F. No.: GEN/ADJ/COMM/203/2026-Adjn-O/o Pr Commr-Cus-Mundra

**OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS,**

**CUSTOM HOUSE: MUNDRA, KUTCH**

**MUNDRA PORT& SPL ECONOMIC ZONE, MUNDRA-370421**

**Phone No.02838-271165/66/67/68**
**FAX.No.02838-271169/62**

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| **A.** File No. | : | GEN/ADJ/COMM/203/2026-Adjn-O/o Pr. Commr- Cus-Mundra. |
| **B.** Order-in-Original No. | : | MUN-CUSTM-000-COM-31-2026-27 |
| **C.** Passed by | : | **Nitin Saini**<br>**Commissioner of Customs,**<br>**Customs House, AP & SEZ, Mundra.** |
| **D.** Date of order and<br>Date of issue: | : | 29.09.2026<br>29.09.2026 |
| **E.** SCN No. & Date | : | SCN No. 01/2026-27/COMM/NS/Adjn/MCH dtd 02.04.2026 |
| **F.** Noticee(s) / Party / Importer | : | M/s BLS Ecotech Ltd. (IEC: 504014196))<br>SP-179, RIICO Industrial Area,<br>Kaharani Bhiwadi Extn,<br>Bhiwadi-301019 |

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 सीमाशुल्क अपील नियमावली 1982 के नियम 6(1) के साथ पठित सीमाशुल्क अधिनियम 1962 की धारा 129A(1) के अंतर्गत प्रपत्र सी ए 3-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 129 A (1) (a) of Customs Act, 1962 read with Rule 6 (1) of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -3 to:

   "**केन्द्रीय उत्पाद एवं सीमा शुल्क और सेवाकर अपीलीय प्राधिकरण**, **पश्चिम जोनल पीठ**, 2nd **फ्लोर, बहुमाली भवन, मंजुश्री मील कंपाउंड, गिर्धनगर ब्रिज के पास, गिर्धनगर पोस्ट ऑफिस, अहमदाबाद**-380 004" **"Customs Excise & Service Tax Appellate Tribunal,**

**West Zonal Bench, 2nd floor, Bahumali Bhavan, Manjushri Mill Compound, Near Girdharnagar Bridge, Girdharnagar PO, Ahmedabad 380 004."**

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 साथ -/ 1000 रूपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज,दंड याशास्ति रूपये पाँच लाख या कम माँगा हो5000/- रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज, शास्तिया दंड पाँच लाख रूपये से अधिक किंतु पचास लाख रूपये से कम माँगा हो 10,000/- रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, दंड व्याज या शास्ति पचास लाख रूपये से अधिक माँगा हो। शुल्क का भुगतान खण्डपीठ बेंच आहरित ट्रिब्यूनल के सहायक रजिस्ट्रार के पक्ष में खण्डपीठ स्थित जगह पर स्थित किसी भी राष्ट्रीयकृत बैंक की एक शाखा पर बैंक ड्राफ्ट के माध्यम से भुगतान किया जाएगा।

   Appeal should be accompanied by a fee of Rs. 1000/- in cases where duty, interest, fine or penalty demanded is Rs. 5 lakh (Rupees Five lakh) or less, Rs. 5000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 5 lakh (Rupees Five lakh) but less than Rs.50 lakh (Rupees Fifty lakhs) and Rs.10,000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 50 lakhs (Rupees Fifty lakhs). This fee shall be paid through Bank Draft in favour of the Assistant Registrar of the bench of the Tribunal drawn on a branch of any nationalized bank located at the place where the Bench is situated.

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 मद सं°-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 CESTAT (प्रक्रिया) नियम, 1982 सभी मामलों में पालन किया जाना चाहिए।

   While submitting the appeal, the Customs (Appeals) Rules, 1982 and the CESTAT (Procedure) Rules 1982 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, न्यायाधिकरण के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।

An appeal against this order shall lie before the Tribunal 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 Fact of the Case**

M/s. BLS Ecotech Ltd. (IEC: 504014196) having registered address at BLS Ecotech Ltd, SP-179, RIICO Industrial Area, Kaharani Bhiwadi Extn, Bhiwadi-301019 (hereinafter referred to as "the Importer") filed 76 Bills of Entry, for the clearance of the goods having description as "PET LUMPS" under CTH 39076190 and paid BCD @ 10 % and IGST @ 18%.

**2.** During the course of Post Clearance Audit, it has been observed that the value declared by the importer in respect of the goods described as "PET LUMPS" is significantly lower than the contemporaneous international prices prevailing during the relevant period. On comparison with internationally recognized price publications, namely PLATT (Platts) price data for the region CFR South East Asia, for the relevant period (RUD-1), it appears that the declared transaction value is substantially lower.

**3.** In view of the above, reasonable doubt arises regarding the truth and accuracy of the declared transaction value in terms of Rule 12(1) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

**4.** A consultative letter dated 20.01.2026 (RUD-2) was issued to M/s. BLS Ecotech Ltd. in terms of the proviso to Section 28(1) of the Customs Act, 1962, wherein it was, inter alia, indicated that during the course of Post Clearance Audit, the value declared in respect of the imported goods described as "PET LUMPS" appeared to be significantly lower when compared with contemporaneous import price which was in line with the internationally recognized PLATT (Platts) price data for the relevant period, giving rise to reasonable doubt regarding the truth and accuracy of the declared transaction value. In the said letter, it was conveyed that the declared value appeared liable for rejection under Rule 12 of the Customs Valuation Rules, 2007, and that the value was proposed to be re-determined after suitable adjustments based on PLATT benchmarks. The importer was accordingly requested to explain the basis of the declared value and to pay the differential duty along with applicable interest. The said consultative letter also clearly indicated that the Department reserves the right to initiate appropriate proceedings,

including issuance of a Show Cause Notice under Section 28 of the Customs Act, 1962

**5.** The importer/auditee vide letters dated 31.01.2026, 19.02.2026 and 11.03.2026 (RUD-3), submitted that-

(i) The importer submitted that despite filing replies dated 31.01.2026 and 19.02.2026, no response has been received from the Department, nor has any personal hearing been granted.

(ii) It has been contended that all 76 Bills of Entry were properly assessed and cleared by Customs authorities after full disclosure of value, description, quantity, quality and country of origin. However, no objection was raised at the time of assessment.

(iii) The importer argued that absence of any objection during assessment indicates correctness of declared value, and reopening the assessment through PCA is procedurally improper and unwarranted.

(iv) It has been contended that the consultative letter does not conform to statutory requirements. It directly demands duty instead of indicating intent to issue SCN. It does not provide minimum response time or proper grounds. Hence, it is claimed to be void ab initio.

v) The importer submitted that no audit objections or audit report were communicated. No opportunity was given to respond to audit findings. Therefore, the entire proceedings are alleged to be vitiated. (

vi) The importer contended that the following were not provided: PLATT price data, Contemporaneous import data, Basis of “similar goods” determination, PCA audit report. This is alleged to be a violation of principles of natural justice.

(vii) It has been argued that transaction value is the primary basis under Section 14, it cannot be rejected without valid grounds under Rule 12. The consultative letter allegedly fails to establish such grounds.

**6.** On examination of the replies of the importer, this office vide Consultative cum Pre-Notice consultation letter dated 25.03.2026 (RUD-4) informed that the valuation of the subject goods shall be proceeded with on the basis of PLATT price benchmarks in terms of provisions of the Customs Valuation Rules, 2007. They were further informed that grounds relating to comparison with contemporaneous

import data were not being relied upon due to non-availability of the same. Accordingly, they were given an opportunity to submit their reply and indicate their wish to be heard in person.

**6.1** The importer vide letter dated 26.03.2026 (RUD-5) inter alia submitted that the proceedings are vitiated due to non-supply of essential documents such as the PCA audit report and PLATT price data, thereby violating principles of natural justice. It is further argued that sufficient contemporaneous import data exists, as evidenced from Exim Atlas and multiple Bills of Entry, showing that the declared value falls within the prevailing price range.

**6.2** The importer has challenged the reliance on PLATT prices, stating that such prices are not based on actual transactions and cannot be used as the sole basis for valuation, as held in various judicial pronouncements. A key contention raised is that the imported goods, namely PET Lumps (recycled material), are fundamentally different from PET Bottle Grade (virgin polymer) referred to in PLATT, and therefore cannot be treated as identical or similar goods for valuation purposes. It is also submitted that PLATT does not provide any price for PET Lumps and that the regional nature of PLATT prices (CFR South-East Asia) makes them inapplicable to Indian imports. The importer has further argued that there is no misdeclaration in terms of description, quantity, or quality, and that the burden of proving undervaluation lies on the department, which has not been discharged. Relying on various case laws, the importer has prayed for acceptance of the declared transaction value and dropping of the proceedings.

**7.** The importer has contended that non-supply of certain documents vitiates the proceedings, however, such contention is misplaced and does not affect the merits of the case. The proceedings are based on material evidence indicating undervaluation, and the importer has been afforded adequate opportunity to present their defence. Procedural objections raised by the importer do not have a material bearing on the determination of valuation in the present proceedings

**7.1** The reliance placed by the importer on data obtained from private sources such as Exim Atlas is not legally sustainable. The said data is neither authenticated nor does it establish comparability in terms of quality, grade, country of origin, quantity, or commercial level as required under the Customs Valuation Rules, 2007.

**7.2** The wide variation in prices (USD 0.20 to 0.99 per kg) in the data submitted by the importer itself demonstrates inconsistency and undermines the reliability of the declared value. Such abnormal price dispersion raises reasonable doubt regarding the truth and accuracy of the declared transaction value, thereby justifying invocation of Rule 12 of the Customs Valuation Rules, 2007.

**7.3** The importer's argument that PLATT prices cannot be relied upon is not tenable in the facts of the present case. The PLATT price has not been adopted as the sole basis of valuation but has been used as a corroborative international benchmark to assess the reasonableness of the declared value. In terms of the judgment of Varsha Plastics Pvt. Ltd. V. Union of India, such price indicators can be relied upon depending on the facts and circumstances of the case.

**7.4** The contention of the importer that the imported goods, described as PET Lumps, are fundamentally different from PET bottle grade polymer and therefore cannot be compared with PLATT prices appears to be not sustainable. In terms of Note 6 to Chapter 39, the expression "primary forms" includes, inter alia, lumps, thereby indicating that lumps of plastics falling under headings 3901 to 3914 are recognized forms of polymers. Accordingly, merely describing the goods as "lumps" does not take them outside the ambit of comparable polymeric material for valuation purposes. The essential character of the goods continues to remain that of polymer falling under the relevant chapter heading, and therefore international price benchmarks of such polymers cannot be outrightly disregarded. It is further observed that PLATT is a globally recognized price reporting mechanism reflecting prevailing international price trends of polymer commodities and serves as a credible guiding benchmark. The significant variation between the declared value and the contemporaneous PLATT prices gives rise to reasonable doubt regarding the truth and accuracy of the declared transaction value in terms of Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Further, it is noted that the PLATT prices have not been adopted mechanically or as the sole basis for determination of value. Rather, due consideration has been given to the nature and description of the imported goods, and appropriate and reasonable discounts have been applied to the PLATT benchmark to account for any variations in form and commercial factors. Thus, the valuation has been carried out by adopting PLATT prices as a guiding reference, with necessary adjustments, in accordance with the principles laid down under the Valuation

Rules. Accordingly, the reliance on PLATT prices, duly adjusted to reflect commercial realities, constitutes a reasonable and legally sustainable basis for re-determination of value under the residual provisions of the Customs Valuation Rules.

**7.5** The argument that PLATT does not specifically cover PET Lumps does not render its use invalid. In situations where identical or directly comparable data is not available, the Valuation Rules permit determination of value using reasonable means consistent with the principles and general provisions of the Rules. Adoption of the nearest comparable benchmark, with appropriate consideration, is therefore justified.

**7.6** The objection regarding regional variation of PLATT prices is also not sustainable. The Asian polymer market operates in an integrated manner, and CFR South-East Asia prices serve as widely accepted industry benchmarks. The importer has failed to demonstrate any cogent reason as to why the prices of the imported goods would be significantly lower than prevailing international trends.

**7.7** The absence of misdeclaration in description or quantity does not preclude rejection of the declared value. Under the Customs Valuation Rules, even genuine transactions can be rejected if there are reasonable doubts regarding the truth or accuracy of the declared value.

**7.8** While the initial burden to raise doubt lies on the department, the same stands discharged in the present case by establishing abnormal deviation from international price indicators. Thereafter, the onus shifts to the importer to substantiate the declared value with credible evidence such as supplier agreements, cost data, or quality specifications, which the importer has failed to provide.

**7.9** The case laws relied upon by the importer are distinguishable on facts, as those cases did not involve circumstances of significant price deviation and corroborative indicators of undervaluation as present in the instant matter.

**8.** The importer has also failed to provide satisfactory explanation or supporting evidence to justify such lower declared value despite being given an opportunity vide consultative letters as discussed above. Therefore, it appears that the declared value is not true and correct and is therefore liable for rejection under Rule 12 of the CVR, 2007.

**9.** In this regard, reliance is placed on the judgment of the Hon'ble Supreme Court in Varsha Plastics Pvt. Ltd. Vs. Union of India [2009 (235) E.L.T. 193 (S.C.)], wherein it was held that internationally accepted price publications such as PLATT can be relied upon as a guiding factor for valuation, provided the same is applied in a reasonable and judicious manner. It is further settled law that transaction value can be rejected where contemporaneous evidence indicates significant undervaluation, and valuation can be determined on the basis of reliable external data, including international price bulletins, subject to necessary adjustments.

**10.** Accordingly, the PLATT prices for PET material published for CFR South East Asia region during the relevant period have been adopted as the most reliable and contemporaneous benchmark for determining the value of the imported goods. Further, necessary adjustments have been made to align the PLATT prices with the facts of the present imports, including allowance of appropriate trade discount.

**11.** The assessable value is required to be determined in terms of the Customs Valuation Rules, 2007 in a sequential manner. In the present case, the declared transaction value has been rejected under Rule 12 due to reasonable doubt regarding its truth and accuracy; hence, Rule 3 is not applicable. Rule 4 and Rule 5, relating to transaction value of identical and similar goods respectively, are also not applicable as no reliable and verifiable contemporaneous import data of identical or similar goods, satisfying the criteria of comparability in terms of quality, grade, country of origin, quantity, and commercial level, is available on record. Rule 7 (deductive value method) cannot be applied as there is no dependable data regarding subsequent sale of the imported goods in India to determine the deductive value. Rule 8 (computed value method) is also inapplicable due to the absence of requisite information regarding cost of production, profit, and general expenses from the foreign supplier. Accordingly, in the absence of applicability of Rules 3 to 8, the value is required to be determined under Rule 9 (Residual Method) using reasonable means consistent with the principles and general provisions of the Rules and Section 14 of the Customs Act, 1962. In the present case, internationally recognized PLATT prices have been adopted as a reasonable and reliable benchmark for determining the assessable value, as they reflect prevailing global market trends for comparable goods. Necessary adjustments towards appropriate trade discount have been duly made to align such benchmark prices with the facts and circumstances of the present imports.

Accordingly, the assessable value has been determined under Rule 9 on the basis of PLATT price, being the most appropriate and reasonable method available in the given circumstances.

**12. RELEVANT LEGAL PROVISIONS**

**Provisions of Customs Act, 1962**

**i.** In terms of section 28(1) of the Customs Act, 1962, where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or any interest payable has not been paid, part-paid or erroneously refunded, for any reason of collusions or any wilful mis-statement or suppression of facts,-

(a) the proper officer shall, within two years from the relevant date, serve notice on the person chargeable with the duty or interest which has not been so levied or paid or which has been short-levied or short-pad or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice:

PROVIDED that before issuing notice, the proper officer shall hold pre-notice consultation with the person chargeable with duty or interest in such manner as may be prescribed.

(b) the person chargeable with the duty or interest, may pay, before service of notice under clause (a) on the basis of,-

(i) his own ascertainment of such duty; or

(ii) the duty ascertained by the proper officer, the amount of duty along with the interest payable thereon under section 28AA or the amount of interest which has not been so paid or part-paid:

PROVIDED that the proper officer shall not serve such show cause notice, where the amount involved is less than rupees one hundred.

**ii.** In terms of section 28(4) of the Customs Act, 1962, where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,-

(a) collusion; or

(b) any wilful mis-statement; or

(c) suppression of facts,

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

**iii.** In terms of section 28(5) of the Customs Act, 1962, where the duty has not been levied or not paid or has been short-levied or short-paid or the interest has not been charged or has been part-paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under sub-section (4) by the proper officer, such person thereon under section 28AA and the penalty equal to fifteen percent of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing.

**iv.** In terms of section 28AA(1) of the Customs Act, 1962, notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub section (2), whether such payment is made voluntarily or after determination of the duty under that section.

**v.** In terms of section 46(4) of the Customs Act, 1962, the importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods as may be prescribed.

**vi.** In terms of section 46(4A) of the Customs Act, 1962, 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.

**13.** Thus, the relevant PLATT price published for the Region CFR SE ASIA has been taken for valuation purpose of these goods. After allowing discount on the PLATT Price, the unit value of the goods imported has been re-determined as per Annexure-A.

**14.** Now, therefore, M/s BLS Ecotech Ltd. (IEC: 504014196)) having registered address at BLS Ecotech Ltd, SP-179, RIICO Industrial Area, Kaharani Bhiwadi Extn, Bhiwadi-301019, are hereby called upon to show cause to the Commissioner of Customs, Custom House, Mundra having office at 1st Floor, PUB Building 5B, Adani Port, Mundra, as to why:

**(i)** the declared value in respect of the Bills of Entry detailed in Annexure-A should not be rejected under Rule 12 of the Customs Valuation Rules, 2007, on account of being not true and correct, and why the same should not be re-determined under Rule 9 of the said Rules, as detailed in Annexure-A, based on reasonable and reliable valuation methodology.

**(ii)** the differential duties (BCD+IGST) amounting to Rs.66,88,040/- (Rupees Sixty-Six Lakhs Eighty-Eight Thousand and Forty only) should not be demanded and recovered from them under Section 28(1) of the Customs Act, 1962;

**(iii)** Interest should not be recovered from them under Section 28AA of the Customs Act, 1962;

**15. DEFENCE SUBMISSION**

Noticee has submitted written reply vide letter dated 02.05.2026, written synopsis on 25.07.2026 and summary of written submission dated 07.09.2026. The same is being summarised here for ready references.

a. The mandatory pre-notice consultation envisaged under the proviso to section 28 of the customs act read with pre-notice consultation regulations, 2018 was never conducted, the entire proceedings are consequently vitiated.

b. The Department never validly invoked Rule 12 of the CVR, 2007, and

misconstrued the legal concept of "Reasonable Doubt" Consequently, the rejection of the declared transaction value is without jurisdiction and the entire valuation exercise is liable to set aside.

c. Disregard of the mandatory sequential valuation mechanism prescribed under section 14 of the Customs Act, 1962 read with CVR, 2007.

d. Comparison of PET Lumps with PET Bottle Grade, having different characteristics, commercial identity, market segment, quality parameter and price determinants is illegal

e. The failure to supply the RUD strikes at the root of the proceedings, vitiates the invocation of Rule 12, deprives the notice of a meaningful opportunity of being heard.

f. Impugned SCN fails to record the mandatory jurisdiction finding required under Section 14 of the Customs Act, read with CVR, 2007.

g. The proposed rejection of the declared transaction value is founded upon material which does not satisfy the standards of reliability, relevance or probative value, and no nexus between the PLATT publication and imported goods have been established.

h. Contemporaneous import of PET lumps at Nhava Sheva for Eight Bills of Entry.

**16. Record of Personal Hearing:**

Opportunities of personal hearing in the case were given to the Noticee's on 16.07.2026, 23.07.2026, 25.07.2026 and 07.09.2026 under the provisions laid down in Customs Act, 1962 and following the principles of natural justice. In the first two Hearing Noticee sought adjournment. Representative of Noticee appeared on 25.07.2026 and re-iterated the submission. Noticee wanted another personal hearing which was also offered on 07.09.2026 wherein Noticee has submitted the summary of the submission and contemporaneous import data of the same commodity from Nhava Sheva.

**17. <u>Discussions and Findings:</u>**

After having carefully gone through the Show Cause Notice, the relied upon documents and the submissions made by the Noticees available on record, I now proceed to decide the case on merit. The main issues involved in the case which are required to be decided in the present adjudication are as below:

**(i)** Whether the declared value in respect of the Bills of Entry detailed in Annexure-A is liable to be rejected under Rule 12 of the Customs Valuation Rules, 2007, on account of being not true and correct, and whether the same is liable to be re-determined under Rule 9 of the said Rules, as detailed in Annexure-A, based on reasonable and reliable valuation methodology.

**(ii)** whether the differential duties (BCD+IGST) amounting to Rs.66,88,040/- (Rupees Sixty-Six Lakhs Eighty-Eight Thousand and Forty only) is liable to be demanded and recovered from them under Section 28(1) of the Customs Act, 1962;

**(iii)** Whether Interest is liable to be recovered from them under Section 28AA of the Customs Act, 1962;

**17.1 Rejection of declared value**

**a.** I find that the present Show Cause Notice proposes to reject the valuation declared by Noticee under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. During the course of post clearance audit, the value declared by the Importer was found to be significantly low in compare to the prevailing Platt price data for the region CFR South East Asia. Noticee in his written submission has also contested the applicability of Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 for rejection of declared transaction value. I find that the Show cause notice doesn't contemplate adoption of Platt prices mechanically or as the sole basis for determination of value. Rather, due consideration has been given to the nature and description of the imported goods and appropriate and reasonable discount of 45% have been applied to the PLATT benchmark to account for any variation in the form and commercial factors.

**b)** In this same context I would like to refer to the Hon'ble Apex Court judgement in case of ***Century Metals Recycling Pvt. Ltd. Vs. UOI*** ***[2019(367) ELT 3 (SC)]***, wherein Apex Court has meticulously explained the expression reason of doubt:

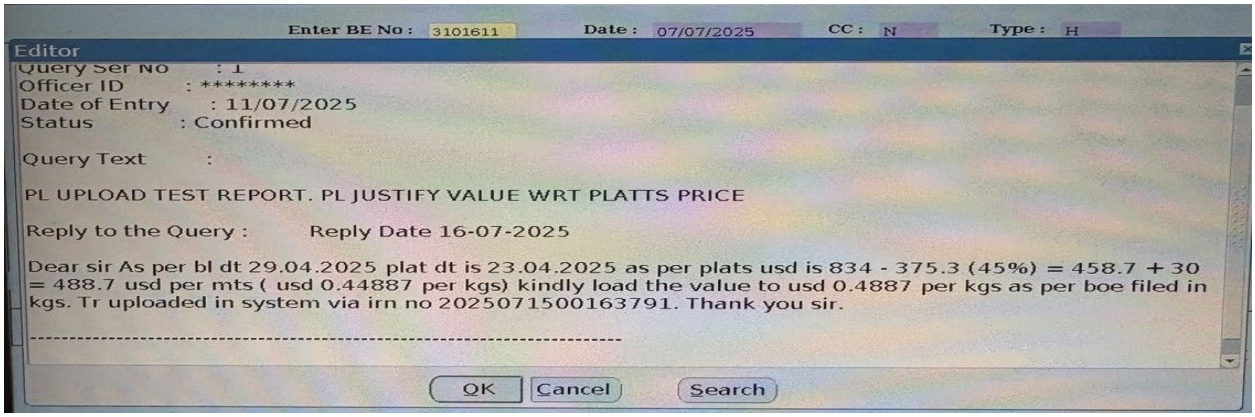
*Clause (iii) of Explanation to Rule 12 states that the proper officer can on 'certain*

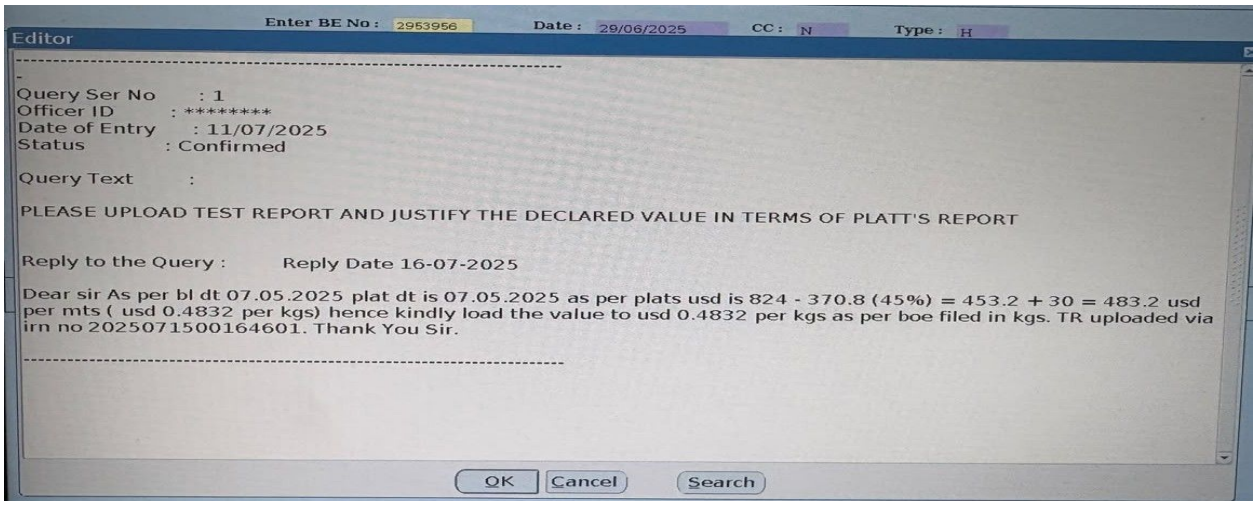
*reasons' raise doubts about the truth or accuracy of declared value. 'Certain reasons' would include conditions specified in clauses (a) to (f) i.e. higher value of identical similar goods of comparable quantities in a comparable transaction, abnormal discount or abnormal deduction from ordinary competitive prices, sales involving the special prices, misdeclaration on parameters such as description, quality, quantity, country of origin, year of manufacture or production, non-declaration of parameters such as C/22417, 22422/2015 brand and grade etc. and fraudulent or manipulated documents. Grounds mentioned in (a) to (f) however are not exhaustive of 'certain reasons' to raise doubt about the truth or accuracy of the declared value*

*The choice of words deployed in Rule 12 of the 2007 Rules are significant and of much consequence. The Legislature, we must agree, has not used the expression "reason to believe" or "satisfaction" or such other positive terms as a pre-condition on the part of the proper officer. The expression "reason to believe"*

*which would have required the proper officer to refer to facts and figures to show existence of positive belief on the undervaluation or lower declaration of the transaction value. The expression "reason to doubt" as a sequitur would require a different threshold and examination. It cannot be equated with the requirements of positive reasons to believe, for the word 'doubt' refers to un-certainty and irresolution reflecting suspicion and apprehension. However, this doubt must be reasonable i.e. have a degree of objectivity and basis/foundation for the suspicion must be based on 'certain reasons'***.**

**c)** I also note that the list of reasons specified in Rule 12 for raising doubt about the truth and accuracy of the declared value is not exhaustive. Further, the discounted PLATT benchmark is accepted by the Noticee in the assessment process when the Bills of Entry were interdicted for assessment. I would like to present a query and reply:




**d)** In several other Bills of Entry too, Noticee has readily accepted the determination of value as per PLATT benchmark after the query was raised by Importer. Hence, a considerable reason of doubt is being raised on the truth and accuracy of declared value in the Bills of Entry where the assessments have not been prescribed by the Risk Management System. Thus, comparison of transaction value with respect to the discounted PLATT rate can constitute a substantial reason for doubting the truth and accuracy of transaction value. Further, Noticee has relied on the decision of Hon'ble Supreme Court in case of Commissioner of Customs (Kolkata) vs South India Television (P) Ltd. While going through the case details, I find that some Xerox copy of export document of supplier was made the ground for rejecting the declared valuation; however in the instant case internationally accepted benchmark price, after allowing an appropriate discount, has been adopted for comparison of the transaction value, and the said benchmark has also been regularly accepted by the Importer in several assessment cases. The facts and circumstances of the said case are therefore distinguishable from those of the present case.

On the basis of the above discussion, I find that the declared transaction value in case of 76 Bills of Entry is liable to be rejected under Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

**17.2 Re-determination of value under CVR, 2007 for Total 76 BEs**

**a)** I, now proceed to examine the next issue concerning re-determination of value under Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

I find that Show Cause Notice states that since the transaction value is rejected under Rule 12 due to reasonable doubt regarding its truth and accuracy, hence Rule 3 is not applicable. Further Show Cause Notice contemplates that Rule 4 and Rule 5, relating to transaction value of identical and similar goods respectively, are also not applicable as no reliable and verifiable contemporaneous import data of identical or similar goods, satisfying the criteria of comparability in terms of quality, grade, country of origin, quantity, and commercial level, is available on record. Rule 7 (deductive value method) cannot be applied as there is no dependable data regarding subsequent sale of the imported goods in India to determine the deductive value. Rule 8 (computed value method) is also inapplicable due to the absence of requisite information regarding cost of production, profit, and general expenses from the foreign supplier. Accordingly, in the absence of applicability of Rules 3 to 8, the value is required to be determined under Rule 9 (Residual Method) using reasonable means consistent with the principles and general provisions of the Rules and Section 14 of the Customs Act, 1962. Thus, internationally recognized PLATT prices have been adopted as a reasonable and reliable benchmark for determining the assessable value in Show Cause Notice, as they reflect prevailing global market trends for comparable goods. Necessary adjustments towards appropriate trade discount have been duly made to align such benchmark prices with the facts and circumstances of the present imports.

**17.3 Application of Rule 4-9 of CVR, 2007 sequentially in the instant case**

**a)** I find that Noticee vide letter dated 07.09.2026 has provided the contemporaneous Bill of Entry detailed in Table A, filed between February 2024-June 2024 where the import has taken place from Nhava Sheva and Mundra. Further, Noticee has stated that the comparable data for identical goods was

available and was not used. Where transaction values of identical goods are available, Rule 4 requires that they be considered first.

**Table-A**

| Sr No | Bill of Entry No and Date | Importer | COO | Description | Qty | Rate (USD/ MT) |
|---|---|---|---|---|---|---|
| 1 | 4009667/15.06.2024 | Alliance Fibres Limited | US | PET Lumps | 46160 | 390 |
| 2 | 3240990/27.04.2024 | Alliance Fibres Limited | ES | PET Lumps | 43420 | 420 |
| 3 | 2040816/08.02.2024 | Alliance Fibres Limited | ES | PET Lumps | 15990 | 370 |
| 4 | 2856309/03.04.2024 | Alliance Fibres Limited | IT | PET Lumps | 25240 | 300 |
| 5 | 3760238/31.05.2024 | OSJS PRIVATE LIMITED | FR | PET Lumps | 19660 | 501 |
| 6 | 2606525/16.03.2024 | MAHALAKSHMI SPINTEX PRIVATE LIMITED | DE | PET Lumps | 19200 | 473.15 |
| 7 | 2225210/20.02.2024 | Kanchan India Limited | US | PET Lumps | 22912 | 395 |
| 8 | 2724506/23.03.2024 | Kanchan India Limited | SA | PET Lumps | 23520 | 385 |

**b)** I have verified the authenticity of the Bills of Entry provided by Importer. Further I find that the description of the goods is the same as that of the goods covered by the impugned 76 Bills of Entry. Moreover, in respect of several Bills of Entry goods are similar in respect of comparable quantity and country of origin. It is specifically mentioned in the Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 that the re-determination of value is to be done sequentially from Rule 4-9 of CVR, 2007. Rule 4 of CVR, 2007 states that 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. "Identical Goods" are defined as goods which are same in all respects, including physical characteristics, quality and reputation as the goods being valued except for minor differences in appearance that do not affect the value of the goods. In the present case I am unable to ascertain whether the goods are same in all respects including characteristics, reputation etc. hence I don't find it appropriate to re-determine the value under Rule 4 of CVR, 2007. Now I proceed to Rule 5 which states 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. "Similar Goods" are defined as goods which although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable with the goods being valued having regard to the quality, reputation and the existence of trade mark. I find that the declared goods covered under some of the Bills of Entry are same in terms of description and can be commercially interchangeable with respect to the quality, composition and reputation. The same are also comparable in quantity and have the same country of origin with respect to the Contemporaneous Bills of Entry provided by the Noticee. On detailed analysis of the impugned Bills of Entry, I find that a total of 51 Bills of Entry is comparable to the contemporaneous Bills of Entry mentioned in Table-A. In respect of the remaining 25 Bills of Entry, either the country of origin has not been established or comparable quantities/descriptions have not been found. The same is detailed as below:

**Table-B**

| Sr No | BE No | BE Date | Country | Item Desc | Qty (in kgs) | Unit price | Comparable Bill of Entry/data/coo/qty/description |
|---|---|---|---|---|---|---|---|
| 1 | 2888870 | 05-04-2024 | UNITED STATES | PET LUMPS (PTR NO.1884 DT.17-05-2023) | 18,117.0 | 355.0 | 2225210 / 20.02.2024 COO-US Qty-22912Kgs Desc-PET LUMPS |
| 2 | 2888873 | 05-04-2024 | UNITED STATES | PET LUMPS (PTR NO.1884 DT.17-05-2023) | 39,155.0 | 355.0 | 4009667/15.06.2024 COO-US Qty-46160Kgs Desc-PET LUMPS |
| 3 | 2948146 | 09-04-2024 | UNITED STATES | PET LUMPS | 18,281.0 | 380.0 | 2225210 / 20.02.2024 COO-US Qty-22912Kgs Desc-PET LUMPS |
| 4 | 2949489 | 09-04-2024 | UNITED STATES | PET LUMPS (PTR NO.10805 DT.15-03-2023) | 18,690.0 | 350.0 | 2225210 / 20.02.2024 COO-US Qty-22912Kgs Desc-PET LUMPS |
| 5 | 3098326 | 19-04-202 | SPAIN | PET LUMPS REGRIND | 48,019.0 | 300.0 | 3240990/27.04.2024 COO-Spain Qty-43420 |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | 4 | | (PTR NO.10805 DT.15-03-2023) | | | Desc-PET LUMPS |
| 6 | 3103635 | 19-04-2024 | UNITED STATES | PET LUMPS (PTR NO.10805 DT.15-03-2023) | 20,740.0 | 390.0 | 2225210 / 20.02.2024 COO-US Qty-22912Kgs Desc-PET LUMPS |
| 7 | 3103636 | 19-04-2024 | UNITED STATES | PET LUMPS | 18,479.0 | 380.0 | 2225210 / 20.02.2024 COO-US Qty-22912Kgs Desc-PET LUMPS |
| 8 | 3103637 | 19-04-2024 | UNITED STATES | PET LUMPS (PTR NO.1884 DT.17-05-2023) | 34,401.0 | 388.0 | 4009667/15.06.2024 COO-US Qty- 46160Kgs Desc-PET LUMPS |
| 9 | 3103638 | 19-04-2024 | UNITED STATES | PET LUMPS (PTR NO.1884 DT.17-05-2023) | 17,124.0 | 388.0 | 2225210 / 20.02.2024 COO-US Qty-22912Kgs Desc-PET LUMPS |
| 10 | 3143890 | 22-04-2024 | UNITED STATES | PET LUMPS | 16,461.0 | 390.0 | 2225210 / 20.02.2024 COO-US Qty-22912Kgs Desc-PET LUMPS |
| 11 | 3155190 | 23-04- | UNITED | PET LUMPS | 17,337. | 370.0 | 2225210 / 20.02.2024 COO-US |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | 2024 | STATES | (PTR NO.1884 DT.17-05-2023) | 0 | | Qty-22912Kgs<br>Desc-PET LUMPS |
| 12 | 3155193 | 23-04-2024 | UNITED STATES | PET LUMPS (PTR NO.1884 DT.17-05-2023) | 16,448.0 | 360.0 | 2225210 / 20.02.2024<br>COO-US<br>Qty-22912Kgs<br>Desc-PET LUMPS |
| 13 | 3182959 | 24-04-2024 | UNITED STATES | PET LUMPS (PTR NO.10805 DT.15-03-2023) | 37,340.0 | 340.0 | 4009667/15.06.2024<br>COO-US<br>Qty-46160Kgs<br>Desc-PET LUMPS |
| 14 | 3236274 | 27-04-2024 | UNITED STATES | PET LUMPS (PTR NO.1550 DT. 11-05-2023) | 16,878.0 | 390.0 | 2225210/20.02.2024<br>COO-US<br>Qty-22912Kgs<br>Desc-PET LUMPS |
| 15 | 3277212 | 30-04-2024 | UNITED STATES | PET LUMPS (PTR NO.1884 DT.17-05-2023) | 20,753.0 | 370.0 | 2225210/20.02.2024<br>COO-US<br>Qty-22912Kgs<br>Desc-PET LUMPS |
| 16 | 3277213 | 30-04-2024 | UNITED STATES | PET LUMPS (PTR NO.1884 | 16,017.0 | 355.0 | 2225210/20.02.2024<br>COO-US<br>Qty-22912Kgs |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | | | DT.17-05-2023) | | | Desc-PET LUMPS |
| 17 | 3315118 | 03-05-2024 | UNITED STATES | PET LUMPS (PTR NO.1884 DT.17-05-2023) | 17,255.0 | 388.0 | 2225210/20.02.2024 COO-US Qty-22912Kgs Desc-PET LUMPS |
| 18 | 3319307 | 03-05-2024 | FRANCE | PET LUMPS (PTR NO.10805 DT.15-03-2023) | 25,165.0 | 350.0 | 3760238/30.05.2024 COO-France Qty-19660Kgs Desc-PET LUMPS |
| 19 | 3336967 | 04-05-2024 | UNITED STATES | PET LUMPS (PTR NO.10805 DT.15-03-2023) | 18,620.0 | 350.0 | 2225210/20.02.2024 COO-US Qty-22912Kgs Desc-PET LUMPS |
| 20 | 3389794 | 08-05-2024 | GERMANY | PET LUMPS (PTR NO.10805 DT.15-03-2023) | 26,740.0 | 300.0 | 2606525/16.03.2025 COO-Germany Qty-19200Kgs Desc-PET LUMPS |
| 21 | 3399748 | 09-05-2024 | FRANCE | PET LUMPS (PTR NO.10805 DT.15- | 20,260.0 | 310.0 | 3760238/30.05.2024 COO-France Qty-19660Kgs Desc-PET LUMPS |

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|---|---|---|---|---|---|---|---|
| | | | | 03-2023) | | | |
| 22 | 3464977 | 13-05-2024 | UNITED STATES | PET LUMPS (PTR NO.10805 DT.15-03-2023) | 15,790.0 | 335.0 | 2225210/20.02.2024<br>COO-US<br>Qty-22912Kgs<br>Desc-PET LUMPS |
| 23 | 3526444 | 17-05-2024 | GERMANY | PET LUMPS | 23,488.0 | 300.0 | 2606525/16.03.2025<br>COO-Germany<br>Qty-19200<br>Desc-PET LUMPS |
| 24 | 3590356 | 21-05-2024 | UNITED STATES | PET LUMPS | 35,713.0 | 310.0 | 4009667/15.06.2024<br>COO-US<br>Qty-46160Kgs<br>Desc-PET LUMPS |
| 25 | 3595804 | 21-05-2024 | UNITED STATES | PET LUMPS | 18,399.0 | 390.0 | 2225210/20.02.2024<br>COO-US<br>Qty-22912Kgs<br>Desc-PET LUMPS |
| 26 | 3605795 | 22-05-2024 | UNITED STATES | PET LUMPS | 20,943.0 | 370.0 | 2225210/20.02.2024<br>COO-US<br>Qty-22912Kgs<br>Desc-PET LUMPS |
| 27 | 3641302 | 24-05-2024 | SAUDI ARABIA | PET LUMPS | 24,744.0 | 350.0 | 2724506/23.03.2024<br>COO-SaudiArabia<br>Qty-23520Kgs<br>Desc-PET LUMPS |
| 28 | 3646431 | 24-05-2024 | UNITED STATES | PET LUMPS | 38,249.0 | 388.0 | 4009667/15.06.2024<br>COO-US<br>Qty-46160Kgs<br>Desc-PET LUMPS |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 29 | 3646439 | 24-05-2024 | UNITED STATES | PET LUMPS | 17,437.0 | 388.0 | 2225210/20.02.2024<br>COO-US<br>Qty-22912Kgs<br>Desc-PET LUMPS |
| 30 | 3658985 | 25-05-2024 | UNITED STATES | PET LUMPS (PTR NO.10805 DT.15-03-2023) | 19,580.0 | 385.0 | 2225210/20.02.2024<br>COO-US<br>Qty-22912Kgs<br>Desc-PET LUMPS |
| 31 | 3658987 | 25-05-2024 | UNITED STATES | PET LUMPS | 20,009.0 | 348.0 | 2225210/20.02.2024<br>COO-US<br>Qty-22912Kgs<br>Desc-PET LUMPS |
| 32 | 3661254 | 25-05-2024 | UNITED STATES | PET LUMPS | 17,709.0 | 388.0 | 2225210/20.02.2024<br>COO-US<br>Qty-22912Kgs<br>Desc-PET LUMPS |
| 33 | 3661257 | 25-05-2024 | UNITED STATES | PET LUMPS | 19,106.0 | 370.0 | 2225210/20.02.2024<br>COO-US<br>Qty-22912Kgs<br>Desc-PET LUMPS |
| 34 | 3679798 | 27-05-2024 | GERMANY | PET LUMPS (PTR NO.10805 DT.15-03-2023) | 25,855.0 | 320.0 | 2606525/16.03.2025<br>COO-Germany<br>Qty-19200<br>Desc-PET LUMPS |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 35 | 3691004 | 27-05-2024 | UNITED STATES | PET LUMPS | 18,711.0 | 388.0 | 2225210/20.02.2024<br>COO-US<br>Qty-22912Kgs<br>Desc-PET LUMPS |
| 36 | 3691022 | 27-05-2024 | UNITED STATES | PET LUMPS | 18,265.0 | 370.0 | 2225210/20.02.2024<br>COO-US<br>Qty-22912Kgs<br>Desc-PET LUMPS |
| 37 | 3691023 | 27-05-2024 | UNITED STATES | PET LUMPS | 12,200.0 | 375.0 | 2225210/20.02.2024<br>COO-US<br>Qty-22912Kgs<br>Desc-PET LUMPS |
| 38 | 3691026 | 27-05-2024 | GERMANY | PET LUMPS (PTR NO.10805 DT.15-03-2023) | 27,180.0 | 300 | 2606525/16.03.2025<br>COO-Germany<br>Qty-19200Kgs<br>Desc-PET LUMPS |
| 39 | 2863872 | 03-04-2024 | SPAIN | PET LUMPS (PTR NO.1550 DT. 11-05-2023) | 24,392.0 | 375.0 | 2040816/08.02.2024<br>COO-Spain<br>Qty-15990Kgs<br>Desc-PET LUMPS |
| 40 | 2888869 | 05-04-2024 | UNITED STATES | PET LUMPS | 19,290.0 | 425.0 | 2225210 / 20.02.2024<br>COO-US<br>Qty-22912Kgs<br>Desc-PET LUMPS |
| 41 | 2917115 | 06-04-2024 | SPAIN | PET LUMPS (PTR NO.1550 | 23,576.0 | 375.0 | 2040816/08.02.2024<br>COO-Spain<br>Qty-15990Kgs |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | | | DT. 11-05-2023) | | | Desc-PET LUMPS |
| 42 | 3098324 | 19-04-2024 | SPAIN | PET LUMPS (PTR NO.10805 DT.15-03-2023) | 20,200.0 | 380.0 | 2040816/08.02.2024 COO-Spain Qty-15990Kgs Desc-PET LUMPS |
| 43 | 3155188 | 23-04-2024 | UNITED STATES | PET LUMPS | 37,060.0 | 415.0 | 4009667/15.06.2024 COO-US Qty- 46160Kgs Desc-PET LUMPS |
| 44 | 3155189 | 23-04-2024 | UNITED STATES | PET LUMPS | 19,710.0 | 425.0 | 2225210 / 20.02.2024 COO-US Qty-22912Kgs Desc-PET LUMPS |
| 45 | 3155192 | 23-04-2024 | UNITED STATES | PET LUMPS (PTR NO.10805 DT.15-03-2023) | 18,760.0 | 400.0 | 2225210 / 20.02.2024 COO-US Qty-22912Kgs Desc-PET LUMPS |
| 46 | 3336963 | 04-05-2024 | UNITED STATES | PET LUMPS | 18,810.0 | 415.0 | 2225210 / 20.02.2024 COO-US Qty-22912Kgs Desc-PET LUMPS |
| 47 | 3354315 | 06-05-2024 | UNITED STATES | PET LUMPS | 22,070.0 | 415.0 | 2225210 / 20.02.2024 COO-US Qty-22912Kgs Desc-PET LUMPS |
| 48 | 359360 | 21- | UNITED | PET | 16,790. | 415.0 | 2225210 / 20.02.2024 |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | 0 | 05-2024 | STATES | LUMPS | 0 | | COO-US<br>Qty-22912Kgs<br>Desc-PET LUMPS |
| 49 | 3658984 | 25-05-2024 | UNITED STATES | PET LUMPS (PTR NO.10805 DT.15-03-2023) | 18,700.0 | 395.0 | 2225210/20.02.2024<br>COO-US<br>Qty-22912Kgs<br>Desc-PET LUMPS |
| 50 | 3664303 | 25-05-2024 | ITALY | PET LUMPS (PTR NO.10805 DT.15-03-2023) | 21,260.0 | 350.0 | 2856309/03.04.2024<br>COO-Italy<br>Qty-25240Kgs<br>Desc-PET LUMPS |
| 51 | 3664305 | 25-05-2024 | ITALY | PET LUMPS (PTR NO.10805 DT.15-03-2023) | 20,300.0 | 300.0 | 2856309/03.04.2024<br>COO-Italy<br>Qty-25240Kgs<br>Desc-PET LUMPS |
| 52 | 2917111 | 06-04-2024 | TUNISIA | PET LUMPS (PTR NO.1550 DT. 11-05-2023) | 26,950.0 | 2917111 | No Comparable Bill of Entry |
| 53 | 2917113 | 06-04-2024 | TUNISIA | PET LUMPS (PTR NO.1550 DT. 11- | 27,970.0 | 2917113 | No Comparable Bill of Entry |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | | | 05-2023) | | | |
| 54 | 3000981 | 12-04-2024 | HONDURAS | PET LUMPS (PTR NO.10805 DT.15-03-2023) | 24,304.4 | 3000981 | No Comparable Bill of Entry |
| 55 | 3017081 | 13-04-2024 | BRAZIL | PET LUMPS (PTR NO.2978 DT.01-08-2022) | 16,777.0 | 3017081 | No Comparable Bill of Entry |
| 56 | 3051860 | 16-04-2024 | UNITED KINGDOM | PET LUMPS (PTR NO.10805 DT.15-03-2023) | 50,820.0 | 3051860 | No Comparable Bill of Entry |
| 57 | 3132729 | 22-04-2024 | TUNISIA | PET LUMPS (PTR NO.1550 DT. 11-05-2023) | 27,120.0 | 3132729 | No Comparable Bill of Entry |
| 58 | 3155191 | 23-04-2024 | LITHUANIA | PET LUMPS (PTR NO.10805 DT.15-03-2023) | 25,256.0 | 3155191 | No Comparable Bill of Entry |
| 59 | 316546 | 23- | HONDURA | PET | 23,718. | 316546 | No Comparable Bill of Entry |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | 6 | 04-2024 | S | LUMPS (PTR NO.10805 DT.15-03-2023) | 4 | 6 | |
| 60 | 3238942 | 27-04-2024 | TUNISIA | PET LUMPS (PTR NO.1550 DT. 11-05-2023) | 26,940.0 | 3238942 | No Comparable Bill of Entry |
| 61 | 3251648 | 29-04-2024 | FRANCE | PET LUMPS (PTR NO.10805 DT.15-03-2023) | 46,020.0 | 3251648 | No Comparable Bill of Entry |
| 62 | 3319308 | 03-05-2024 | IRELAND | PET LUMPS (PTR NO.10805 DT.15-03-2023) | 40,197.0 | 3319308 | No Comparable Bill of Entry |
| 63 | 3619698 | 23-05-2024 | UNITED KINGDOM | PET LUMPS | 20,260.0 | 3619698 | No Comparable Bill of Entry |
| 64 | 3661252 | 25-05-2024 | MALAYSIA | PET LUMPS (PTR NO.10805 DT.15- | 24,410.0 | 3661252 | No Comparable Bill of Entry |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | | | 03-2023) | | | |
| 65 | 3661253 | 25-05-2024 | MEXICO | PET LUMPS (PTR NO.2978 DT.01-08-2022) | 44,740.0 | 3661253 | No Comparable Bill of Entry |
| 66 | 3661255 | 25-05-2024 | MALAYSIA | PET LUMPS (PTR NO.10805 DT.15-03-2023) | 51,642.0 | 3661255 | No Comparable Bill of Entry |
| 67 | 3664304 | 25-05-2024 | MALAYSIA | PET LUMPS (PTR NO.10805 DT.15-03-2023) | 74,800.0 | 3664304 | No Comparable Bill of Entry |
| 68 | 3664308 | 25-05-2024 | MALAYSIA | PET LUMPS (PTR NO.10805 DT.15-03-2023) | 47,548.0 | 3664308 | No Comparable Bill of Entry |
| 69 | 3667014 | 25-05-2024 | MALAYSIA | PET LUMPS (PTR NO.10805 DT.15-03-2023) | 79,770.0 | 3667014 | No Comparable Bill of Entry |
| 70 | 371115 | 28- | COLOMBI | PET | 20,000. | 371115 | No Comparable Bill of Entry |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | 8 | 05-2024 | A | LUMPS (PTR NO.2978 DT.01-08-2022) | 0 | 8 | |
| 71 | 3711483 | 28-05-2024 | HONDURAS | PET LUMPS (PTR NO.10805 DT.15-03-2023) | 49,584.1 | 3711483 | No Comparable Bill of Entry |
| 72 | 3724666 | 29-05-2024 | QATAR | PET LUMPS (PTR NO.10805 DT.15-03-2023) | 23,740.0 | 3724666 | No Comparable Bill of Entry |
| 73 | 3763342 | 31-05-2024 | UNITED ARAB EMIRATES | PET LUMPS | 26,000.0 | 3763342 | No Comparable Bill of Entry |
| 74 | 3763343 | 31-05-2024 | LITHUANIA | PET LUMPS (PTR NO.10805 DT.15-03-2023) | 24,580.0 | 3763343 | No Comparable Bill of Entry |
| 75 | 3595805 | 21-05-2024 | GERMANY | PET LUMPS (PTR NO.10805 DT.15- | 46,855.0 | 3595805 | No Comparable Bill of Entry |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | | | 03-2023) | | | |
| 76 | 3238940 | 27-04-2024 | UNITED STATES | PET PLANT FLOOR SWEEPING POWDER | 19,330.0 | 300.0 | No Comparable Bill of Entry |

**c)** Since, the value is appropriately determinable under Rule 5, it would neither be legally necessary nor permissible to bypass Rule 5 and resort to the residual method under Rule 9. The Hon'ble Supreme Court in Commissioner of Customs (Imports), Mumbai vs M/s. Ganpati Overseas, (11 Centax 101 (S.C.)/2023 (386) E.L.T. 802 (S.C.)), decided on 06.10.2023, has reiterated that once the transaction value is rejected, the valuation provisions have to be applied sequentially. It is further observed that the importer itself has furnished/relied upon the contemporaneous import particulars relied upon for determination under Rule 5. Thus, the material on which the value is being re-determined is part of the proceedings. The change, if any, is only in the method prescribed by law for determination of such value. I therefore find that determination of value under Rule 5, in the facts and circumstances of the present case, does not amount to travelling beyond the Show Cause Notice.

Since, the contemporaneous evidence furnished/relied upon in the present proceedings provides a legally sustainable basis for determination under Rule 5, I proceed to re-determine the value in case of goods imported vide these 51 Bills of Entry under Rule 5 of CVR, 2007.

**17.4 Re-determination of value for 51 Comparable Bills of Entry, under Rule 5 of CVR, 2007**

**a)** Upon application of Rule 5 of CVR, 2007, I find that out of these 51 Bills of Entry, in respect of these 13 Bills of Entry, the contemporaneous import data, on proper comparison and after considering the relevant parameters, does not establish a value higher than the value declared by the importer. In fact, the value determined on the basis of the available contemporaneous data is lower or does not warrant enhancement over the declared value. It is therefore found that, although

the declared transaction value had ceased to be determinable under Rule 3(1) upon invocation of Rule 12 of CVR, 2007, the value determined under the subsequent valuation rules i.e. Rule 5 of CVR, 2007, results in a value which is the lower than the value declared by the importer in respect of these 13 Bills of Entry. Accordingly, the assessable value in respect of these 13 Bills of Entry is determined at the same value as declared, and consequently no differential duty arises in respect of these Bills of Entry. The details of calculation are mentioned in Annexure-C.

**b)** However, in respect of 38 Bills of Entry, the process of determination under the subsequent valuation rules i.e. Rule 5 of CVR, 2007, results in a value which is the higher than the value declared by the importer. The re-determined value of the goods comes to Rs. 2,96,03,878/- against declared value Rs. 2,55,77,142/-. Further, differential duty has been calculated in Annexure-B and the same is amounting to Rs. 11,16,815/-.

**17.5 Re-determination of value for remaining 25 Bills of Entry under Rule 9 of CVR, 2007**

**a)** In respect of the remaining 25 Bills of Entry where relevant contemporaneous data in respect of the declared country of origin has not been established or comparable quantities have not been found, I proceed to the next rule of Customs Valuation (Determination of Value of Imported Goods) Rules, i.e. Rule 6 which provides that where the value of imported goods cannot be determined under the provisions of rules 3, 4 and 5, the value shall be determined under the provisions of rule 7 or, when the value cannot be determined under that rule, under rule 8.

Accordingly, I proceed to Rule 7 of CVR 2007 i.e. the deductive value method. However, the same cannot be applied as there is no dependable data regarding subsequent sale of the imported goods in India to determine the deductive value. Rule 8 (computed value method) is also inapplicable due to the absence of requisite information regarding cost of production, profit, and general expenses from the foreign supplier. Accordingly, in the absence of applicability of Rules 3 to 8, the value is required to be determined under Rule 9 (Residual Method) using reasonable means consistent with the principles and general provisions of the Rules and Section 14 of the Customs Act, 1962. Therefore, I find it appropriate to adopt internationally recognized Platts prices as a reasonable and reliable benchmark for determining the assessable value, as they reflect prevailing global

market trends for comparable goods. In this regard, I would like to refer to the judgment of the Hon'ble Supreme Court in *M/s Varsha Plastic Pvt. Ltd. v. Union of India* (Civil Appeal Nos. 835-836/2022), wherein the Hon'ble Supreme Court observed that:

***"In so far as the reference to PLATT's Price Report or other reputed financial journals which are indicators of international prices for the value of imported goods for the purpose of Section 14(1) is concerned, suffice it to observe that once transaction value is rejected on valid grounds, the Customs Authority has to proceed to determine the value of goods by following Customs Valuation Rules and on the basis of contemporaneous import. However, in the absence of any evidence with regard to contemporaneous import, reference to foreign journals that may indicate the correct international price for the purposes of Section 14 may not be irrelevant and relying upon such journal cannot be said to be altogether unreasonable."***

**b)** Further, while adopting the aforesaid valuation methodology, I have allowed an appropriate trade discount of 45% to align the benchmark prices with the facts and circumstances of the present imports. The said discount is intended to accounts for the variation in the material, form and commercial factors. The said discount is stated to be in consonance with trade practices and the JNCH clarification dated 09.07.2015, and has also been accepted by the Noticee during the assessment process in several cases, as referred in para 17.1 (c ).

**c)** The Noticee has contended that the entire foundation of the impugned Show Cause Notice is legally erroneous as the Department has compared imported PET Lumps with PET Bottle Grade which are two distinct commodities having different commercial identity, manufacturing process etc. and department has failed to establish any evidentiary nexus between the Platts publication and the goods imported. In this regard I find that in terms of Note 6 to Chapter 39, the expression "primary forms" includes, inter alia, lumps, thereby indicating that lumps of plastics falling under headings 3901 to 3914 are recognized forms of polymers. Accordingly, merely describing the goods as "lumps" does not take them outside the ambit of comparable polymeric material for valuation purposes. The essential character of the goods continues to remain that of polymer falling under the relevant chapter heading, and therefore international price benchmarks of such

polymers cannot be out rightly disregarded. It is further observed that PLATT is a globally recognized price reporting mechanism reflecting prevailing international price trends of polymer commodities and serves as a credible guiding benchmark. Further, it is noted that the PLATT prices have not been adopted mechanically or as the sole basis for determination of value. Rather, due consideration has been given to the nature and description of the imported goods, and appropriate and reasonable discounts have been applied to the PLATT benchmark to account for any variations in form and commercial factors. Thus, the valuation has been carried out by adopting PLATT prices as a guiding reference, with necessary adjustments, in accordance with the principles laid down under the Valuation Rules. Accordingly, reliance upon Platts prices, duly adjusted by a discount of 45%, which has also been accepted by the Importer during the assessment process in several Bills of Entry, is considered to reflect the commercial circumstances of the imports and constitutes a reasonable basis for re-determination of value under Rule 9 of CVR, 2007. Hence the contention of Noticee doesn't appear to be sustainable.

**d)** Based on the above findings, I proceed to re-determine the valuation of these 25 Bills of Entry under Rule 9 of CVR, 2007. The re-determined value comes to Rs. 4,00,67,087/-against the declared value of Rs. 2,58,87,416/-. Further the differential duty on account of re-determination of value in respect of 25 Bills of Entry have been worked out to be Rs. 39,32,732/- also detailed in annexure-D. The summary of the re-determined value for 76 Bills of Entry (51 Bills of Entry under Rule 5 and 25 Bills of Entry under Rule-9) is detailed as below in Table-C.

**Table-C**

| Details | Declared Value (in Rs.) | Re-determined Value (in Rs.) | Remarks | Under Rule |
|---|---|---|---|---|
| 38 Bills of Entry as mentioned in Annexure-B | 2,55,77,142/- | 2,96,038,78/- | As per contemporaneous comparable data declared value found to be low. | Rule 5 of CVR, 2007 |
| 13 Bills of | 92,76,762/- | 92,76,762/- | As per | Rule 5 of |

| | | | | |
|---|---|---|---|---|
| Entry as mentioned in Annexure-C | | | contemporaneous comparable data declared value found to be high. Hence, the value had been determined equal to its declared value. | CVR, 2007 |
| 25 Bills of Entry as mentioned in Annexure-D | 2,58,87,416/- | 4,00,67,087/- | No comparable contemporaneous import data was found. | Rule 9 of CVR, 2007 |
| Total | 6,07,41,320 | 7,89,47,727/- | | |

**17.5.** Since, I have re-determined the value in the above paras, I would like to proceed with the determination of differential duty as per Table D.

**Table-D**

| Details | Declared Value (in Rs.) | Re-determined Value (in Rs.) | Duty paid (in Rs.) | Duty payable (in Rs.) | Differential Duty (in Rs.) |
|---|---|---|---|---|---|

| | | | | | |
|---|---|---|---|---|---|
| 38 Bills of Entry as mentioned in Annexure-B | 2,55,77,142/- | 2,96,038,78/- | 70,93,820/- | 82,10,636/- | 11,16,815/- |
| 13 Bills of Entry as mentioned in Annexure-C | 92,76,762/- | 92,76,762/- | 25,72,910/- | 25,72,910/- | 0/- |
| 25 Bills of Entry as mentioned in Annexure-D | 2,58,87,416/- | 4,00,67,087/- | 71,79,875/- | 1,11,12,606/- | 39,32,732/- |
| | 6,07,41,320/- | 7,89,47,727/- | 1,68,46,605/- | 2,18,96,152 | 50,49,547/- |

Hence, I find that a total differential duty of Rs. 50,49,547/-, instead of the proposed differential duty of Rs. 66,88,040/-, is liable to be demanded and recovered under Section 28(1) of the Customs Act, 1962.

**17.6** Further, the interest at the applicable rate on such duty is also liable to be levied under section 28(AA) of the Customs Act, 1962. Hence, I find that the Importer is liable to pay applicable interest on the duty determined in the preceding paragraphs under Section 28AA of the Customs Act, 1962.

**18.** In view of the foregoing paras, I pass the following orders:

**ORDER**

**18.1** I reject the declared value of the goods covered under Bills of Entry detailed in Annexure-A under Rule 12 of CVR, 2007. I order to re-determine the value of goods imported vide 38 Bills of Entry as detailed in Annexure-B to **Rs. 2,96,03,878/-** *(Rupees Two Crore Ninety-Six Lakh Three Thousand Eight Hundred and Seventy-Eight Only)* against the declared value **Rs. 2,55,77,142/-** *(Rupees Two Crore Fifty-Five Lakh Seventy-Seven Thousand One Hundred and Forty-Two Only)* under Rule 5 of CVR, 2007. I order to re-determine the value of 13 Bills of Entry as detailed in Annexure-C to **Rs. 92,76,762/-** *(Rupees Ninety-Two Lakh Seventy-Six Thousand Seven Hundred and Sixty-Two Only)* equal to the value declared in the Bills of Entry under Rule 5 of CVR, 2007. Further, I order to re-determine the value of 25 Bills of Entry as detailed in Annexure-D to **Rs. 4,00,67,087/-** *(Rupees Four Crore Sixty-Seven Thousand and Eighty-Seven Only)* against the declared value **Rs. 2,58,87,416/-** ***(****Rupees Two Crore Fifty-Eight Lakh Eighty-Seven Thousand Four Hundred and Sixteen Only)* under Rule 9 of CVR, 2007.

**18.2** I determine the differential duty amounting to **Rs. 50,49,547/-** *(Rupees Fifty Lakh Forty-Nine Thousand Five Hundred and Forty-Seven Only)* as against the proposed differential duty of **Rs. 66,88,040/-** *(Rupees Sixty-Six Lakh Eighty-Eight Thousand and Forty Only)* under the provisions of Section 28(8) of the Customs Act, 1962, and order recovery of the said amount from M/s BLS Ecotech Ltd. under the provisions of Section 28(1) of the Customs Act, 1962, along with applicable interest under Section 28AA of the Customs Act, 1962.

**19.** This OIO is issued without prejudice to any other action that may be taken against the claimant under the provisions of the Customs Act, 1962 or rules made there under or under any other law for the time being in force.

Digitally signed by
Nitin Saini
Date: 29-09-2026
14:23:55

**(Nitin Saini)**
Commissioner of Customs,
Custom House, Mundra.

**BY Speed Post A.D / E-mail**

To, (The Noticee):-
M/s. BLS Ecotech Ltd. (IEC-504014196)
SP-179, RIICO Industrial Area, Kaharani Bhiwadi Ext
Bhiwadi-301019 (email-info@blsecotech.com)

**Copy to:**

1. The Addl. Commissioner (PCA), Customs House, Mundra.
2. The Deputy Commissioner of Customs, CCO, Ahmedabad.
3. The Deputy/ Assistant Commissioner (EDI), Custom House, Mundra.
4. Notice Board.
5. Guard File