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|  | <p>कार्यालय: प्रधान आयुक्त सीमाशुल्क, मुन्द्रा, सीमाशुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421 OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS: CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT- 370421. PHONE : 02838-271426/271163 FAX :02838-271425 E-mail id- adj-mundra@gov.in</p> |  |
| A. File No. | : GEN/ADJ/ADC/2074/2025-Adjn-O/o Pr. Commr-Cus-Mundra | |
| B. SCN No. | : 116/2025-26/ADC/ZDC/MCH | |
| C. Passed by | : Dipak Zala, Additional Commissioner of Customs, Customs House, AP&SEZ, Mundra. | |
| D. Noticess(s)/Importer: | : M/s. Apex trading (IEC: AAHHH6188M) Sh. Harpreet Singh, Karta of M/s. Apex Trading | |
| E. DIN | : 20251171MO0000666F59 | |

(Show Cause Notice under Section 124 of the Customs Act, 1962)

Whereas it appears that:

1.1. M/s. Apex Trading, located on the Fourth Floor, Block C1, House No. 642, Palam Vihar House, Gurugram - 122017, and holding IEC No. AAHHH6188M [hereinafter referred to as "Noticee" or "importer" for the sake of brevity] is engaged in the import of fabrics through Mundra SEZ.

1.2. The Directorate of Revenue Intelligence, Ahmedabad Zonal Unit (hereinafter referred to as "DRI" for the sake of brevity) received an intelligence that some importers are mis-declaring the nature, and composition of imported synthetic fabrics at Mundra SEZ and wrongfully claiming their classification under CTI 59039090 with import goods declared as "*Polyester Dyed Laminated Fabrics*". The said mis-declaration was intended to evade the applicable anti-dumping duty and/or other customs duties.

1.3. Based on the above intelligence, the following import consignment of one M/s Apex Trading was intercepted, and the officers of DRI examined the goods:

Table "1"

| SEZ BE No. & Date | Bill of Lading No. | Container No. | Description of goods as per BE |
|-------------------|--------------------|---------------|--------------------------------|
| 7894401 dated | EGLV143469530899 | TXGU6007063 | Polyester Dyed |

| | | |
|------------|--|-------------------|
| 20.01.2025 | | Laminated Fabrics |
|------------|--|-------------------|

1.4. The above consignment was imported from China with import goods declared as **“Polyester Dyed Laminated Fabrics”** under CTI 59039090, attracting BCD @ 20% and no Anti-Dumping Duty.

2. Examination of Goods:

2.1. Consequently, physical examination of the goods mentioned under the above BE No. 7894401 dated 20.01.2025 filed at Mundra SEZ was conducted under Panchnama dated 29.01.2025 (**RUD-1**).

2.2. During the examination of goods, copies of documents such as Bill of Entry, Bill of Lading, Packing List, Invoice, etc., were obtained. Based on such documents, the following details are found:

Table – “2”

| S. N. | Particulars | Details |
|-------|--------------------------|---|
| 1. | Name of Importer | M/s Apex Trading, 4 th Floor, block C1, Palam Vihar, House No. 642, Gurugram, Haryana – 122017 (IEC: AAHHH6188M) |
| 2. | Bill of Entry No. & Date | 7894401 dated 20.01.2025 |
| 3. | Bill of Lading No. | EGLV143469530899 dated 27.12.2024 |
| 4. | Name of Exporter | M/s Sky Smart Export Limited, Hong Kong |
| 5. | PAN No. | AAHHH6188M |
| 6. | GST No. | 06AAHHH6188M1Z0 |
| 7. | Email ID | SUP.MUNDRA@OWS.NET.IN |
| 8. | Sales Invoice No. | AS459 dated 26.12.2024 |
| 9. | Description of goods | Polyester Dyed Laminated Fabric |
| 10. | Declared CTI | 59039090 |
| 11. | Total Roll | 1180 |
| 12. | Quantity of Goods | 80050 SQM |
| 13. | Unit Price USD/SQM | 0.12 |
| 14. | Total Price | 9606 USD |
| 15. | Country of consignment | China |

2.3. During the examination, it was observed that goods stuffed in the said container were fabric rolls wrapped in plastic sheets. All the imported goods under the said container were de-stuffed, and a systematic examination was conducted. During the examination, four types of fabrics were found. Subsequently, total rolls of each type were counted separately, and a random check of the length & width of a few rolls of each type of fabric was undertaken. The same are mentioned as under:

Table – “3”

| No. of types of goods | Total No. of Rolls | Length of each roll | Width of each roll |
|-----------------------|--------------------|---------------------|----------------------|
| Type – 1 | 456 | 100 Mtr | 60 Inch or 1.524 Mtr |
| Type – 2 | 360 | 100 Mtr | 60 Inch or 1.524 Mtr |
| Type – 3 | 70 | 40 Mtr | 60 Inch or 1.524 Mtr |
| Type – 4 | 291 | 35 Mtr | 60 Inch or 1.524 Mtr |

2.4. Further, representative samples of each type of imported fabrics were drawn under the said Panchnama dated 29.01.2025 for laboratory testing and analysis to ascertain their exact identity. The samples were duly sealed and forwarded to the CRCL Vadodara vide Test Memo's No. 14/APEX/7894401, 15/APEX/7894401, 16/APEX/7894401 & 17/APEX/7894401 **(RUD-2)** for testing.

3. Sample Test Reports

3.1. In respect of Type-1 Fabric under Test Memo No. 14/APEX/7894401, CRCL Vadodara vide their Test Report No. RCL/DRI/AH/6402/10.02.2025 dated 25.02.2025 reported that *“the sample is in the form of a cut piece of dyed woven fabric having coating on one side. The base fabric is made of Polyester Filament Yarns, and the coating is composed of polymeric material based on Polyurethane.”* The image of the report received from CRCL Vadodara is extracted below for reference:

□

3.2. In respect of Type-2 Fabric under Test Memo No. 15/APEX/7894401, CRCL Vadodara vide their Test Report No. RCL/DRI/AH/6403/10.02.2025 dated 28.02.2025 reported that *“The*

sample is in the form of cut piece of dyed woven fabric. It is composed of polyester filament yarns along with spandex on both sides." The image of the report received from CRCL Vadodara is extracted below for reference:

□

3.3. In respect of Type -3 Fabric under Test Memo No. 16/APEX/7894401, CRCL Vadodara vide their Test Report No. RCL/DRI/AH/6404/10.02.2025 dated 03.03.2025 reported that *"the sample is in the form of cut piece of off-white knitted fabric having embroidery on one side. The base knitted fabric is made of polyester filament yarns. The embroidery is made of coloured Polyester filament yarns, Metalized yarns together with blended spun yarns of Acrylic and Polyamide."* The image of the report received from CRCL Vadodara is appended below for reference:

□

3.4. In respect of Type -4 Fabric under Test Memo No. 17/APEX/7894401, CRCL Vadodara vide their Test Report No. RCL/DRI/AH/6405/10.02.2025 dated 27.02.2025 reported that *"The sample is in the form of cut piece of two layers fabric. One layer is made of dyed knitted pile fabric & second layer is made of knitted designed fabric. Each of the two layers is made of Polyester filament yarns."* The image of report received from CRCL Vadodara is appended below for reference:

□

3.5. From the above, it is evident that the goods declared as "Polyester Dyed Laminated Fabrics" under CTI 59039090 vide the BE No. 7894401 dated 20.01.2025 have been mis-declared. The test reports confirmed that the goods are other than the declared "Polyester Dyed Laminated Fabrics", thus rendering them liable to confiscation under Section 111 of the Customs Act, 1962.

3.6 By mis-declaring the nature of the imported goods, the importer has evaded customs duty amounting to ₹70,10,051/- (Rupees Seventy Lakhs Ten Thousand and Fifty-One only), comprising Basic Customs Duty of ₹34,18,388/- (Rupees Thirty-Four Lakhs Eighteen Thousand Three Hundred and Eighty-Eight only), Social Welfare Surcharge (SWS) of ₹1,33,489/- (Rupees One Lakh Thirty-Three Thousand Four Hundred Eighty-Nine only), Anti-Dumping Duty of ₹18,27,010/- (Rupees Eighteen Lakhs Twenty-Seven Thousand and Ten only), and Integrated Goods and Services Tax (IGST) of ₹16,31,164/- (Rupees Sixteen Lakhs Thirty-One Thousand One Hundred and Sixty-Four only). The detailed calculation indicating the above quantum of evasion is brought out in the subsequent part of this Investigation Report. Furthermore, the importer has imported goods falling under CTI 60019200, which are restricted for import in terms of Notification No. 49/2024-25 dated 04.01.2025, thereby violating the prescribed import conditions and attracting penal consequences under the

relevant provisions of the Customs Act, 1962.

4. Seizure of Goods:

4.1. The above ascertained mis-declaration and misclassification appeared to be a deliberate attempt to evade applicable duties. Accordingly, the imported goods covered by Bill of Entry No. 7894401 dated 20.01.2025 were placed under seizure vide Seizure Memo F. No. DRI/AZU/CI-1/Misc-1/2025 dated 13.03.2025 **(RUD-3)**, as they were found to be liable for confiscation under Section 111 of the Customs Act, 1962. The seized goods are as under:

Table – “4”

| No. of type of the goods | Total No. of Rolls | Length of each roll | Width of each roll |
|--------------------------|--------------------|---------------------|----------------------|
| Type – 1 | 456 | 100 Mtr | 60 Inch or 1.524 Mtr |
| Type – 2 | 360 | 100 Mtr | 60 Inch or 1.524 Mtr |
| Type – 3 | 70 | 40 Mtr | 60 Inch or 1.524 Mtr |
| Type – 4 | 291 | 35 Mtr | 60 Inch or 1.524 Mtr |

4.2. Vide the above Seizure Memo dated 13.03.2025; M/s Apex Trading was also given an option to approach the Jurisdictional Customs Authority for provisional release of the seized goods under the provisions of Section 110A of the Customs Act, 1962. However, no such option has been availed by M/s Apex Trading.

4.3 In accordance with the provisions of Section 110(2) of the Customs Act, 1962, where goods are seized under sub-section (1) and no notice under clause (a) of Section 124 is issued within six months from the date of seizure, the goods are required to be returned to the person from whose possession they were seized; however, the proviso to the said section empowers the Principal Commissioner or Commissioner of Customs to extend this period by a further six months, provided reasons are recorded in writing and the concerned person is informed before the expiry of the initial period—accordingly, in the present case, the competent authority granted extension up to 28.01.2026 and the same was duly communicated to the importer, M/s. Apex Trading, vide letter dated 25.07.2025.**(RUD-4)**

5. Statements Recorded

5.1. Consequent to the Summons (CBIC-DIN-202505DDZ1000000A134) dated 21.05.2025, a statement of **Shri Harpreet Singh, Karta of M/s Apex Trading** (IEC: AAHHH6188M)(**RUD-5**) was recorded under Section 108 of the Customs Act, 1962, wherein, he inter-alia stated that M/s Apex Trading is engaged in the business of trading of fabric; they import the goods as per the requirement of the customers and subsequently sell the same into the domestic market. During the statement, a copy of the panchanama dated 29.01.2025 (**Refer RUD 1**) & a copies of CRCL's test reports were confronted. Shri Harpreet Singh admitted that, considering CRCL's test reports, goods imported were Polyurethane-coated fabric, dyed woven fabric and Polyester knitted fabric, which are other than the goods declared under Bill of Entry No. 7894401 dated 20.01.2025. He further confirmed that polyurethane-coated fabric would fall under CTI 59032090, attracting Anti-Dumping Duty of 0.46 USD/Meter when imported from China. He also stated that dyed woven fabric is correctly classifiable under CTI 54076190, and dyed knitted fabric and knitted fabric are classified under CTH 6006. He acknowledged that the government has imposed restrictions on the import of Synthetic knitted fabric, and import is free only if import CIF value is 3.5 USD and above per kilogram. He further admitted that M/s Apex Trading has not fulfilled the Minimum Import Price criteria for this import of knitted fabrics. He inter alia admitted that the above said Bill of Entry No. 7894401 dated 20.01.2025 has been grossly mis-declared and further assured that he would discharge all his liabilities of Customs duty and/or ADD along with applicable interest and penalty. However, the importer has not voluntarily paid any differential duty till date.

5.2 Summons (CBIC-DIN-202509DDZ10000444C46) dated 08.09.2025 was issued to Shri Harpreet Singh for recording of statement on 12.09.2025. **Shri Harpreet Singh** presented himself for the recording of a statement on 12.09.2025(**RUD-6**) and during the statement, Shri Harpreet Singh stated that:

- i. M/s. Apex Trading, is engaged in business of trading of polyester dyed laminated fabric and that fabric is imported as per the requirement of their customers.
- ii. He himself handles the business operations of M/s. Apex Trading and all operations such as import, export, buying of goods and selling of goods are handled by him.
- iii. He totally agrees with the contents of panchnama dated 29.01.2025.
- iv. Test report shows one of the fabrics to be PU-coated fabric however on being questioned by him, their supplier has reiterated/stated that the same is laminated fabric. Accordingly, they had requested re-testing for this type of fabric.
- v. They primarily place import orders for Polyester dyed laminated fabric. However, since their material was not ready and it was January and Chinese New Year was approaching, their supplier has mistakenly dispatched this consignment. To clear his stock, he sent other types of fabrics in the container.
- vi. He is not aware of the prices of different types of fabrics found in the container as he only deals in the import of Polyester dyed laminated fabric.
- vii. He had perused the Customs Valuation Rules and Annexure-A which is

regarding valuation of goods of all types of fabrics found during panchnama. He stated that the valuation appears to be as per Valuation Rules.

- viii. They don't deal in PU fabric and it is of no use to them. He stated that they will export these goods back to supplier if they are truly found to be PU coated fabric.

6. Re-classification of Goods:

6.1. Based on the CRCL's Test Report and an analysis of the Customs Tariff Act, 1975, it is evident that the declared description of imported goods as "Polyester Dyed Laminated Fabrics" and its claimed classification under CTI 59039090 in the subject BE are incorrect.

6.2. Based on the nature, composition, etc. as reported vide CRCL Test reports and Explanatory Notes of the Chapters 54, 58, 59 & 60, these goods merit classification as per details mentioned below:

Table – "5"

| Types of Fabric as per Panchanama | Representative Sample sent to CRCL | Actual Description of Goods as per Test Report |
|-----------------------------------|------------------------------------|---|
| Type – 1 | Sample 1A | <i>"The sample in the form of a cut piece of dyed woven fabric with having coating on one side. The base fabric is made of Polyester Filament Yarns, and the coating is composed of polymeric material based on Polyurethane"</i> |
| Type – 2 | Sample 2A | <i>"The sample is in the form of a cut piece of dyed woven fabric. It is composed of polyester filament yarns along with spandex on both sides"</i> |
| Type – 3 | Sample 3A | <i>"The sample is in the form of a cut piece of off-white knitted fabric having embroidery on one side. The base knitted fabric is made of polyester filament yarns. The embroidery is made of coloured Polyester filament yarns, metalised yarns, together with blended spun yarns of Acrylic and Polyamide"</i> |
| Type – 4 | Sample 4A | <i>"The sample is in the form of a cut piece of two-layer fabric. One layer is made of dyed knitted pile fabric & second layer is made of knitted designed fabric. Each of the two layers is made of Polyester filament yarns"</i> |

6.2.1. Classification of Type-1 Fabrics

CRCL, Vadodara, vide their test report stated that the imported fabrics shown as Type-1 in the above table were "Polyurethane (PU) Coated Fabrics". The report specified that the coating is composed of polymeric material based on Polyurethane (PU). The correct classification for "Polyurethane Coated Fabrics" is Customs Tariff Item 59032090, which specifically covers "Textile fabrics impregnated, coated, covered or laminated with plastics, other than those of heading 59.02.". As per Chapter Note 2 to Chapter 59 and Explanatory Notes to the HSN, the correct classification of polyurethane-coated fabric is under CTI 59032090.

Furthermore, "Polyurethane (PU) Coated Fabric" originating from China PR is subject to Anti-Dumping Duty (ADD) as per Notification No. 14/2022-Customs (ADD) dated 20.05.2022, which imposes ADD at the rate of 0.46 USD per meter. From the said facts, it is evident that the Importer deliberately misclassified the goods under CTI 59039090, without declaring the PU coating, to evade the applicable Anti-Dumping duty.

6.2.2. Classification of Type-2 Fabric

As per Chapter Note 2(a) to Chapter 59 of the Customs Tariff – "Heading 5903 applies to textile fabrics, impregnated, coated, covered or laminated with plastics. Hence, based on physical examination, CRCL's test report and analysis of the nature and composition of the goods, the Type-2 Fabric merit classification under CTI 54076900, which specifically includes "Other woven fabrics, dyed, of polyester" and attracts BCD of 20% or Rs. 36 per sq. meter, whichever is higher.

6.2.3. Classification of Type-3 Fabric

HSN Explanatory Note to CTH 5810 covers textile fabrics that are embroidered, regardless of whether the embroidery is done by hand or machine, and regardless of the base fabric or any minor coating that does not change its essential character. Heading 5903 applies to textile fabrics, impregnated, coated, covered or laminated with plastics, but it does not apply to embroidery and consequently, the Type-3 Fabric appears to fall under CTI 58109290 – "Embroidery in the piece, in strips or in motifs, other embroidery of man-made fibers", attracting BCD at the rate of 10%.

6.2.4. Classification of Type-4 Fabric

Based on Chapter Notes 1 and 2(a) to Chapter 59, HSN Explanatory Notes and CRCL's Test Report, the goods are knitted and not woven. In this case, the essential character is that of synthetic pile knitted fabric, and based on nature & composition as reported in the CRCL's test report, Type-4 Fabric are rightly classifiable under CTI 60019200, attracting BCD at the rate of 20%.

7. Request for re-testing of the sample for Type-1 Fabric by the

importer

7.1. M/s Apex Trading vide their letter received through email dated 29.04.2025(**RUD-7**), requested for re-sampling of goods (Type-1). In the said communication it has been stated that although they agreed with the test report in respect of three samples, also being ready to pay the applicable customs duties on that account, in case of Type-1 fabric declared as Polyester Dyed Laminated Fabric and reported as Polyester PU coated fabric by the lab, they submitted that these goods are *"Polyester Dyed Fabric laminated with TPU film"* and not *"PU Coated"* and further requested to send Type-1 fabric as shown in Table – "4" above for re-testing to check if they are laminated or coated.

7.2. In response to the above request, this office vide letter F. N. DRI/AZU/CI-1/INT-28/2025 dated 05.05.2025 (**RUD-8**) issued by the Additional Director, DRI, AZU informed the importer that "in terms of the detailed guidelines for re-testing of samples issued by way of Circular No. 30/2017-Cus dated 18.07.2017, the importer intending to request the Additional/ Joint Commissioner of Customs for a re-test, shall request in writing to the said officer within a period of 10 days from the receipt of communication of the test results of the first test". However, in the present case, while M/s. Apex Trading was informed vide Seizure memo dated 13.03.2025 that the said consignment contains PU-coated fabric, the request letter of M/s. Apex Trading was received through email dated 29.04.2025 that is after six weeks of the communication of the test report. Since M/s Apex Trading requested re-testing of Type-1 fabric without stating any reason for the delay in making such a request, this office sought clarification from the importer as to why their request for re-testing should not be rejected. However, no reply in this regard has been received from the importer. Hence, the investigation report is being finalized based on the available test report.

8. Undervaluation and revised valuation as per Customs Valuation Rules:

8.1. On scrutiny of the invoice and Bill of Entry No. 7894401 dated 20.01.2025, it was observed that quantities of goods declared in the above Bill of Entry are found to be lesser than actual quantities ascertained during examination under panchanama dated 29.01.2025 (**Refer RUD-1**). The comparison of the quantities of goods declared and the actual quantity of goods found is hereunder:

Table – "6"

| Particulars | No. of type of the goods | Total No. of Rolls | Length of each roll | Width of each roll | Total Quantities in SQM |
|-------------|--------------------------|--------------------|---------------------|--------------------|-------------------------|
| | A | B | C | D | E=B*C*D |

| | | | | | |
|----------------------|--------------|-------------|---------|-------------------------|---------------|
| AS PER PANCHANAMA | Type – 1 | 456 | 100 Mtr | 60 Inch or 1.524 Mtr | 69494 |
| | Type – 2 | 360 | 100 Mtr | 60 Inch or 1.524 Mtr | 54864 |
| | Type – 3 | 70 | 40 Mtr | 60 Inch or 1.524 Mtr | 4267 |
| | Type – 4 | 291 | 35 Mtr | 60 Inch or 1.524 Mtr | 15522 |
| | Total | 1177 | | | 144147 |
| AS PER BE | | | | | 80050 |
| DIFF. IN QNT | | | | | 64097 |

8.2. Valuation of goods for assessment to Customs duties is governed by the provisions of Section 14 of the Customs Act, 1962, which provides that the value of imported goods shall be the transaction value of such goods, when sold for export to India for delivery at the time and place of importation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale, subject to such other conditions as may be specified in the rules made in this behalf. Further, the Customs Valuation Rules (Determination of Price of imported goods) 2007 (hereinafter referred to as the 'CVR, 2007'), having been framed under the provisions of Section 14, provide for the determination of value in a variety of situations. More specifically, Rule 3 of the CVR, 2007 provides that, subject to Rule 12, the value of the goods shall be the Transaction Value adjusted in accordance with Rule 10.

8.3. From the above, it is apparent that in the instant case, fabrics found in actual, during the examination, are not the fabrics as declared in the BE & as mentioned in the corresponding supplier's invoice. Accordingly, the value declared to the Customs in the respective Bill of Entry appeared not to represent the true Transaction Value of the goods imported. Moreover, the importer has not only grossly misclassified the types of fabrics, but also un-declared the quantities of fabrics, creating reasonable doubt on the truth or accuracy of the declared value of imported fabrics. It is further observed that the CIF value of the declared fabric was 0.12 USD/SQM, which is significantly lower than the prevailing international price for similar goods (fabrics found in actual) as per the contemporaneous imports of similar goods. The declared transaction value in the BE is made for Polyester Dyed Laminated Fabric (CTI 59039090); however, actual goods were found to be PU Coated Fabrics/other woven fabrics/knitted fabrics. Hence, the said transactional value declared in Bill of Entry appears to have failed the test of acceptability under Rule 3(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, which mandates that the declared price must reflect the actual price paid or payable. Accordingly, the declared value is liable to be rejected under Rule 12 read with Rule 3(2) due to the absence of genuine, valid commercial documentation.

8.4. Further, Shri Harpreet Singh, Karta of M/s Apex Trading, the importer of the impugned goods, although initially admitting to the import

of PU Coated (CTI 59032090)/other woven fabrics (CTH 5407/5810)/knitted fabrics (CTH 6001) by mis-declaring it as Polyester Dyed Laminated Fabric (CTI 59039090), did not provide any documents evidencing the true Transaction Value of the imported goods. Further, the importer deposed that he is not aware of prices of various types of fabrics imported vide the said bill of entry.

8.5. Rule 3 (4) of the CVR 2007 prescribes that, "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 of CVR 2007.

8.6. As per Rule 4 of the CVR, 2007, 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, subject to certain conditions and parameters. To arrive at the value of the goods under Rule 4, the import data of PU Coated (CTI 59032090)/other woven fabrics (CTH 5407/5810)/knitted fabrics (CTH 6001) imported at or about the same time as the impugned goods, obtained from the ICES, was examined. However, in the absence of the Brand or other details of the impugned goods, identical goods for comparison could not be obtained.

8.7. It was, however, found that there have been several contemporaneous imports of impugned goods of Chinese origin and in comparable quantities during the relevant period. Further, Rule 5 of the CVR, 2007 stipulates that, 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. It, therefore, appeared that in terms of Rule 5 of the CVR 2007, the value of the impugned goods was liable to be re-determined at the lowest value at which such contemporaneous imports of similar goods were noticed. However, in the subject case, the details of contemporary imports (Jan 2025 in this case) of seaports were taken into consideration, wherein similar goods, as per description, imported from China were found. However, since a similar quantity of the goods was not found, hence weighted average of the bills was taken into consideration. Details of such imports of similar goods are enclosed as Annexure A (**RUD-9**) to this report

8.8. Therefore, in terms of the provisions of Rule 5 of the CVR, 2007, value of PU Coated (CTI 59032090)/other woven fabrics (CTH 5407/5810)/knitted fabrics (CTH 6001) imported under the Bill of Entry no. 7894401 dated 20.01.2025, was redetermined by considering the contemporaneous imports of similar goods.

8.9 In his statement dated 12.09.2025, the importer stated that he had perused Annexure-A regarding the valuation of all types of fabrics imported via the said container and had understood the Customs Valuation Rules. He further affirmed that the valuation appeared to have been carried out in accordance with the said Rules.

9. Revised Quantification of Assessable Value and duties/taxes thereon:

9.1. Revised Quantification under Rule 4 & Rule 5

Considering the above, liabilities in respect of the imported goods have been quantified, as below:

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-
-
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Table – “7”

| TOTAL DUTY CALCULATION | | | | | | | |
|------------------------|--------------|--------------|-----------|-------------|------------|--------------------|-------------------|
| | Sample 1 | Sample 2 | Sample 3 | Sample 4 | Total | Details As per B.E | Differential duty |
| Assessable Value | 5141386.1 | 1041746.6 | 117917.8 | 2310811.7 | 17987582.2 | 836682.6 | |
| BCD | 1028277.2 | 2083493.3 | 11791.8 | 462162.3 | 3585724.7 | 167336.5 | 3418388.1 |
| SWS | 102827.7 | 0.0 | 1179.2 | 46216.2 | 150223.1 | 16733.7 | 133489.5 |
| Anti-Dumping Duty | 1827009.6 | 0.0 | 0.0 | 0.0 | 1827009.6 | 0.0 | 1827009.6 |
| IGST | 971940.1 | 625048.0 | 15706.6 | 140959.5 | 1753654.2 | 122490.3 | 1631163.9 |
| Total Duty | 39,30,054.63 | 27,08,541.31 | 28,677.60 | 6,49,338.09 | 7316611.6 | 306561 | 7010050.6 |

The detailed duty calculation is enclosed as Annexure-B **(RUD-10)**

9.2. This undervaluation, in tandem with misclassification and concealment of PU coating, clearly points to the fraudulent intent of the importer to evade Basic Customs Duties, including Anti-Dumping Duty, thereby causing loss to Government Revenue.

10. Legal Provisions

10.1. Section 17 of the Customs Act, 1962

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.

10.2. Section 46 of the Customs Act, 1962:

46. Entry of goods on importation. — (1) The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting 4[electronically] 5[on the customs automated system] to the proper officer a bill of entry for home consumption or warehousing 6[in such form and manner as may be prescribed]:

10.3. Section 110 of the Customs Act, 1962

110. Seizure of goods, documents and things.—(1) If the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods: Provided that where it is not practicable to seize any such goods, the proper officer may serve on the owner of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer.

10.4. Section 111 of the Customs Act, 1962

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

.....

(m) any goods which do not correspond in respect of value or in any other particular] with the entry made under this Act or in the case of baggage with the declaration made under section 77 3[in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54;

10.5. Section 112 of the Customs Act, 1962

112. Penalty for improper importation of goods, etc. — Any person, —
(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or
(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,

shall be liable, —

(i) in the case of goods in respect of which any prohibition is in force

under this Act or any other law for the time being in force, to a penalty 5[not exceeding the value of the goods or five thousand rupees], whichever is the greater;

(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher: Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined;]

(iii) in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty 3[not exceeding the difference between the declared value and the value thereof or five thousand rupees], whichever is the greater;

(iv) in the case of goods falling both under clauses (i) and (iii), to a penalty 4[not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest;

(v) in the case of goods falling both under clauses (ii) and (iii), to a penalty 5[not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest.

10.6. Section 114AA of the Customs Act, 1962

114AA. Penalty for use of false and incorrect material. —If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material, 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.]

10.7. Section 124 of the Customs Act, 1962

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

such person—

(a) is given a notice in writing with the prior approval of the officer of Customs not below the rank of 2[an Assistant Commissioner of Customs], informing] him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;

(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and

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

Provided that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person concerned, be oral. 3 [Provided further that notwithstanding the issue of notice under this section, the proper officer may issue a supplementary notice under such circumstances and in such manner as may be prescribed.]

10.8. Section 125 of the Customs Act, 1962

125. Option to pay fine in lieu of confiscation.—(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods 4[or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit:

Provided that where the proceedings are deemed to be concluded under the proviso to sub-section (2) of section 28 or under clause (i) of sub-section (6) of that section in respect of the goods which are not prohibited or restricted, the provisions of this section shall not apply:

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

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

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

Explanation.—For removal of doubts, it is hereby declared that in cases where an order under sub-section (1) has been passed before the date on which the Finance Bill, 2018 receives the assent of the President and no appeal is pending against such order as on that date, the option under said sub-section may be exercised within a period of one hundred and twenty days from the date on which such assent is received.]

11. From the foregoing investigation,

11.1. In terms of Section 17 of the Customs Act 1962, an importer entering any imported goods under Section 46 shall self-assess, the duty leviable on such goods. Whereas the importer, M/s Apex Trading, in the instant case, has failed to assess the true duty leviable on PU Coated Fabrics/other woven fabrics/knitted fabrics Classifiable under different CTIs and has resorted to mis-declaration and mis-classification of the import goods as Polyester Dyed Laminated Fabric under CTI 59039090.

11.2. The Importer, by declaring the goods as "Polyester Dyed Laminated Fabrics" and classifying them under CTI 59039090, knowingly and deliberately misrepresented the true nature of the imported Fabrics. This mis-declaration of goods in the Bill of Entry is a contravention of Section 46 of the Customs Act, 1962. The consequent willful misclassification of fabrics under CTI 59039090 was not merely an error but a conscious act to avoid the higher rate of Basic Customs Duty applicable to the actual imported fabrics and, crucially, to also evade the Anti-Dumping Duty imposed vide Notification No. 14/2022-Customs (ADD) dated 20.05.2022 on PU Coated Fabrics originating from China. Also, by not declaring the knitted fabric of CTI 60019200, the importer has imported goods which are restricted in terms of DGFT Notification no. 49/2024-25 dated 04.01.2025 and has thus violated the provisions of Section 46 (4A) of the Customs Act, 1962, along with the provisions laid down in the foreign trade policy. This demonstrates intent to evade legally applicable duties. The pattern of mis-declaration and misclassification across the said consignment, coupled with the substantial duty difference, including ADD, indicates a clear mens rea and an active intention on the part of the Importer to defraud the revenue. The importer, as an experienced entity in the import trade, is expected to exercise due diligence in ascertaining the correct description and classification of their imports. The willful act of the importer has resulted in short/non-levy of applicable customs duties/ADD/other taxes, which appear to be liable for recovery from the importer.

11.3. By mis-declaring the description and misclassifying the goods with intent to evade duty, the imported goods are deemed to have been dealt with contrary to the provisions of the Customs Act, 1962, and are therefore liable to confiscation under Section 111(m) & 111(d) of the Customs Act, 1962, which states that any goods which are imported or attempted to be imported or which are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force, shall be liable to confiscation. Even if not "prohibited" per se, misdeclaration to evade duty has rendered the imported goods liable to confiscation under Section 111(m) (for misdeclaration of description) and/or 111(d) (for goods falling under classification 60019200, which are subject to restriction).

11.4 M/s Apex Trading imported fabrics from China by intentionally mis-declaring the description of the goods as "Polyester Dyed Laminated Fabric". Such acts of omission and commission appeared to have rendered the goods liable for confiscation under Section 111(d) and 111(m) of the Customs Act 1962. Hence, they are liable for a penalty under Section 112(a) & (b) of the Customs Act, 1962. The actions of the Importer amount to deliberate mis-statement and suppression of facts with intent to evade duty, making them liable for penalty under Section 112(a) & (b) of the Customs Act, 1962, for doing any act which renders the goods liable to confiscation.

11.5 Consequent upon the amendment to Section 17 of the Customs Act, 1962 vide Finance Act, 2011, 'Self-Assessment' has been introduced in Customs. Section 17 of the Customs Act, effective from 8.4.2011, provides for self-assessment of duty on imported goods by the importer himself by filing a Bill of Entry in electronic form. Section 46 of the Customs Act, 1962, makes it mandatory for the importer to make an entry for the imported goods by presenting a Bill of Entry electronically to the proper officer. As per Regulation 4 of the Bill of Entry (Electronic Declaration) Regulation, 2011 (issued under Section 157 read with Section 46 of the Customs Act, 1962) the Bill of Entry shall be deemed to have been filed and self-assessment of duty completed when, after entry of the electronic declaration (which is defined as particulars relating to the imported goods that are entered in the Indian Customs Electronic Data Interchange System) in the Indian Customs Electronic Data Interchange System either through ICEGATE or by way of data entry through the service center, a Bill of Entry number is generated by the Indian Customs Electronic Data Interchange System for the said declaration. Thus, under self-assessment, it is the importer who must ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the Bill of Entry. Thus, with the introduction of self-assessment

by amendments to Section 17, since 8th April, 2011, it is the added and enhanced responsibility of the importer to declare the correct description, value, notification, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods.

In the instant case, M/s. Apex Trading imported fabrics from China by intentionally mis-declaring the description of the goods as "Polyester Dyed Laminated Fabric", has also resorted to mis-declaration of facts with intent to evade duty of Customs, as discussed above in foregoing paras. This act of mis-declaration has led imported goods liable for confiscation and hence, he is liable for penalty under Section 112(a) & (b) of the Customs Act, 1962.

11.6. Shri Harpreet Singh, Karta of M/s Apex Trading (IEC: AAHHH6188M) appears to have indulged in presenting documents falsifying the identity of the goods, before the Customs authorities for import of the goods. Thus, has knowingly and intentionally made a declaration under the Bill of Entry filed under Section 46 of the Customs Act 1962, which is false and incorrect. Hence, he has rendered himself liable to penalty under the said Section 114AA of the Customs Act 1962.

12. Now, therefore, M/s. Apex Trading, having its address at Fourth Floor, Block C1, House No. 642, Palam Vihar House, Gurugram – 122017 (IEC: AAHHH6188M), are hereby called upon to show cause in writing to the **Additional Commissioner of Customs, Customs House, Mundra** having office situated at office of the Pr. Commissioner of Customs, 5B, Port User Building, Adani Ports & SEZ, Mundra, Kutch, Gujarat – 370421 within 30 (thirty) days from the date of receipt of the notice, as to why:-

- i. The goods imported vide Bill of Entry No. 7894401 dated 20.01.2025 —namely PU Coated Fabrics, other woven fabrics, and knitted fabrics (total quantity 144,147 SQM (comprising 1177 rolls)) with declared value of Rs. 8,36,683/- (Eight lakhs thirty-six thousand six hundred and eighty-three only), which were found to have been mis-declared as "Polyester Dyed Laminated Fabric" in the said Bill of Entry and were seized vide Seizure Memo dated 13.03.2025, should not be reassessed under section 17 of the Customs Act, 1962 by reclassifying them under the correct CTI/CTH: 59032090 / 5407 / 5810 / 6001 instead of the declared CTI 59039090;
- ii. The declared assessable value of Rs. 8,36,683/- (Eight lakhs thirty-six thousand six hundred and eighty-three only) should not be rejected and goods be re-assessed at ₹1,79,87,582/- (Rupees One Crore Seventy-Nine Lakh Eighty-Seven Thousand Five Hundred Eighty-Two), as per the provisions laid down in the Rule 5 of the Customs Valuation Rules 2007. The same is covered under para 8 of the Show Cause Notice and is detailed in Annexures A of the Show Cause Notice;
- iii. The differential duty amounting to Rs. 70,10,050.60 (Seventy lakhs ten thousand fifty rupees and sixty paise), as detailed in Annexure B

and arrived at after re-determination of value as given in Annexure A and reclassification of goods based on test reports, should not be demanded from the importer;

- iv. The seized goods, i.e., PU Coated Fabrics/Other woven fabric/knitted fabric having a total quantity of 144147 SQM (Total 1177 Rolls) valued at Rs. 1,79,87,582/- (Rupees One Crore Seventy-Nine lakh eighty-seven thousand five hundred eighty-two), seized vide Seizure Memo dated 13.03.2025, should not be confiscated under Section 111(m) and/or 111 (d) of the Customs Act, 1962;
- v. Penalty should not be imposed on them under Section 112 (a) and (b) of the Customs Act, 1962;
- vi. Penalty should not be imposed on Harpreet Singh, Karta of M/s. Apex Trading under Section 114AA of the Customs Act, 1962.

13. Noticees are required to submit a written reply to the Adjudicating Authority within 30 days from the date of receipt of this notice. In their written reply, the noticees may also indicate as to whether they would like to be heard in person. In case, no reply is received within the time limit stipulated above or any further time which may be granted and/or if nobody appears for personal hearing when the case is posted for the same, the case will be decided ex-parte on the basis of evidence on record and without any further reference to the noticee.

14. All the relied upon documents as enlisted in '**Annexure-R**' to this notice are enclosed.

15. This Show Cause Notice is issued without prejudice to any other actions that may be taken against the persons involved in the subject case, under the provisions of the Customs Act, 1962 or any other Allied Acts for the time being in force. The department reserves its right to issue addendum/ corrigendum to show cause notice or to make any additions, deletions amendments or supplements to this notice, if any, at a later stage. The department also reserves its right to issue separate Notice/s for other Noticees, offences etc. related to the above case, if warranted.

Dipak Zala,

Additional Commissioner of
Customs,

Custom House, Mundra.

GEN.ADJ/ADC/2074/2025-Adjn-O/o Pr. Commr-Cus-Mundra

To,

M/s. Apex Trading, Fourth Floor,
Block C1, House No. 642, Palam Vihar House,
Gurugram – 122017

Copy to:

1. The Additional Director General, DRI, Ahmedabad
2. The Assistant Commissioner, EDI, Customs Mundra (For uploading on Mundra Customs Website).

Annexure-R

Relied Upon Documents:

| Sr no. | Document | Page no. |
|---------------|---|-----------------|
| RUD-1 | Copy of Panchnama dated 29.01.2025. | 1-2 |
| RUD-2 | Copy of Test Reports | 3-7 |
| RUD-3 | Copy of Seizure Memo issued vide F. No. DRI/AZU/CI-1/Misc-1/2025 dated 13.03.2025 | 8 |
| RUD-4 | Copy of Letter dated 25.07.2025 informing M/s. Apex Trading regarding Extension of time period for issuance of SCN. | 9 |
| RUD-5 | Copy of Statement of Shri Harpreet Singh, Karta of M/s Apex Trading (IEC: AAHHH6188M) | 10-11 |
| RUD-6 | Copy of Statement of Shri Harpreet Singh, Karta of M/s Apex Trading recorded on 12.09.2025 | 12-15 |
| RUD-7 | Copy of letter received through email dated 29.04.2025 for retesting of goods. | 16-17 |
| RUD-8 | Copy of Office letter issued vide F. N. DRI/AZU/CI-1/INT-28/2025 dated 05.05.2025 regarding re-testing of samples. | 18 |
| RUD-9 | Details of imports of similar goods as Annexure A | 19-20 |
| RUD-10 | Detailed duty calculation as Annexure-B | 21-25 |