	प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, मुन्द्रा **OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE: MUNDRA, KUTCH** **MUNDRA PORT & SPL ECONOMIC ZONE, MUNDRA-370421** ई-मेल/ E-Mail: group5-mundra@gov.in	
A	फा /.सं .FILE NO.	CUS/APR/INV/739/2025-Gr 5-6-O/o Pr Commr-Cus-Mundra
B	मूल आदेश सं. ORDER-IN- ORIGINAL NO.	MCH/ADC/ZDC/386/2025-26
C	द्वारा पारित किया गया PASSED BY	**Dipak Zala,** Additional Commissioner of Customs, Custom House, Mundra
D	आदेश की तिथि DATE OF ORDER	19-11-2025
E	जारी करने की तिथि DATE OF ISSUE	19-11-2025
F	कारण बताओ नोटिस संएवं तिथि . SCN NO. & DATE	Importer requested for SCH & PH Waiver
G	नोटिसीपार्टी / आयातक/ NOTICEE/PARTY/ IMPORTER	M/s. BCM Enterprises (IEC No. GMNPS5095A) G-79, Vijay Chowk, Office No. B-104, Laxmi Nagar, Delhi – 110092
H	डिन DIN	20251171MO0000159820

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

2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 129A(1) के अंतर्गत प्रपत्र सीए3-में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-
   Any person aggrieved by this Order - in - Original may file an appeal under Section 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:
   "सीमा शुल्क आयुक्त) अपील(, चौथी मंजिल, हुडको बिल्डिंग, ईश्वर भुवन रोड, नवरंगपुरा, अहमदाबाद 380009"
   "The Commissioner of Customs (Appeals), Mundra, 4TH Floor, Hudco Building, Ishwar Bhuvan Road, Navrangpura, Ahmedabad-380009."

3. उक्त अपील यह आदेश भेजने की दिनांक से तीन माह के भीतर दाखिल की जानी चाहिए।
   Appeal shall be filed within three months from the date of communication of this order.

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

5. उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत 5/- रूपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मदसं°-6 के तहत निर्धारित 0.50 पैसे की एक न्यायालय शुल्क स्टाम्प वहन करना चाहिए।
   The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paisa only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.

6. अपील ज्ञापन के साथ ड्यूटि/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये। Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.
7. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और सीमा शुल्क अधिनियम, 1962 के सभी मामलों में

पालन किया जाना चाहिए।
While submitting the appeal, the Customs (Appeals) Rules, 1982 and the Customs Act, 1962 should be adhered to in all respects.

8. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (Appeals) के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।
An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

The consignments covered under the aforesaid Bills of Entry were flagged pursuant to **NCTC Alert No. 2025-26/IMP/2597 dated 06.08.2025**, which indicated potential risks of **mis-declaration and concealment of prohibited or restricted goods**. The importer, **M/s. BCM Enterprises (IEC: GMNPS5095A)**, is a **Delhi-based firm** that filed the Bill of Entry on a **self-filing basis**. This consignment pertains to **container** bearing numbers **HPCU4793280** lying at **FAST TRACK CFS Pvt. Ltd., Adani Port SEZ, Mundra**.

A summary of the goods as declared in the **invoice, packing list, and Bill of Entry No. 3688463 dated 04.08.2025** is provided in the table below.

Sr. No.	Product Name / Description	CTNS/PLT	QTY	UQC	N.W. (KG)	G.W. (KG)
1	BEARING (CTH 84821090)	700	3402	GRS	12985	13447
2	ZIPPER (CTH 96071990)	350	10127	KGS	10127	10386
3	POLYESTER KNITTED FABRIC (CTH 60063400)	28	658	KGS	654	674
4	BIKE ACCESSORIES (CTH 87149990)	70	1750	PCS	1321	1340
5	DECORATIVE ACCESSORIES (CTH 95059090)	15	563	KGS	563	573
6	MOLD (CTH 84807900)	1	315	KGS	315	342
	TOTAL	**1164**			**25965**	**26762**

The consignment was examined on 21.08.2025 at the SEZ unit of Fast Track CFS Pvt. Ltd., Adani Port in the presence of Shri Chirag Sudhakar More, Deputy Manager (Operations), Fast Track CFS, and Shri Narendersinh Gamubha Jadeja, Authorized Representative of M/s. BCM Enterprises.

External inspection revealed no signs of tampering or hidden cavities, and all seal numbers matched those declared in the respective Bills of Lading. The container was then opened, destuffed, and goods were arranged and examined in detail against the corresponding invoice, packing list, and Bill of Entry to verify quantity, weight, description, and packing marks.

2. Action taken / Examination findings:

2.1 Regarding Bill of Entry (BE) 3688463 dated 04.08.2025, the declared weight is 26,762 kgs. The SEZ Unit weight slip shows 28,070 kgs, and the weight found during examination is 27,920 kgs. The following observations are made during the examination, which compared the BE and the packing list.

Table-A

Sr. No.	Product Name	Declared CTNS	Declared QTY	Mark	Description Found	Found CTNS	Found QTY	Remarks
1	Bearing	700	3402 kgs			155	3200 kgs	**545 CTNS less**
2	Zipper	350	10127 kgs			100	3000 kgs	**250 CTNS less**
3	Polyster Knitted Fabric	28	658 kgs			Type A 604 ROLLS	14,710 kgs	**676 ROLLS Extra**
						Type B 100 ROLLS	3000 kgs	
4	Decorative Accessories	15	563 kgs			15	540 kgs	
5	Mold	1	315 kgs			1	320 kgs	
6	Bike Accessories	70	1750 PCS	SY	OPTIMA MOTOR	155	3150 KGS	**Total 187 CTNS found, total PCS 3900. Total Weight 3150 KGS**
				SY 7	BENDING LOCK SET	3		
				SY5	BIG TANK LOCK SET	6		
				SY4	BIG TANK LOCK SET	4		
				SY3	LOADER LOCK SET	3		
				SY 6	MAGNUS LOCK SET	1		
				SY 8	BIG SHUTTER LOCK SET	3		
				SY 8	ABS LOCK SET	3		
				SY1	CLIPER LIFT	3		

				SY 16	L&R SWITCH BAR	1		
				SY 15	SWITCH BAR VESAP	2		
				SY 9	MC KIT	3		

2.2 Item-wise scrutiny reveals **misdeclaration**. In the case of bearings, only 155 cartons weighing 3,200 kgs are found against 700 cartons declared, resulting in a shortage of 545 cartons. Similarly, for zippers, only 100 cartons weighing 3,000 kgs are found against 350 cartons (10,127 kgs) declared, reflecting a shortage of 250 cartons. In contrast**, for polyester knitted fabric, 676 rolls weighing 14,710 kgs (Type A) and 100 rolls weighing 3,000 kgs (Type B) are found against the declaration of merely 28 cartons (658 kgs), showing large-scale excess quantity.** For bike accessories, 187 cartons containing 3,900 pcs weighing 3,150 kgs are found against the declaration of 70 cartons with 1,750 pcs, indicating excess quantity.

2.3 In the case of the **Polyester Knitted Fabric**, the exact nature and characteristics of the material cannot be ascertained through visual examination. Accordingly, representative samples are drawn in triplicate for laboratory testing to determine the precise nature and composition of the goods, in the presence of the aforementioned persons.

3. <u>Investigations Conducted:-</u>

3.1 After that the sample send for testing purpose to CRCL, Kandla vide test memo no. 174/26.08.2025 dated 27.08.2025 for type A Fabric and Test Memo no. 175/26.08.2025 dated 27.08.2025 for type B Fabric.

The CRCL, Kandla vide **Lab No : 4909 dated 17.09.2025 for type A Fabric** reported the findings as detailed in Table below:-

Sr. No.	B/E No. and date	Report
1	3688463 dated 04.08.2025	The sample as received is in the form of cut piece of yarn dyed check designed woven fabric. It is composed of polyester filament yarn (non-textured). GSM (as such) = 106.124 Width (selvedge to selvedge) = 151 cm It other than knitted fabrics. Hazardous dye (Banned Aromatic Amines) not detected in the sample. Note = A separate report is issued for NABL Accredited parameters.

3.2 Test Reports in respect of BE no. 3688463 dated 04.08.2025 were shared with the importer vide e-mail dated 25.09.2025 and the importer not submitted any reply in this matter. As per the test report, the goods have been found to be "100% Non-texturized polyester filament woven fabric" falling under HS Code 540761. Four digits Heading 5407 pertains to "Woven fabric of synthetic filament yarn, including woven fabrics obtained from materials of heading 5404". Under HS Code 540761 (which pertains to containing 85% or more by weight of non-textured polyester filament), three CTH are

there, 54076110 (Polyester Shirtings), 54076120 (Polyester Suitings) and 54076190 (Other), duties in all these CTH are same.

The importer has declared the goods as "Polyester Knitted Fabrics" under CTH 60063400 and as per the test report, the goods have been described as "100% Non-texturized polyester filament woven fabric". Though there is variation in description declared by the importer, both these fall under different CTH and accordingly, duty may be calculated based on the correct classification of the imported goods.

3.3 Sample send for testing purpose to CRCL, Kandla vide test memo no. **175/26.08.2025 dated 27.08.2025 for type B Fabric**. The CRCL, Kandla **vide Lab No : 4910 dated 23.09.2025 for type B Fabric**, reported the findings as detailed in Table below:-

Sr. No.	B/E No. and date	Report
1	3688463 dated 04.08.2025	The sample as received is in the form of a cut piece of printed knitted fabric. It is composed of polyester filament yarn (non-textured) together with lycra (without selvedge). GSM (as such) = 162.23 % Composition Total polyester = 93.66% Lycra= Balance. Hazardous dye (Banned Aromatic Amines) not detected in the sample. Note = A separate report is issued for NABL Accredited parameters.

3.4 The test report was shared with the importer vide e-mail dated 25.09.2025; however, no reply has been received from their end. As per the test results, the goods were identified as "Non-texturized polyester filament printed knitted fabric", classifiable under HS Code 60063400. CTH Heading **6006** covers **"Other knitted or crocheted fabrics,"** and sub-heading 60063400 specifically pertains to printed knitted fabric. The importer had declared the goods as "Polyester Knitted Fabrics" under the same CTH, which is consistent with the findings of the test report.

3.5 As per the test reports and Customs Tariff, most appropriate CTH for the goods imported by the importer appears to be declared as above are not correct. The correct classification of the goods are as under:-

Table-B

Sr. No	**BE No. & Container Number**	**Type of Fabric Rolls**	**Description of Goods - As per Test Report**	**Correct HSN**
1	3688463 dated 04.08.2025 (HPCU4793280)	1st (Type A)	"100% Non-texturized polyester filament woven fabric"	54076190
		2nd (Type B)	"Non-texturized polyester filament printed knitted fabric"	60063400

3.6 In view of the above, Shri Rahul Sharma, proprietor of M/s. BCM Enterprises, in his statement dated 25.09.2025 has accepted the test report. Accordingly, it appears that the importer has misclassified and misdeclared the goods in respect of their nature, composition, description and quantity. The imported goods, declared as "Polyster Knitted Fabric (CTH 60063400)" in the said Bill of Entry, thus appear to be incorrectly declared.

3.7 The importer declared the goods as **"Decorative Accessories (CTH 95059090)"**, which fall under the category of festive, carnival, or other entertainment articles. However, upon physical examination, it was found that the goods were actually **artificial flowers (CTH 67021090)**. Although there is a variation in the description and the goods fall under different Customs Tariff Headings (CTH), the rate of duty applicable under both classifications is the same.

3.8 <u>Rejection of declared value & Redetermination of Assessable Value</u>:

Rule 3 of the Customs Valuation (Determination of Price of Imported Goods) Rules, 2007 (hereinafter referred to as "the CVR, 2007") provides the method of valuation. Rule 3(1) of the CVRs, 2007 provides that subject to Rule 12, the value of imported goods shall be the transaction value adjusted in accordance with provisions of Rule 10. Rule 3(4) ibid states that if the value cannot be determined under the provisions of sub-rule (1), the value shall be determined by proceeding sequentially through Rule 4 to 9 of CVR, 2007. Whereas, it appears that, transaction value in terms of Rule 3 of the CVR, 2007, is to be accepted only where there are direct evidences with regard to the price actually paid or payable in respect of the imported goods by the importer. Whereas, in the present case, it appears that, there is reasonable doubt regarding the truth and accuracy of the declared value as the goods have been found to be mis-declared in terms of quantity, and hence the transaction value appears to be liable to be rejected in terms of Rule 12 of the CVR, 2007. Since the items found during the examination with no specification, the valuation of the same could not be determined in terms of Rule 4 to 8 of the CV Rules, ibid. Therefore, valuation of the goods appears liable to be done under residual method of valuation provided under Rule 9 of the CV Rules *ibid* and accordingly, opinion of the empanelled Chartered Engineer was sought for determination of the value of the imported goods. The Chartered Engineer vide his Report No. – VC/CFS/MUN/BE/@TKSUYG884*/3688463/X/2025-26 Date: 10/10/2025 has suggested the value of the imported goods as **86533.25 USD** as detailed in Table-C below:-

Table-C

VALUATION TABLE (1 USD = 86.80 INR)

Sr. No.	Particular/Description of goods as submitted	QTY PCS/CTNS/KGS/SET as found during examination	Total Weight (in Kgs.)	INVOICE VALUE CIF (IN USD)	SUGGESTIVE PRESENT CIF VALUE IN USD
1	BEARING	155 CTNS (755 GRS)	3200 KGS	2.35×3402=7994.70	16.75×755=12646.25
2	ZIPPER	100 CTNS	3000 KGS	0.58×10127=5873.66	1.00×3000=3000.00

3	POLYESTER KNITTED FABRIC	Type A (604 ROLLS)	14710 KGS	3.50×658=2303.00	3.50×14710=51485.00
		Type B (100 ROLLS)	3000 KGS		3.50×3000=10500.00
4	BIKE ACCESSORIES	OPTIMA MOTOR (BLDC Hub Motor) (155 CTN) (250 Pcs)	3150 KGS (Total Pcs 3900)	0.22×1750=385.00	12.00×250=3000.00
		BENDING LOCK SET SY-7 (3 CTN) (300 Pcs)			1.75×300=525.00
		BIG TANK LOCK SET SY-4 (6 CTN) (600 Pcs)			1.50×600=900.00
		BIG TANK LOCK SET SY-5 (4 CTN) (400 Pcs)			1.50×400=600.00
		LOADER LOCK SET SY-3 (3 CTN) (300 Pcs)			1.25×300=375.00
		MAGNUS LOCK SET SY-6 (1 CTN) (100 Pcs)			1.25×100=125.00
		BIG SHUTTER LOCK SET SY-8 (3 CTN) (300 Pcs)			1.75×300=525.00
		ABS LOCK SET SY-2 (3 CTN) (300 Pcs)			1.50×300=450.00
		CALIPER DISC SY-1 (2 CTN) (100 Pcs)			2.00×100=200.00
		L&R SWITCH BAR SY-1 (1 CTN) (60 Pcs)			0.80×50=40.00
		SWITCH BAR VESPA SY-7 (2 CTN) (200 Pcs)			1.00×200=200.00
		MC KIT SY9 3 CTN (100 Pcs)			0.25×1000=250.00
		SUB TOTAL OF BIKE ACCESSORIES			7190
5	DECORATIVE ACCESSORIES	15 CTNS	540 KGS	0.60×563=337.80	0.80×540=432.00
6	MOLD	1 CTNS	320 KGS	0.65×315=204.75	4.00×320=1280.00

		TOTAL		**17098.91**	**86533.25**

3.9 On the basis of CE report, the Assessable Value of the goods imported by the importer comes **to Rs. 75,11,086.00/-** as follows:-

Table-D

Sr. No.	**Total CIF Value in USD**	**Assessable Value in INR (Exch. Rate = 86.8 INR)**
1	86,533.25	75,11,086/-
Total		**75,11,086/-**

3.10 The duty on the imported goods requires re-determination based on the applicable rates. Accordingly, there appears to be a case of non/short levy of Customs duty as declared by the importer. The details of duty re-determined/calculated on the basis of test reports are furnished in **Table-F** below:-

Table-F

Sr. No.	**Particular/Description of goods as submitted**	**QTY PCS/CTNS/KGS/SET as found during examination**	**Assessable Value**	**BCD (7.5%)**	**SWS (10%)**	**IGST (18%)**	**Total**
1	BEARING (CTH 84821090)	155 CTNS (755 GRS)	10,97,695	82,327	8,233	2,13,886	3,04,446

Sr. No.	**Particular/Description of goods as submitted**	**QTY PCS/CTNS/KGS/SET as found during examination**	**Assessable Value**	**BCD (10%)**	**SWS (10%)**	**IGST (12%)**	**Total**
2	ZIPPER (CTH 96071990)	100 CTNS	2,60,400	26,040	2,604	34,685	63,329

Sr. No.	**Particular/Description of goods as submitted**	**QTY PCS/CTNS/KGS/SET as found during examination**	**Assessable Value**	**BCD (20% or 150 Rs per kg)**	**SWS (10%)**	**IGST (5%)**	**Total**
		Type A (604 ROLLS) Non-texturized polyester filament woven fabric (54076190) (GSM 106.124 and 14,710 KG		22,06,50			

		S)	44,68,898	0	2,20,650	3,44,802	27,71,952
3	Fabric	**QTY PCS/CTNS/KGS/SET as found during examination**	**Assessable Value**	**BCD (20% or 115 Rs per kg)**	**SWS (10%)**	**IGST (5%)**	**Total**
		Type B (100 ROLLS) Non-texturized polyester filament printed knitted fabric (60063400) (GSM 162.23 and 3000 KGS)	9,11,400	3,45,000	34,500	64,545	4,44,045

Sr. No.	**Particular/Description of goods as submitted**	**QTY PCS/CTNS/KGS/SET as found during examination**	**Assessable Value**	**BCD (20%)**	**SWS (10%)**	**IGST (28%)**	**Total**
4	BIKE ACCESSORIES (CTH 87149990)	OPTIMA MOTOR (BLDC Hub Motor) (155 CTN) (250 Pcs)	2,60,400	52,080	5,208	88,953	1,46,241
		BENDING LOCK SET SY-7 (3 CTN) (300 Pcs)	45,570	9,114	911	15,567	25,592
		BIG TANK LOCK SET SY-4 (6 CTN) (600 Pcs)	78,120	15,624	1,562	26,686	43,872
		BIG TANK LOCK SET SY-5 (4 CTN) (400 Pcs)	52,080	10,416	1,042	17,791	29,248
		LOADER LOCK SET SY-3 (3 CTN) (300 Pcs)	32,550	6,510	651	11,119	18,280
		MAGNUS LOCK SET SY-6 (1 CTN) (100 Pcs)	10,850	2,170	217	3,706	6,093
		BIG SHUTTER LOCK SET SY-8 (3 CTN) (300 Pcs)	45,570	9,114	911	15,567	25,592
		ABS LOCK SET SY-2 (3 CTN) (300 Pcs)	39,060	7,812	781	13,343	21,936
		CALIPER DISC SY-1 (2 CTN) (100 Pcs)	17,360	3,472	347	5,930	9,749
		L&R SWITCH BAR SY-1 (1 CTN) (60 Pcs)	3,472	694	69	1,186	1,950
		SWITCH BAR VESPA					

		SY-7 (2 CTN) (200 Pcs)	17,360	3,472	347	5,930	9,749
		MC KIT SY9 3 CTN (1 00 Pcs)	21,700	4,340	434	7,413	12,187

Sr. No.	Particular/D escription of goods as sub mitted	QTY PCS/CTNS/KG S/SET as found durin g examination	Assessable Value	BCD (2 0%)	SWS (10%)	IGST (18 %)	Total
5	DECORATI VE ACCESS ORIES Artifi cal Flowers (CTH 670210 90)	15 CTNS	37,498	37,498	3,750	14,174	55,421

Sr. No.	Particular/D escription of goods as sub mitted	QTY PCS/CTNS/KG S/SET as found durin g examination	Assessable Value	BCD (7 .5%)	SWS (10%)	IGST (18 %)	Total
6	MOLD (CTH 84807900)	1 CTNS	1,11,104	8,333	833	21,649	30,815
Gra nd Tot al			**75,11,086**	**28,30,51 6**	**2,83,052**	**9,06,931**	**40,20,498**

3.11 Statement of Shri Rahul Sharma, proprietor, M/s. BCM Enterprises, G-79, Vijay Chowk, Office No. B-104, Laxmi Nagar, Delhi – 110092, recorded on 25.09.2025, He perused the CRCL, Kandla, Lab Test Reports Nos. 4909 dated 17.09.2023 and 4910 dated 23.09.2025 and agreed with the findings given in report. In the statement, he inter-alia stated that:-

- The proprietor, in his statement, agreed with the examination findings and stated that the shortage appeared to have occurred due to an error or omission at the supplier's end, as the actual shipment did not match the quantities declared in the invoice and shipping documents. In respect of **Polyester Knitted Fabric**, which was found in **huge excess — 676 rolls (14,710 kgs, Type A) and 100 rolls (3,000 kgs, Type B)** against the declared **28 cartons (658 kgs)**, he explained that the excess quantity seemed to have been shipped **inadvertently by the overseas supplier**, and he had **no prior knowledge** of the excess at the time of filing the Bill of Entry.
- In view of the repeated mis-declarations observed across all three Bills of Entry, including shortages, excess quantities, undeclared items, and substitution of goods, the proprietor stated that they had no role in these discrepancies and were unaware of any mis-declarations at the time of filing the Bills of Entry. He further explained that the

discrepancies appeared to have arisen due to miscommunication and lapses at the supplier's end.

- When asked to clarify whether the discrepancies were due to a supplier's error, intentional misdeclaration, or any other reason, the proprietor stated that the discrepancies were solely due to errors on the part of the supplier. He further affirmed that there was no intention to misdeclare or conceal any goods and submitted the relevant purchase orders and correspondence with the supplier to substantiate his explanation.
- When asked whether he accepted the findings of the examination report regarding shortages, excess quantities, and mis-declarations under all three Bills of Entry, and whether he was willing to accept the revised classification, valuation, and pay applicable duty, fine, and penalty, the proprietor stated that they accept the findings of the Customs examination report. He further confirmed that they are willing to accept the revised classification and valuation as determined by Customs and undertake to pay all applicable duty, fine, and penalty as may be imposed. He also requested that the matter be settled without issuance of a Show Cause Notice and personal hearing.
- During the course of the statement, he stated that he had perused the test reports received from CRCL, Kandla, and confirmed that he fully agrees with the findings mentioned therein.

4. RELEVANT LEGAL PROVISIONS:

(A) RELEVANT PROVISIONS OF SEZ ACT, 2005:

2. Definitions.— In this Act, unless the context otherwise requires,—

……..

(o) "**import"** means—

(i) bringing goods or receiving services, in a Special Economic Zone, by a Unit or Developer from a place outside India by land, sea or air or by any other mode, whether physical or otherwise; or

(ii) receiving goods, or services by a Unit or Developer from another Unit or Developer of the same Special Economic Zone or a different Special Economic Zone;

Section 21: Single enforcement officer or agency for notified offences.—

1. *The Central Government may, by notification, specify any act or omission made punishable under any Central Act, as notified offence for the purposes of this Act.*
2. *The Central Government may, by general or special order, authorise any officer or agency to be the enforcement officer or agency in respect of any notified offence or offences committed in a Special Economic Zone.*
3. *Every officer or agency authorised under sub-section (2) shall have all the corresponding powers of investigation, inspection, search or seizure as is provided under the relevant Central Act in respect of the notified offences.*

Section 22: Investigation, inspection, search or seizure.—

The agency or officer, specified under section 20 or section 21, may, with prior intimation to the Development Commissioner concerned, carry out the investigation, inspection, search or seizure in the Special Economic Zone or in a Unit if such agency or officer has reasons to believe (reasons to be recorded in writing) that a notified offence has been committed or is likely to be committed in the Special Economic Zone:

Provided that no investigation, inspection, search or seizure shall be carried out in a Special Economic Zone by any agency or officer other than those referred to in sub-section (2) or sub-section (3) of section 21 without prior approval of the Development Commissioner concerned:

Provided further that any officer or agency, if so authorised by the Central Government, may carry out the investigation, inspection, search or seizure in the Special Economic Zone or Unit without prior intimation or approval of the Development Commissioner

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

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

47 (5) *Refund, Demand, Adjudication, Review and Appeal with regard to matters relating to authorise operations under Special Economic Zones Act, 2005, transactions, and goods and services related thereto, shall be made by the Jurisdictional Customs and Central Excise Authorities in accordance with the relevant provisions contained in the Customs Act, 1962, Central Excise Act, 1944, and the Finance Act, 1994 and the rules made thereunder or the notifications issued thereunder.*

(B) RELEVANT PROVISIONS OF CUSTOMS ACT, 1962:

Section 2(22)*: "goods" includes (a) vessels, aircrafts and vehicles; (b) stores; (c) baggage; (d) currency and negotiable instruments; and (e) any other kind of movable property;*

Section 2(23): *"import", with its grammatical variations and cognate expressions,*

means bringing into India from a place outside India;

Section 2(25): *"imported goods", means any goods brought into India from a place outside India but does not include goods which have been cleared for home consumption;*

Section 2(26): "*importer*", *in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes [any owner, beneficial owner] or any person holding himself out to be the importer;*

Section 2(39): *"smuggling", in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113.*

Section 11A: *"illegal import" means the import of any goods in contravention of the provisions of this Act or any other law for the time being in force.*

Section 17. Assessment of duty. –

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

..

(4) Where it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.

Section 46. Entry of goods on importation:

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

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

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

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

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

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

--

(l) *any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;*

(m) *any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54;*

Section 112. Penalty for improper importation of goods, etc. –

Any person,-

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

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

shall be liable,-

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

114AA. Penalty for use of false and incorrect material—

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

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

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

……..

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

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

Provided that ……..

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

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

5. <u>Summary of Investigations Conducted</u>:

5.1 The consignments covered under the aforesaid Bills of Entry were flagged pursuant to NCTC Alert No. 2025-26/IMP/2597 dated 06.08.2025, indicating potential risks of mis-declaration and concealment of prohibited or restricted goods. The importer, M/s. BCM Enterprises (IEC: GMNPS5095A), a Delhi-based firm, had filed the Bills of Entry on a self-filing basis. The consignments pertain to Bills of Entry No. 3688463 dated 04.08.2025, covering container No. HPCU4793280, lying at Fast Track CFS Pvt. Ltd., Adani Port SEZ. The examination of the consignments was conducted on 21.08.2025 at the SEZ unit of Fast Track CFS Pvt. Ltd., Adani Port.

5.2. Whereas, based on the examination report of BE 3688463 dated 04.08.2025 (declared weight 26,762 kgs; SEZ unit weight 28,070 kgs; examined weight 27,920 kgs) revealed discrepancies between the Bill of Entry and the packing list. Bearings were found short, with 155 CTNS (3,200 kgs) against 700 CTNS (3,402 kgs) declared, and zippers also short, 100 CTNS (3,000 kgs) against 350 CTNS (10,127 kgs) declared. In contrast, polyester knitted fabric showed large excess, with 676 rolls (14,710 kgs, Type A) and 100 rolls (3,000 kgs, Type B) against 28 CTNS (658 kgs) declared. Bike accessories were also in excess, 187 CTNS containing 3,900 pcs (3,150 kgs) versus 70 CTNS (1,750 pcs) declared. Minor discrepancies were noted for decorative accessories and mold. Overall, the examination indicates **misdeclaration** with shortages in bearings and zippers and excesses in polyester fabric and bike accessories.

5.3 For BE 3688463 dated 04.08.2025, the imported samples were sent to **CRCL, Kandla** for testing (Test Memos 174 & 175, Lab Nos. 4909 & 4910). The first sample (Type A) was found to be **100% non-texturized polyester filament woven fabric** with GSM 106.12 and width 151 cm, falling under **HS Code 54076190**, while the second sample (Type B) was identified as **non-texturized polyester filament printed knitted fabric** containing 93.66% polyester and Lycra balance (GSM 162.23), classifiable under **HS Code 60063400**. No hazardous dyes (banned aromatic amines) were detected in either sample. The importer had declared both types as "Polyester Knitted Fabrics" under CTH 60063400, which is only correct for Type B. On verification, the importer, Shri Rahul Sharma of M/s BCM Enterprises, accepted the test reports, confirming that **Type A was misclassified and misdeclared**. Consequently, the imported goods reflect misdeclaration in terms of **nature, composition, description, and quantity**, and the goods should be assessed under the correct CTHs, i.e., 54076190 for Type A and 60063400 for Type B.

5.4 These facts have been admitted in his statement by Shri Rahul Sharma, proprietor of M/s BCM Enterprises, Delhi, recorded on 25.09.2025, confirmed that he has reviewed the CRCL, Kandla test reports Nos. 4909 & and fully agrees with their findings. He stated that the shortages and excesses observed in the Bills of Entry, including 676 rolls (14,710 kgs, Type A) and 100 rolls (3,000 kgs, Type B) of polyester fabric against 28 cartons (658 kgs) declared, arose due to errors or omissions by the overseas supplier,

and he had no prior knowledge of these discrepancies at the time of filing. He denied any intention to misdeclare or conceal goods, submitted purchase orders and correspondence to substantiate his explanation, and accepted the findings of the Customs examination report. He further confirmed his willingness to accept the revised classification, valuation, and pay all applicable duty, fines, and penalties, while requesting settlement without issuance of a Show Cause Notice or personal hearing.

5.5. Thus, by the act of omission and commission at the level of importer, it appears that, the importer has contravened the provisions of Section 46 and Section 17 of the Customs Act, 1962, in as much as, they failed to make correct and true declaration and information to the Customs Officer in the form of Bill of Entry and also failed to assess their duty liability correctly and accordingly the goods imported by the importer appear liable to be confiscation under Section 111(l) and Section 111(m) of the Customs Act, 1962 and the importer M/s. BCM Enterprises have rendered themselves liable for penalty under Section 112(a)(ii) of the Customs Act, 1962. Further, it appears that the importer has used Bill of Lading, invoices and packing list while filing Bill of Entry, these documents contain incorrect or false material particulars regarding the quantity, and description of the goods imported by them. Accordingly, the importer appears to have rendered themselves liable for penalty under Section 114AA of the Customs Act, 1962.

6. Shri Rahul Sharma, proprietor of M/s BCM Enterprises, in his statement recorded on 25.09.2025, has affirmed that he fully concurs with the findings detailed in the examination report as well as the laboratory test reports. He clarified that the shortages and excesses observed in the respective Bills of Entry occurred due to inadvertent errors or omissions on the part of the overseas supplier. Shri Rahul Sharma further stated that he had no prior knowledge of these discrepancies at the time of filing the Bills of Entry and that there was no intention on his part to misdeclare or conceal any information. He also expressed his complete willingness to accept the revised customs classification and valuation of the goods as determined by the authorities. Moreover, he confirmed his readiness to pay all applicable customs duties, fines, and penalties arising from these discrepancies. In this context, Shri Sharma requested that the matter may be settled administratively, without the need for issuance of a Show Cause Notice or the conduct of a personal hearing, relying on the bona fide nature of the discrepancies and his proactive approach to compliance.

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PERSONAL HEARING AND SUBMISSIONS

7. The importer M/s. BCM Enterprises vide letter dated 13.11.2025 has submitted the following:

> *"…….we submit that we had imported goods vide Bill of Lading No. SLSNBG05001 Dated 09/07/2025 HBL NO SLSNBG05001A Dated 09/07/2025 and filed Bill of Entry No. 3688463 Dated 04/08/2025*
>
> *The valuation of the said goods has been duly carried out by a Chartered Engineer (CE). We hereby confirm that we fully agree with and accept the value determined by the Chartered Engineer.*
>
> *We also request your kind office to waive the issuance of Show Cause Notice (SCN) and Personal Hearing (PH), and to decide the matter on merits.*

……."

DISCUSSION AND FINDINGS

8. I have carefully gone through the records of the case and Investigation Report No. 168 dated 13.11.2025. The importer vide letter dated 13.11.2025 has requested for waiver of Show Cause Notice and personal hearing in the matter. Thus, I find that the principles of natural justice as provided under Section 122A of the Customs Act, 1962 have been complied with and I proceed to decide the case on the basis of documentary evidence available on record. The main issues to be decided are:

(i) Whether the declared description "Polyester Knitted Fabric" and classification CTH 60063400 for both Type A and Type B fabrics under Bill of Entry No. 3688463 dated 04.08.2025 are liable to be rejected and the goods are liable to be re-classified as "Non-texturized polyester filament woven fabric" under CTH 54076190 for Type A fabric, and "Non-texturized polyester filament printed knitted fabric" under CTH 60063400 for Type B fabric, as per the respective test reports;

(ii) Whether the declared assessable value of **Rs. 14,84,185/-** for the goods under Bill of Entry No. 3688463 dated 04.08.2025 is liable to be rejected under Rule 12 of CVR, 2007 and re-determined as **Rs. 75,11,086/-** as per the Chartered Engineer valuation report in terms of Rule 9 of CVR, 2007;

(iii) Whether the Bill of Entry No. 3688463 dated 04.08.2025 requires re-assessment under Section 17(4) of the Customs Act, 1962 to levy the re-determined duty;

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

(v) Whether penalty under Section 112(a)(ii) and 114AA of the Customs Act, 1962 is imposable on the importer M/s. BCM Enterprises;

9.1 Regarding the first issue, I find that the importer has imported various goods including Polyester Knitted Fabric declared under CTH 60063400 vide Bill of Entry No. 3688463 dated 04.08.2025. Two representative samples (Type A and Type B) were sent to CRCL, Kandla for testing vide Test Memo Nos. 174/26.08.2025 and 175/26.08.2025 both dated 27.08.2025. The first test report Lab No. 4909 dated 17.09.2025 for Type A fabric identified the goods as **"Non-texturized polyester filament woven fabric"** composed of 100% polyester filament yarn (non-textured), with GSM (As such) = 106.124, Width (Selvedge to Selvedge) = 151 cm, it other than knitted fabrics. The second test report Lab No. 4910 dated 23.09.2025 for Type B fabric identified the goods as **"Non-texturized polyester filament printed knitted fabric"** composed of polyester filament yarn (non-textured) together with lycra (without selvedge), with GSM (As such) = 162.23, Total polyester = 93.66%, Lycra = Balance.

9.2 I find that the declared description "Polyester Knitted Fabric" under CTH 60063400 for both types does not accurately describe the actual goods imported. The test reports clearly establish that Type A fabric is "Non-texturized polyester filament woven fabric" which is fundamentally different from knitted fabric. The critical distinction is that Type A goods are woven fabric, not knitted fabric as declared. However, Type B fabric is correctly classified as knitted fabric, though the complete description should be "Non-texturized polyester filament printed knitted fabric". These characteristics were not fully reflected in the declared description.

9.3 I find that as per the test reports and Customs Tariff, the most appropriate CTH for Type A fabric imported by the importer is **CTH 54076190** (Other), while Type B fabric correctly falls under **CTH 60063400**. Heading 5407 pertains to "Woven fabric of synthetic

filament yarn, including woven fabrics obtained from materials of heading 5404". Under HS Code 540761 (which pertains to containing 85% or more by weight of non-textured polyester filament), three CTH are there, 54076110 (Polyester Shirtings), 54076120 (Polyester Suitings) and 54076190 (Other), duties in all these CTH are same. The importer had declared both types of fabric as "Polyester Knitted Fabrics" under CTH 60063400. As per the test reports, Type A goods have been identified as "Non-texturized polyester filament woven fabric" falling under CTH 54076190, while Type B goods are "Non-texturized polyester filament printed knitted fabric" correctly falling under CTH 60063400.

9.4 I find that Shri Rahul Sharma, proprietor of M/s. BCM Enterprises, was informed of the test reports on 25.09.2025 and subsequently accepted the findings in his statement dated 25.09.2025. Accordingly, it appears that the importer has misclassified and misdeclared the Type A fabric goods in respect of their nature, composition and description.

9.5 In view of the above, I hold that in respect of Type A fabric, the declared description "Polyester Knitted Fabric" and declared classification CTH 60063400 are liable to be rejected and the goods are to be re-classified as "Non-texturized polyester filament woven fabric" under CTH 54076190 as per the test report findings. In respect of Type B fabric, while the classification CTH 60063400 is correct, the complete description should be "Non-texturized polyester filament printed knitted fabric" as per the CRCL test report.

10.1 Regarding the second issue, I find that the declared assessable value was **Rs. 14,84,185/-** for the goods covered under Bill of Entry No. 3688463 dated 04.08.2025. However, based on the examination, significant discrepancies were found between the declared quantity and the actual quantity found during examination. The examination found excesses in Fabric 676 rolls (14,710 KGS, Type A) and 100 rolls (3,000 kgs, Type B) against 28 CTNS (658 kgs) declared, showing large-scale excess quantity, and shortages for Bearings (155 CTNS against 700 CTNS declared), Zippers (100 CTNS against 350 CTNS declared), thereby establishing misdeclaration and undeclared goods. For bike accessories, 187 cartons containing 3,900 pcs (3,150 kgs) are found against a declaration of 70 cartons with 1,750 pcs, indicating excess quantity.

10.2 I find that since the goods found on examination differ significantly from the declared goods in terms of description, quantity and nature, the declared value cannot be accepted as the true transaction value. As per Rule 12 of CVR, 2007, when the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, and after receiving further information or in the absence of a response, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such imported goods cannot be determined under the provisions of sub-rule (1) of rule 3.

10.3 I find that as per Rule 3(4) of CVR, 2007, if the value cannot be determined under the provisions of sub-rule (1), the value shall be determined by proceeding sequentially through Rules 4 to 9. The subject consignment comprises goods and in the absence of credible data of import of similar/identical goods due to unique quality of goods and other constraints, the value of these goods cannot be determined under Rules 4 to 8 of CVR, 2007.

10.4 I find that accordingly, the value is to be determined under Rule 9 (Residual method) of CVR, 2007. The empanelled Chartered Engineer was engaged for valuation purposes and vide CE Report No. VC/CFS/MUN/BE/@TKSUYG884*/3688463/X/2025-26 dated 10.10.2025, has provided the valuation of the goods. The Chartered Engineer has determined that the suggestive

CIF value of the goods is **Rs. 75,11,086/-**. The importer vide letter dated 13.11.2025 has accepted the Chartered Engineer valuation report.

10.5 I find that the declared assessable value was **Rs. 14,84,185/-**, whereas the re-determined assessable value as per the Chartered Engineer report is **Rs. 75,11,086/-**, showing an undervaluation of **Rs. 60,26,901/-**. This significant undervaluation, mis-declaration of description and quantity, clearly establishes that the declared value is not acceptable.

10.6 In view of the above, I hold that the declared assessable value of **Rs. 14,84,185/-** is liable to be rejected under Rule 12 of CVR, 2007 and the value is re-determined at **Rs. 75,11,086/-** in terms of Rule 9 of CVR, 2007 based on the Chartered Engineer valuation report dated 10/10/2025.

11.1 Regarding the third issue, I find that Section 17(4) of the Customs Act, 1962 provides that "*where it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.*" In the present case, I find that the self-assessment is incorrect and incomplete as it is based on wrong classification of Type A fabric, incorrect quantity, and undervalued goods. The declared value has been rejected and re-determined as **Rs. 75,11,086/-** as discussed above. The duty liability needs to be re-calculated based on the re-determined assessable value and correct classification.

11.2 I find that as per the re-determined assessable value of **Rs. 75,11,086/-**, the duty liability is as follows:

Sr. No.	Item Description	Total Re-determined Assessable Value (In Rs.)	BCD (in Rs.)	SWS (in Rs.)	IGST (In Rs.)	Total Re-determined Duty (In Rs.)	Declared Duty (In Rs.)	Differential Duty (In Rs.)
1	Various goods as mentioned in **Table-F**, supra	75,11,086/-	28,30,516/-	2,83,052/-	9,06,931/-	40,20,498/-	4,50,436/-	35,70,062/-

11.3 Therefore, I hold that Bill of Entry No. 3688463 dated 04.08.2025 is liable to be re-assessed under Section 17(4) of the Customs Act, 1962 and the total re-determined duty liability is **Rs. 40,20,498/-** as against the declared duty of Rs. 4,50,436/-, resulting in differential duty of **Rs. 35,70,062/-** (Rupees Thirty Five Lakh Seventy Thousand Sixty Two Only).

12.1 Regarding the fourth issue, I find that Section 111(l) of the Customs Act, 1962 provides for confiscation of "*any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77.*" In the present case, I find that the importer declared 28 CTNS / 658 KGS of Polyester Knitted Fabric in the Bill of Entry. However, on examination 676 rolls (14,710 KGS, Type A) of Non-texturized polyester filament woven fabric and 100 rolls (3,000 kgs, Type B) of Non-texturized polyester filament printed knitted fabric were found, resulting in huge excess. Further, significant excesses and shortages were found in other items as well. This clearly establishes that there were excess goods which were not included in the entry made under the Act.

12.2 I find that Section 111(m) of the Customs Act, 1962 provides for confiscation of "*any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under Section 77 in respect thereof, or in the case of goods under transhipment, with the declaration for transhipment referred*

to in the proviso to sub-section (1) of section 54." I find that in the present case, the goods do not correspond with the entry made in the Bill of Entry in multiple respects i.e. classification of Type A fabric, description, quantity and value. I find that the importer has violated Section 46(4) of the Customs Act, 1962 by not making a true declaration as to the contents of the Bill of Entry. Further, the importer has violated Section 46(4A) of the Customs Act, 1962 by not ensuring the accuracy and completeness of the information given in the Bill of Entry. The significant discrepancies in classification, description, quantity, and value clearly establish that the declaration made was false and incorrect.

12.3 I find that the importer acts of omission and commission have rendered the goods liable to confiscation. The excess quantity, mis-declaration of classification and description of Type A fabric, and significant undervaluation collectively establish that the goods do not correspond with the entry made under the Act. Therefore, I hold that the goods imported vide Bill of Entry No. 3688463 dated 04.08.2025 having re-determined assessable value of **Rs. 75,11,086/-** are liable for confiscation under **Section 111(l)** and **Section 111(m)** of the Customs Act, 1962.

12.4 Further, I note that as per Section 125(1) of the Customs Act, 1962, in case of confiscation of goods other than prohibited goods, an option to pay fine in lieu of confiscation shall be given to the owner. In the present case, since the imported goods are not prohibited goods, I find it appropriate to give the importer an option to redeem the confiscated goods on payment of appropriate redemption fine under **Section 125** of the Customs Act, 1962.

13.1 Regarding the fifth issue, I find that Section 112(a)(ii) of the Customs Act, 1962 provides for penalty in the case of dutiable goods, other than prohibited goods, on any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111. In the present case, I find that the importer has imported mis-classified (Type A fabric), mis-declared and undervalued goods with differential duty liability of Rs. 35,70,062/-. The importer acts of declaring wrong classification for Type A fabric, declaring incorrect quantity, and significant undervaluation have rendered the goods liable to confiscation under **Section 111(l)** and **Section 111(m)** of the Customs Act, 1962. These acts of omission and commission attract penalty under **Section 112(a)(ii)** of the Customs Act, 1962.

13.2 I find that Section 114AA provides for penalty for "use of false and incorrect material". In the present case, the importer has used invoices and packing list while filing Bill of Entry, and examination revealed significant discrepancies regarding the actual nature and particulars of the goods, including mis-declaring the classification of Type A fabric, incorrect quantity, and significantly undervaluing the goods.

13.3 In the present case, I find that the importer knowingly suppressed material facts regarding the actual nature and particulars of the goods, including misdeclaring the classification of Type A fabric, stating an incorrect quantity, and significantly undervaluing the goods, resulting in an undervaluation of **Rs. 60,26,901/-**. I find that the importer used invoices and a packing list while filing the Bill of Entry; these documents contain incorrect or false material particulars regarding the classification of Type A fabric, quantity, and value of the imported goods, which are material particulars affecting both duty liability and assessment. Further, the importer concealed the actual quantity of the imported goods, thereby suppressing information about excess goods. This suppression of material facts regarding the classification, description, quantity, and value of the goods, and the significant undervaluation, constitutes the use of false and incorrect material particulars in documents filed for Customs purposes, thereby attracting a penalty under **Section 114AA** of the Customs Act, 1962.

13.4 Therefore, I find that penalties under **Sections 112(a)(ii)** and **114AA** of the Customs Act, 1962 are imposable upon the importer M/s. BCM Enterprises.

ORDER

14. In view of the foregoing discussion and findings, I pass the following order:

(i) I order to reject the declared description "Polyester Knitted Fabric" and classification CTH 60063400 in respect of Type A fabric covered under Bill of Entry No. 3688463 dated 04.08.2025 and order re-classification of the Type A fabric goods as "Non-texturized polyester filament woven fabric" under CTH 54076190. In respect of Type B fabric, the classification CTH 60063400 is correct, the complete description for same is confirmed as "Non-texturized polyester filament printed knitted fabric" as per the CRCL test reports;

(ii) I order to reject the declared assessable value of **Rs. 14,84,185/-** in respect of goods covered under Bill of Entry No. 3688463 dated 04.08.2025 under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and order re-determination of assessable value at **Rs. 75,11,086/-** (Rupees Seventy Five Lakh Eleven Thousand Eighty Six Only) in terms of Rule 9 of CVR, 2007;

(iii) I reject the self-assessment of Bill of Entry No. 3688463 dated 04.08.2025 and order to re-assess the same under Section 17(4) of the Customs Act, 1962. The total re-determined duty liability is **Rs. 40,20,498/-** (Rupees Forty Lakh Twenty Thousand Four Hundred Ninety Eight Only). The differential duty on the imported goods comes out to **Rs. 35,70,062/-** (Rupees Thirty Five Lakh Seventy Thousand Sixty Two Only);

(iv) I order to confiscate the imported goods covered under Bill of Entry No. 3688463 dated 04.08.2025 having re-determined assessable value of **Rs. 75,11,086/-** (Rupees Seventy Five Lakh Eleven Thousand Eighty Six Only), under **Sections 111(l)** and **111(m)** of the Customs Act, 1962. However, I give option to the importer to redeem the said goods for home consumption under **Section 125** of Customs Act, 1962 on payment of Redemption Fine of **Rs. 7,50,000/-** (Rupees Seven Lakh Fifty Thousand Only);

(v) I impose penalty of **Rs. 3,50,000/-** (Rupees Three Lakh Fifty Thousand Only) on the importer M/s. BCM Enterprises under Section 112(a)(ii) of Customs Act, 1962;

(vi) I impose penalty of **Rs. 1,00,000/-** (Rupees One Lakh Only) on the importer M/s. BCM Enterprises under Section 114AA of Customs Act, 1962.

15. This order is issued without prejudice to any other action that may be taken against the importer or any other person under the provisions of the Customs Act, 1962 or any other law for the time being in force in the Republic of India.

Digitally signed by Dipakbhai Zala
Date: 19-11-2025 19:36:44

(Dipak Zala)
Additional Commissioner (Import)
Custom House, Mundra

To,

M/s. BCM Enterprises (IEC No. GMNPS5095A)
G-79, Vijay Chowk, Office No. B-104,
Laxmi Nagar, Delhi – 110092

Copy to:

1. The Deputy Commissioner, SIIB, Customs House, Mundra
2. The Deputy Commissioner, Review, Customs House, Mundra
3. The Deputy Commissioner, TRC, Custom House, Mundra
4. The Deputy Commissioner, EDI, Customs House, Mundra
5. The Deputy Commissioner, APSEZ, Mundra
6. Guard File