. & Dt.	Declared HS CODE / CTH	Declared description of good	Declared Quantity (in Kgs.)	Ass. Value (Rs.)
1	1011061 dt. 20.08.22	2013691 dt.10.09.22	59119090	Textile Coated Fabric	25354	24,47,675/-
2	1011237 dt. 23.08.22	2012671 dt.24.08.22	59119090	Textile Coated Fabric	21438	20,70,911/-
3	1012134 dt.07.09.22	2013801 dt.13.09.22	59119090	Textile Coated Fabric	20696	19,97,992/-
	1012134 dt.07.09.22	2013801 dt.13.09.22	59119090	Glitter Fabric	3794	2,59,443/-
4	1012253 dt.09.09.22	2014640 dt.26.09.22	59119090	Textile Coated Fabric	19614	18,92,359/-
5	1012535 dt. 15.09.22	2014056 dt.19.09.22	59119090	Textile Coated Fabric	25200	24,31,296/-
6	1013244 dt.26.09.22	2015360 dt.07.10.22	59119090	Textile Coated Fabric	21420	21,19,295/-
	1013244 dt.26.09.22	2015360 dt.07.10.22	59119090	Glitter Fabric	2747	1,92,517/-
7	1013940 dt.06.10.22	2015522 dt.11.10.22	59119090	Textile Coated Fabric	25195	24,92,793/-
8	1014717	2017089	59119090	Textile Coated	19266	19,39,701/-

	dt.17.10.22	dt.03.11.22		Fabric		
9	1015306 dt.27.10.22	2017249 dt.05.11.22	59119090	Felt Woven Coated Fabric	24876	26,05,761/-
10	1015307 dt.27.10.22	2016889 dt.01.11.22	59119090	Felt Woven Coated Fabric	24637	25,83,805/-
11	1015514 dt.31.10.22	2008159 dt.11.05.23	59119090	Felt Woven Coated Fabric	25378	26,20,279/-
12	1015513 dt.31.10.22	2017929 dt.16.11.22	59119090	Felt Woven Coated Fabric	25047	26,23,673/-
13	1015612 dt.01.11.22	2017410 dt.08.11.22	59119090	Felt Woven Coated Fabric	24480	25,64,280/-
14	1015777 dt.03.11.22	2017411 dt.08.11.22	59119090	Felt Woven Coated Fabric	25080	26,27,130/-

The investigation conducted in the case has revealed that the goods imported vide above Bills of Entry were PU Coated Fabric, whereas they were mis-declared by M/s. Om Enterprise as Textile Coated Fabric or Felt Woven Coated Fabric or Glitter Fabric. It was also revealed that these goods were also mis-classified and were classified under CTH 59119090, whereas these goods, by virtue of being either PU Coated Fabric merited to be rightly classified under 59039090. By indulging in the above act of mis-declaration and mis-classification, the goods imported vide above Bills of Entry by M/s. Om Enterprise appears to be liable for confiscation under Section 111(m) of the Customs Act, 1962.

**25.1** The investigation conducted in the case has revealed that the Actual Owner/ Beneficial Owner of the goods imported by M/s. Om Enterprise, covered under 14 Bills of Entry which were filed at Adani Ports and Special Economic Zone (INAJM6), Mundra are as detailed below –

Sr. No.	SEZ Bill of Entry No.	SEZ to DTA Bill of Entry No.	CTH NO.	Item Description	Declared Qty (KGS)	Ownership of the Goods
1	1011061 dt.20.08.2022	2013691 dt. 10.09.2022	59119090	TEXTILE COATED FABRIC	25354	M/s AN Enterprises
2	1011237 dt. 23.08.2022	2012671 dt. 24.08.2022	59119090	TEXTILE COATED FABRIC	21438	M/s Jai Maa Enterprises
3	1012134 dt.07.09.2022	2013801 dt.13.09.2022	59119090	TEXTILE COATED FABRIC	20696	M/s Jai Maa Enterprises
4	1012253 dt.09.09.2022	2014640 dt.26.09.2022	59119090	TEXTILE COATED FABRIC	19614	M/s AN Enterprises
5	1012535 dt.15.09.2022	2014056 dt.19.09.2022	59119090	TEXTILE COATED FABRIC	25200	M/s AN Enterprises
6	1013244 dt.26.09.2022	2015360 dt.07.10.2022	59119090	TEXTILE COATED FABRIC	21420	M/s Jai Maa Enterprises
7	1013940 dt. 06.10.2022	2015522 dt.11.10.2022	59119090	TEXTILE COATED FABRIC	25195	M/s Jai Maa Enterprises
8	1014717 dt.17.10.2022	2017089 dt.03.11.2022	59119090	TEXTILE COATED FABRIC	19266	M/s AN Enterprises
9	1015306 dt.27.10.2022	2017249 dt.05.11.2022	59119090	FELT WOVEN COATED FABRIC	24876	M/s Jai Maa Enterprises
10	1015307 dt.27.10.2022	2016889 dt.01.11.2022	59119090	FELT WOVEN COATED FABRIC	24637	M/s Jai Maa Enterprises

11	1015514 dt.31.10.2022	2008159 dt.11.05.2023	59119090	FELT WOVEN COATED FABRIC	25378	M/s AN Enterprises
12	1015513 dt.31.10.2022	2017929 dt.16.11.2022	59119090	FELT WOVEN COATED FABRIC	25047	Shri Banarsi Dass Khatri proprietor of Shree Ganesh Overseas
13	1015612 dt.01.11.2022	2017410 dt.08.11.2022	59119090	FELT WOVEN COATED FABRIC	24480	Shri Banarsi Dass Khatri proprietor of Shree Ganesh Overseas
14	1015777 dt.03.11.2022	2017411 dt.08.11.2022	59119090	FELT WOVEN COATED FABRIC	25080	M/s Jai Maa Enterprises

**PAYMENT OF ANTI-DUMPING DUTY AND INTEREST: -**

26. During the course of investigation, M/s. OM had voluntarily deposited amounts as detailed below against duty liability towards Anti-Dumping Duty. The said amounts were deposited into the Govt. account vide GAR-7/TR-6 Challans as detailed below:

Sr. No.	DD No. & Date	Challan Number & Date	Amount	Remark	RUD No.
1	023120 dt. 13.01.2023	TR6/GAR 7 Challan No. OM/ENQ-01/01 dt.16.01.2023	25,00,000/-	Voluntary Payment of Anti-Dumping Duty	78
2	023121 dt. 13.01.2023	TR6/GAR 7 Challan No. OM/ENQ-01/02 dt.16.01.2023	25,00,000/-	Voluntary Payment of Anti-Dumping Duty	79
3	023363 dt. 28.04.2023	TR6/GAR 7 Challan No. OM/ENQ-01/03 dt.16.01.2023	28,13,680/-	Voluntary Payment of IGST on Anti-Dumping Duty	80
4	055357 dt. 18.10.2024	TR-6/GAR 7 Challan No.OM/01/2024	5,00,000/-	Voluntary Payment of Anti-Dumping Duty	81
5	055372 dt. 23.10.2024	TR-6/GAR 7 Challan No.OM/02/2024	8,00,000/-	Voluntary Payment of Anti-Dumping Duty	82
6	055374 DT. 28.10.2024	TR-6/GAR 7 Challan No.OM/03/2024	6,50,000/-	Voluntary Payment of Anti-Dumping Duty	83
<b>TOTAL DUTY PAID</b>			<b>97,63,680/-</b>		

27. Now, therefore, in respect of goods imported by M/s. Om Enterprise which were seized and released provisionally on submission of Bond and Bank Guarantee as mentioned in Annexure-X at Para 17 to this SCN, **M/s. OM Enterprise (IEC-ARRPK7735L)** situated at C-112/85, Plot No.2/56, East Park Lane, Near Govt. Girls School, Karol Bagh, Delhi-110005, **M/s A N Enterprises**, 6497, Block No. 8, Dev Nagar, Karol Bagh, New Delhi-110005, **M/s Jai Maa Enterprises** 5289, Hardhiyan Singh Road, Karol Bagh, New Delhi-110005 and **Shri Banarsi Dass Khatri**, House No. 6292, T/F, Block-6B, Gali No. 3&4, Near Gurudwara, Dev Nagar, Karol Bagh, New Delhi-110005 are hereby called upon to show cause to the Pr. Commissioner of Customs, Custom House Mundra having his office at 5B, Port User Building, Mundra Port, Mundra, Kutch, Gujarat-370421 within 30 (Thirty) days from the receipt of this notice, as to why :

(i) Goods as mentioned in Annexure-X at Para 17 to this SCN imported vide Bills of Entry having total assessable value of Rs. 1,75,64,629/- (Rupees One Crore Seventy Five Lakh Sixty Four Thousand six Hundred and Twenty Nine only) should not be liable to confiscation as per the provisions of Section 111 (m) of the Customs Act, 1962.

(ii) The declared Classification i.e. 59119990 and description of good "Felt Woven Coated Fabric" in SEZ Bill of Entry No.1015306 dt. 27.10.2022 (SEZ to DTA Bill of Entry No.2017249 dt.05.11.2022), SEZ Bill of Entry No.1015307 dt. 27.10.2022 (SEZ to DTA Bill of Entry No.2016889 dt.01.11.2022), SEZ Bill of Entry No.1015514 dt. 31.10.2022 (SEZ to DTA Bill of Entry No.2008159 dt.11.05.2023), SEZ Bill of Entry No.1015513 dt. 31.10.2022 (SEZ to DTA Bill of Entry No.2017929 dt.16.11.2022), SEZ Bill of Entry No.1015612 dt. 01.11.2022 (SEZ to DTA Bill of Entry No.2017410 dt.08.11.2022) and SEZ Bill of Entry No.1015777 dt. 03.11.2022 (SEZ to DTA Bill of Entry No.2017411 dt.08.11.2022) should not be rejected.

(iii) The declared Classification i.e. 59119990 and description of good "Textile Coated Fabric" imported vide SEZ Bill of Entry No. 1014717 dt. 17.10.2022 (SEZ to DTA Bill of Entry No.2017089 dt.03.11.2022) should not be rejected.

(iv) The goods imported vide above Bills of Entry should not be re-classified under HS CODE/CTI 59032090 and its description should not be considered as Polyurethane (PU) Coated Fabric as mentioned in Annexure-X at Para 17 to this SCN.

(v) The goods Imported vide above Bills of Entry should not be reassessed after considering the differential Customs Duty (BCD+SWS+IGST+ADD+IGST on ADD) of Rs. 2,11,66,372/- (Rupees Two Crore Eleven Lakh Sixty Six Thousand Three Hundred and Seventy Two only) in respect of Bills of Entry as mentioned in Annexure-X at Para 17 to this SCN. The Bill of entry should not accordingly be reassessed under section 17 of Customs Act, 1962.

(vi) The differential Customs Duty of Rs. 2,11,66,372/- (Rupees Two Crore Eleven Lakh Sixty Six Thousand Three Hundred and Seventy Two only) in respect of Bills of Entry as mentioned in Annexure-X at Para 17 to this SCN should not be recovered by enforcing the Bond and Bank Guarantee submitted by the Importer for securing the provisional release of goods.

**28.** Now, therefore, in respect of past consignment of M/s. Om Enterprise wherein the goods were cleared as mentioned in Annexure-Y at Para 17.1 to this SCN, **M/s. OM Enterprise (IEC-ARRPK7735L)** situated at C-112/85, Plot No.2/56, East Park Lane, Near Govt. Girls School, Karol Kagh, Delhi-110005, **M/s A N Enterprises**, 6497, Block No. 8, Dev Nagar, Karol Bagh, New Delhi-110005 and **M/s Jai Maa Enterprises** 5289, Hardhiyan Singh Road, Karol Bagh, New Delhi-110005 are hereby called upon to show cause to the Pr. Commissioner of Customs, Custom House Mundra having his office at 5B, Port User Building, Mundra Port, Mundra, Kutch, Gujarat-370421 within 30 (Thirty) days from the receipt of this notice, as to why:

(i) The declared Classification under HSN/CTH 59119990 against the description of goods "Textile Coated Fabric" and declared Classification 59050090 against the description of goods "Glitter Fabric" as mentioned in Annexure-Y at Para 17.1 to this SCN should not be rejected.

(ii) The goods imported vide above Bills of Entry as mentioned in Annexure-Y at Para 17.1 should not be re-classified under HS CODE/ CTH 59032090 and its description should not be considered as "Polyurethan (PU) Coated Fabric".

(iii) The differential Customs Duty (BCD+SWS+IGST+ADD+IGST on ADD) of Rs. 1,15,64,091/- (Rupees One Crore Fifteen Lakh Sixty Four Thousand and Ninety One only) in respect of above Bills of Entry as also mentioned in Annexure-Y at Para 17.1 to this SCN should not be demanded under the provision of Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28(AA) of the Customs Act, 1962 and the same should not be recovered from the **Actual Owner/ Beneficial Owner** of the imported goods as mentioned in the Table at Para 24.1 of the report.

(iv) Goods imported vide above Bills of Entry as mentioned in Annexure-Y at Para 17.1 of the report, having assessable value of Rs. 1,59,04,280/- (Rupees One Crore Fifty Nine Lakh Four Thousand and Eighty only) should not be held liable to confiscation as per the provisions of Section 111 (m) of the Customs Act, 1962.

(v) The differential Duty liability of Rs. 1,15,64,091/- (Rupees One Crore Fifteen Lakh Sixty Four Thousand and Ninety One only) should not be adjusted from the Voluntary Payment of Rs. 97,63,680/- (Rupees Ninety Seven Lakh Sixty Three Thousand Six Hundred and Eighty only) deposited by them.

**29.** Now, therefore, the following persons/companies/firms/concerns as appearing in column 2 of the following table and in view of the discussed roles in the above paras of Show Cause Notice, are hereby individually and separately called upon to show cause in writing to the Pr. Commissioner of Customs, Custom House Mundra having his office at 5B, Port User Building, Mundra Port, Mundra, Kutch, Gujarat-370421 within 30 (Thirty) days from the receipt of this notice, as to why penalty should not be imposed on each of them individually under below mentioned penal provisions, separately of the Customs Act, 1962 (as appearing at column 3 to 7 of the table)

Sr No	Name(Sh/Ms/Smt/M/s)	Penal provisions under Customs Act, 1962				
		(3)	(4)	(5)	(6)	(7)
1	<b>M/s. Om Enterprises</b>	112(a)	112(b)			

2	<b>Shri Hari Kishan,</b> Proprietor of M/s Om Enterprises					117
3	<b>Shri Arun Jyoti,</b> Partner of M/s. Jai Maa Enterprise	112(a)	112(b)		114AA	
4	<b>Shri Amit Jain,</b> Proprietor of M/s. A.N. Enterprise	112(a)	112(b)		114AA	
5	<b>Shri Banarsi Dass Khatri,</b> Proprietor of M/s. Shree Ganesh Overseas	112(a)	112(b)		114AA	
6	<b>Shri Kapil Kotiya,</b> proprietor of M/s Ocean Logistics	112(a)	112(b)		114AA	
7	<b>Shri Sabu George,</b> G Card Holder					117
8	<b>M/s. Jai Maa Enterprises</b>			114A		
9	<b>M/s A N Enterprises</b>			114A		

**29.** The noticees are further called upon to intimate in writing as to whether they wish to be heard in person by the adjudicating authority before the case is adjudicated within 30 days from the date of receipt of this show cause notice. If no reply of this notice is received and / or they fail to appear before the adjudicating authority, when the case is posted for hearing, the case will be decided ex-parte on the basis of the evidences available on record without any further notice to them.

**30.** This Show Cause Notice is issued without prejudice to any other action that may be taken against the noticee / noticees mentioned hereinabove or any other persons / firms connected with the case under the Customs Act, 1962 or any other law for the time being in force.

**31.** Scanned copy of the Relied Upon documents stored in a CD is also attached with this Show Cause Notice.

**32.** The Noticee (s) have an option to make an application under Section 127B of the Customs Act, 1962 prior to adjudication of the case to the Hon'ble Settlement Commission to have the case settled in such form and in such manner specified in the rules.



**33.** The department also reserves its right to amend, modify or supplement this notice at any time prior to the adjudication of the case.

  
(K. ENGINEER)

**Pr. Commissioner of Customs,  
Custom House, Mundra**

**Enclosures- RUD's**

**Noticee:**

1. M/s Om Enterprises, at C-112/85, Plot No.2/56, East Park Lane, Near Govt. Girls School, Karol Bagh, New Delhi - 110005
2. Shri Hari Kishan, Proprietor of M/s Om Enterprises, at C-112/85, Plot No.2/56, East Park Lane, Near Govt. Girls School, Karol Bagh, New Delhi - 110005
3. Shri Arun Jyoti, Partner of M/s. Jai Maa Enterprise situated at 5289, Hardhiyan Singh Road, Karol Bagh, New Delhi and residing at D-11, Upper Ground Floor, Kirti Nagar, New Delhi-110005.
4. Shri Amit Jain, Proprietor of M/s A.N. Enterprises, 6497, Block No.8, Dev Nagar, Karol Bagh, New Delhi - 110005
5. Shri Kapil Kotiya, S/o Shri Ratan Lal, Proprietor of M/s Ocean Logistics, 212, Vishal Tower, District Center, Janakpuri, New Delhi - 110058 residing at B-6, 215-216, Upper First Floor, Rohini Sector-3, New Delhi-110085.
6. Shri Banarsi Dass Khatri, Proprietor of M/s. Shree Ganesh Overseas, situated at House No. 6292, T/F, Block-6B, Gali No. 3&4, Near Gurudwara, Dev Nagar, Karol Bagh, New Delhi-110005.
7. Shri Sabu George, G-Card Holder and Partner of M/s. Rainbow Shipping Services, Office No.220, Gokul Park Building, 2<sup>nd</sup> Floor, Gandhidham-370201.
8. M/s Jai Maa Enterprises 5289, Hardhiyan Singh Road, Karol Bagh, New Delhi-110005.
9. M/s A.N. Enterprises, 6497, Block No. 8, Dev Nagar, Karol Bagh, New Delhi-110005.

**Copy to:**

1. The Additional Director General, DRI, Zonal Unit, Ahmedabad, 15 Magnet Corporate Park, Off S.G. Highway, Near Sola Flyover, Thaltej, Ahmedabd-380054. (Email: driaazu@nic.in)
2. The Additional Director General, Central Economic Intelligence Bureau, 6th Floor, B Wing, Janpath Bhawan, New Delhi-110001 for kind information please.
3. Notice Board
4. DC/EDI, Mundra with request to upload on website
5. Legal/Prosecution Cell