
	<p>प्रधान सीमा शुल्क आयुक्त का कार्यालय, मुंद्रा आयुक्तालय सीमा शुल्क हाउस, अदानी पोर्ट और एस.ई.जेड., मुंद्रा (कच्छ), OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE: MUNDRA, KUTCHMUNDRA PORT & SPL ECONOMIC ZONE, MUNDRA-370421</p> <p>Phone No.02838-271165/66/67/68 FAX.No.02838-271169/62</p>	
A. File No.	:	GEN/ADJ/COMM/164/2024-Adjn-O/o Pr Commr-Cus-Mundra.
B. Order-in-Original No.	:	MUN-CUSTM-000-COM-049-24-25
C. Passed by	:	K. Engineer, Principal Commissioner of Customs, Customs House, AP & SEZ, Mundra.
D. Date of order and Date of issue	:	21. 03.2025. 21.03.2025.
E. SCN No. & Date	:	SCN F. No. GEN/ADJ/COMM/164/2024-Adjn-O/o Pr Commr-Cus-Mundra dated 10.04.2024
F. Noticee(s) / Party / Importer	:	M/s Saraf Sales Corporation, (IEC-0305082302), Head office at 418, Kalbadevi Road, 50 Chota Lal Bhavan, 2nd Floor, Mumbai-400002
G. DIN	:	20250371MO0000812782

1. यह अपील आदेश संबंधित को निःशुल्क प्रदान किया जाता है।

This Order - in - Original is granted to the concerned free of charge.

2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 129A(1) के अंतर्गत प्रपत्र सीए3-में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

Any person aggrieved by this Order - in - Original may file an appeal under Section 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 -/ 1000रूपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज, दंड या शास्ति रूपये पाँच लाख या कम माँगा हो 5000/- रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज, शास्ति या 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 खण्ड पीठ 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 paise only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.

6. अपील ज्ञापन के साथ ड्यूटी/ 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 जहाँ शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहाँ 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.

FACTS OF THE CASE IN BRIEF

WHEREAS, Intelligence was gathered that **M/s Saraf Sales Corporation, (IEC-0305082302)**, Head office at 418, Kalbadevi Road, 50 Chota Lal Bhavan, 2nd Floor, Mumbai-400002 (*hereinafter also referred to as the Importer also for the sake of brevity*) is engaged in import of uncoated base paper for decorative laminates, also known as décor paper, from China and evading anti-dumping duty thereon by making wilful mis-statement regarding producer of the said imported décor paper.

2. The Central Government vide Notification No. 77/2021-Customs (ADD) dated 27th December 2021 has imposed anti-dumping duty on import of Décor Paper [defined in the notification itself] as below:-

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act, read with rules 18 and 20 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, after considering the aforesaid final findings of the designated authority, hereby imposes on the subject goods, the description of which is specified in column (3) of the Table below, falling under tariff item of the First Schedule to the Customs Tariff Act as specified in the corresponding entry in column (2), originating in the country as specified in the corresponding entry in column (4), exported from the country as specified in the corresponding entry in column (5), produced by the producers as specified in the corresponding entry in column (6), and imported into India, an anti-dumping duty at the rate equal to the amount as specified in the corresponding entry in column (7), in the currency as specified in the corresponding entry in column (9) and as per unit of measurement as specified in the corresponding entry in column (8), of the said Table, namely:-

Sr No	Tariff Item	Description*	Country of Origin	Country of Export	Producer	Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	4805 91 00, 4802 20 90	Décor Paper*	People's Republic of China	Any country including People's Republic of China	Kingdecor (Zhejiang) Co., Ltd.	116	MT	US Dollar
2.	4805 91 00, 4802 20 90	Décor Paper*	People's Republic of China	Any country including People's Republic of China	Shandong Boxing Ouhua Special Paper Co., Ltd.	110	MT	US Dollar
3.	4805 91 00, 4802 20 90	Décor Paper*	People's Republic of China	Any country including People's Republic of China	Zibo OU-MU Special Paper Co., Ltd.	110	MT	US Dollar
4.	4805 91 00, 4802 20 90	Décor Paper*	People's Republic of China	Any country including People's Republic of China	Any other than S. No. 1,2 and 3.	542	MT	US Dollar

5.	4805 91 00, 4802 20 90	Décor Paper*	Any country other than People's Republic of China	People's Republic of China	Any	542	MT	US Dollar
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*uncoated paper in reel form of 40-130 GSM, having klemm absorbency of at least 12 mm per 10 minutes, wet tensile strength of 6-12 N/15 mm, and gurley porosity of 10-40 sec / 100 ml, containing titanium dioxide or pigments as filler. It includes base paper for high pressure (HPL) or low-pressure (LPL) decorative laminates, also known as decor paper, decorative base paper, decorative paper for high-pressure or low-pressure laminates, coating base paper and print base paper, but excluding printed ready-to-use decor paper.

The subject goods include various types of decor paper, such as surfacing paper (white/off-white), liner (white / off-white), barrier paper, shuttering base, overlay paper and print base paper (color / white). It may be imported as base paper for waxing, coating and impregnation; base paper for printing; base paper for use in decorative industry and barrier paper, and may come in various sizes as 95 cm, 96 cm, 102 cm, 123 cm, 123.5 cm, 124 cm, 124.5 cm, 125 cm, 131 cm, 132 cm, 183 cm, 184 cm and 185 cm.]

2.1. As seen from above, imported décor paper produced by Kingdecor (Zhejiang) Co., Ltd attracts a lower anti-dumping duty of USD 116 PMT [See S. No.1 of the Table]. However, if the importer is unable to prove that imported décor paper was produced by Kingdecor (Zhejiang) Co., Ltd, the same will be out of ambit of S.No.1 of the Table and instead will be covered by S.No.4 of the Table and the anti-dumping duty shall be payable at higher rate of USD 542 per MT.

3. Acting upon the intelligence, the below tabulated 21 imported consignments (as per Table-1) of the importer from China were examined by officers of different DRI Zonal Units in which the importer claimed lower rate of anti-dumping duty of USD 116 PMT on basis of an endorsement made in all commercial invoices that –

PRODUCER & SUPPLIERS IS KINGDECOR (ZHEJIANG) CO., LTD.
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When the importer's documents were examined, it was found that contrary to endorsement, the imported goods were not supplied by Kingdecor (Zhejiang) Co., Ltd. Out of 21 consignment, 14 were supplied by ZHEJIANG XIANHE NEW MATERIALS SALES CO., LTD and 07 were supplied by XIANHE CO., LTD. None of these two exporters from China figures in the Notification No. 77/2021-Customs (ADD). It was further found during investigation that the above endorsement was missing in all 21 Proforma Invoices which were sent by the said two exporters to the importers for approval. Two representative commercial invoices and the corresponding proforma invoices, one each from the two exporters - invoice No. XH22100 dated 04.03.2022 covered under Bill of Entry No. 8077146 dated 30.03.2022 and invoice No. XH21225 dated 25-02-2022 covered under Bill of Entry No. 8320366 dated 18.04.2022 - are given below and the Table-1 further below shows the pertinent details of these 21 consignments:-

浙江仙鹤新材料销售有限公司
ZHEJIANG XIANHE NEW MATERIALS SALES CO., LTD.
Block 1, NO.69 South Tianhu Road, Qujiang District, Quzhou City, Zhejiang Province, China 324022

商业发票
COMMERCIAL INVOICE

TO: M/S.SARAF SALES CORPORATION
BACHHOTALAL BHAVAN, 418, KALBADEVI
ROAD, MUMBAI-400 002, INDIA
EMAIL: SARWANSARAF.2008@REDIFFMAIL.COM
TEL: 91-9819661073

INVOICE NO.: XH22100
DATE: March 4, 2022

Description of goods	Quantity	Unit price	Amount
CIF MUNDRA/ICD LUDHIANA, INDIA			
FROM NINGBO, CHINA TO MUNDRA, INDIA BY SEA, THENCE TO ICD LUDHIANA, INDIA BY TRAIN			
UNCOATED BASE PAPER			
XH002SU 80GSM 1240MM	4931 KGS	2.255 /KG	USD 11,119.41
XH0071U 60GSM 1230MM	15993 KGS	1.900 /KG	USD 37,966.70
TOTAL:	24924 KGS		USD 49,106.11
(SAY, UNITED STATES DOLLARS FORTY NINE THOUSAND ONE HUNDRED AND SIX AND CENTS ELEVEN ONLY)			
PRODUCER & SUPPLIERS IS KINGDECOR (ZHEJIANG) CO., LTD.			
GST ID NUMBER: Z7AALPS7121H1ZG			
IEC CODE: 0305082302			
TERMS OF PAYMENT: WITHIN 60 DAYS PAYMENT AFTER THE SHIPMENT DATE.			
BANK DETAILS:			
BENEFICIARY: ZHEJIANG XIANHE NEW MATERIALS SALES CO., LTD.			
ADDRESS: Block 1, NO.69 South Tianhu Road, Qujiang District, Quzhou City, Zhejiang Province, China 324022			
USD ACCOUNT: 1209280609149740771(USD)			
PAYMENT ROUTINE:			
INDUSTRIAL AND COMMERCIAL BANK OF CHINA, ZHEJIANG PROVINCIAL BRANCH.			
SWIFT BIC: ICBKCNBJ3P			
Bank Address: NO.150 ZHONGHEZHONG ROAD, HANGZHOU CITY, 310009, P.R.CHINA			

浙江仙鹤新材料销售有限公司
ZHEJIANG XIANHE NEW MATERIALS SALES CO., LTD.

王铁良

浙江仙鹤新材料销售有限公司
ZHEJIANG XIANHE NEW MATERIALS SALES CO., LTD.
Block 1, NO.69 South Tianhu Road, Qujiang District, Quzhou City, Zhejiang Province, China 324022

形式发票
PROFORMA INVOICE

TO: M/S.SARAF SALES CORPORATION
BACHHOTALAL BHAVAN, 418, KALBADEVI
ROAD, MUMBAI-400 002, INDIA
GST ID NUMBER: Z7AALPS7121H1ZG
EMAIL: SARWANSARAF.2008@REDIFFMAIL.COM
TEL: 91-9819661073

PI NO.: XH22100P
DATE: March 2, 2022

Marks & Numbers:	N/M		
Description of goods	Quantity	Unit price	Amount
CIF MUNDRA/ICD LUDHIANA, INDIA			
UNCOATED BASE PAPER			
XH002SU 80GSM 1240MM	5.00 MT	2255 /KG	USD 11,275.00
XH0071U 60GSM 1230MM	23.00 MT	1950 /KG	USD 38,000.00
TOTAL:	28.00 MT		USD 49,275.00
(SAY, UNITED STATES DOLLARS FORTY NINE THOUSAND TWO HUNDRED AND SEVENTY FIVE ONLY)			
1) FROM NINGBO TO MUNDRA FREIGHT TO PREPAID FROM MUNDRA TO ICD LUDHIANA FREIGHT TO COLLECT. INLAND HAULAGE CHARGE WILL BE PAID BY THE BUYER. ICD LUDHIANA CHARGE WILL BE PAID BY THE APPLICANT.			
1) TERMS OF PAYMENT: WITHIN 60 DAYS PAYMENT AFTER THE SHIPMENT DATE.			
3) SHIPMENT DATE: NOT LATER THAN MAR.31, 2022			
4) BOTH THE QUANTITY AND AMOUNT ALLOWED 10% MORE OR LESS.			
5) BANK DETAILS:			
BENEFICIARY: ZHEJIANG XIANHE NEW MATERIALS SALES CO., LTD.			
ADDRESS: Block 1, NO.69 South Tianhu Road, Qujiang District, Quzhou City, Zhejiang Province, China 324022			
USD ACCOUNT: 1209280609149740771(USD)			
PAYMENT ROUTINE:			
INDUSTRIAL AND COMMERCIAL BANK OF CHINA, ZHEJIANG PROVINCIAL BRANCH.			
SWIFT BIC: ICBKCNBJ3P			
Bank Address: NO.150 ZHONGHEZHONG ROAD, HANGZHOU CITY, 310009, P.R.CHINA			

浙江仙鹤新材料销售有限公司
ZHEJIANG XIANHE NEW MATERIALS SALES CO., LTD.

王铁良

仙鹤股份有限公司
XIANHE CO., LTD.
NO. 81 TONGJIANG ROAD , SHENJIA DEVELOPMENT ZONE OF QUZHOU CITY, ZHEJIANG 324022, CHINA
商业发票
COMMERCIAL INVOICE

TO: M/S.SARAF SALES CORPORATION
50,CHHOTALAL BHAVAN,418,KALBADEVI
ROAD,MUMBAI-400 002,INDIA
EMAIL:SARWANSARAF.2008@REDIFFMAIL.CO
M
TEL:91-9619661073

INVOICE NO.: XH21225
DATE:February 25, 2022

Description of goods	Quantity	Unit price	Amount
CIF VISAKHAPATNAM/ICD RAIPUR,INDIA			
FROM NINGBO CHINA TO VISAKHAPATNAM,INDIA BY SEA,THENCE TO ICD RAIPUR,INDIA BY TRAIN			
UNCOATED PLAIN BASE PAPER			
XH0007 60GSM 1250MM	3968 KGS	1.550 /KG	USD 6,150.40
XH0057D 65GSM 1230MM	1945 KGS	1.910 /KG	USD 3,714.95
XH1007D 50GSM 1250MM	3996 KGS	1.685 /KG	USD 6,733.26
XH3004D 50GSM 1250MM	5070 KGS	1.480 /KG	USD 7,503.60
TOTAL:		14979 KGS	USD 24,102.21
(SAY, UNITED STATES DOLLARS TWENTY FOUR THOUSAND ONE HUNDRED AND TWO AND CENTS TWENTY ONE ONLY)			
PRODUCER & SUPPLIERS IS KINGDECOR (ZHEJIANG) CO., LTD.			
GST ID NUMBER:27AALPS7121H1ZG			
IEC CODE:0305082302			
1)TERMS OF PAYMENT: WITHIN 30 DAYS PAYMENT AFTER THE SHIPMENT DATE.			
2) BANK DETAILS:			
BENEFICARY: XIANHE CO., LTD.			
ADDRESS: NO.81 TONGJIANG ROAD, SHENJIA DEVELOPMENT ZONE OF QUZHOU CITY,ZHEJIANG 324022,CHINA			
USD ACCOUNT: 1209210009142418059			
PAYMENT ROUTINE:			
INDUSTRIAL AND COMMERCIAL BANK OF CHINA,			
ZHEJIANG PROVINCIAL BRANCH			
SWIFT BIC: ICBKCNBJZJP			
ADDRESS: NO.150 ZHONGHEZHONG ROAD HANGZHOU CITY, 310009 P.R. CHINA			

仙鹤股份有限公司
XIANHE CO., LTD. ;

王毅良

SARAF SALES CORPORATION
MUMBAI

仙鹤股份有限公司
XIANHE CO., LTD.
NO. 81 TONGJIANG ROAD , SHENJIA DEVELOPMENT ZONE OF QUZHOU CITY, ZHEJIANG 324022, CHINA
形式发票
PROFORMA INVOICE

TO: M/S.SARAF SALES CORPORATION
50,CHHOTALAL BHAVAN,418,KALBADEVI
ROAD,MUMBAI-400 002,INDIA
GST ID NUMBER:27AALPS7121H1ZG
EMAIL:SARWANSARAF.2008@REDIFFMAIL.COM
TEL:91-9619661073

PI NO.: XH21225P
DATE: February 15, 2022

Marks & Numbers.	NAM	Quantity	Unit price	Amount
Description of goods				
CIF VISAKHAPATNAM/ICD RAIPUR,INDIA				
UNCOATED PLAIN BASE PAPER				
XH0007 60G 1250MM	4.00 MT	USD 1,550 /MT	USD 6,200.00	
XH0057D 65G 1230MM	2.00 MT	USD 1,910 /MT	USD 3,820.00	
XH1007D 50G 1250MM	4.00 MT	USD 1,685 /MT	USD 6,740.00	
XH3004D 50G 1250MM	5.00 MT	USD 1,480 /MT	USD 7,400.00	
TOTAL		15.00 MT	USD 24,160.00	
(SAY UNITED STATES DOLLARS TWENTY FOUR THOUSAND ONE HUNDRED AND SIXTY ONLY)				
1)TO BE SHIPPED FROM NINGBO PORT CHINA TO VISAKHAPATNAM/ICD RAIPUR,INDIA				
FROM NINGBO TO VISAKHAPATNAM FREIGHT TO PREPAID				
FROM VISAKHAPATNAM TO ICD RAIPUR FREIGHT TO COLLECT,				
INLAND HAULAGE CHARGE WILL BE PAID BY THE BUYER				
ICD RAIPUR CHARGE WILL BE PAID BY THE APPLICANT.				
2)TERMS OF PAYMENT: WITHIN 30 DAYS PAYMENT AFTER THE SHIPMENT DATE.				
3) SHIPMENT DATE: NOT LATER THAN MAR.31,2022				
4) BOTH THE QUANTITY AND AMOUNT ALLOWED 10% MORE OR LESS.				
5) BANK DETAILS.				
BENEFICARY: XIANHE CO., LTD.				
ADDRESS: NO.81 TONGJIANG ROAD, SHENJIA DEVELOPMENT ZONE OF QUZHOU CITY, ZHEJIANG 324022,CHINA				
USD ACCOUNT: 1209210009142418059				
PAYMENT ROUTINE:				
INDUSTRIAL AND COMMERCIAL BANK OF CHINA,				
ZHEJIANG PROVINCIAL BRANCH				
SWIFT BIC: ICBKCNBJZJP				
ADDRESS: NO.150 ZHONGHEZHONG ROAD HANGZHOU CITY, 310009 P.R. CHINA				

仙鹤股份有限公司
XIANHE CO., LTD. ;

王毅良

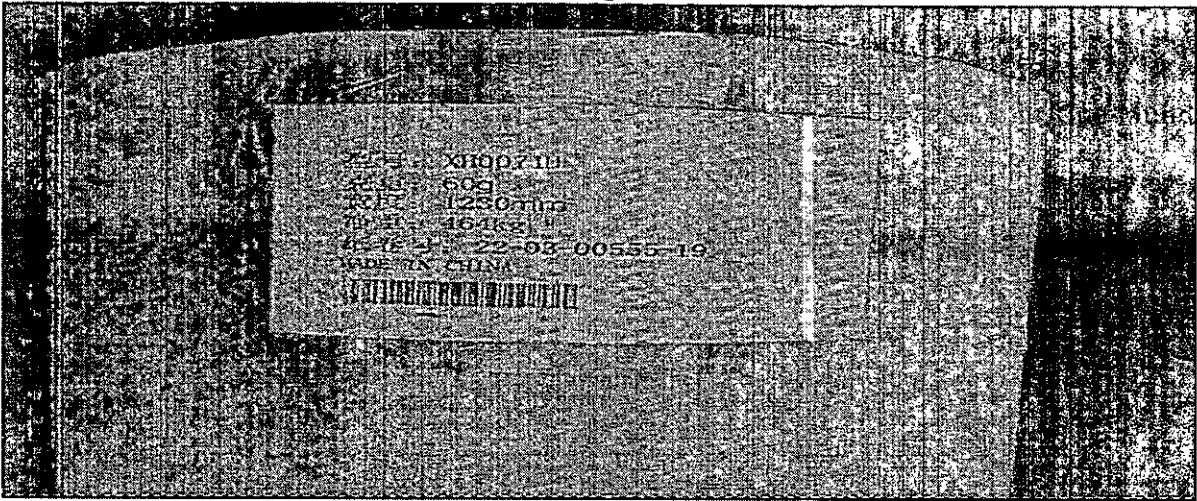
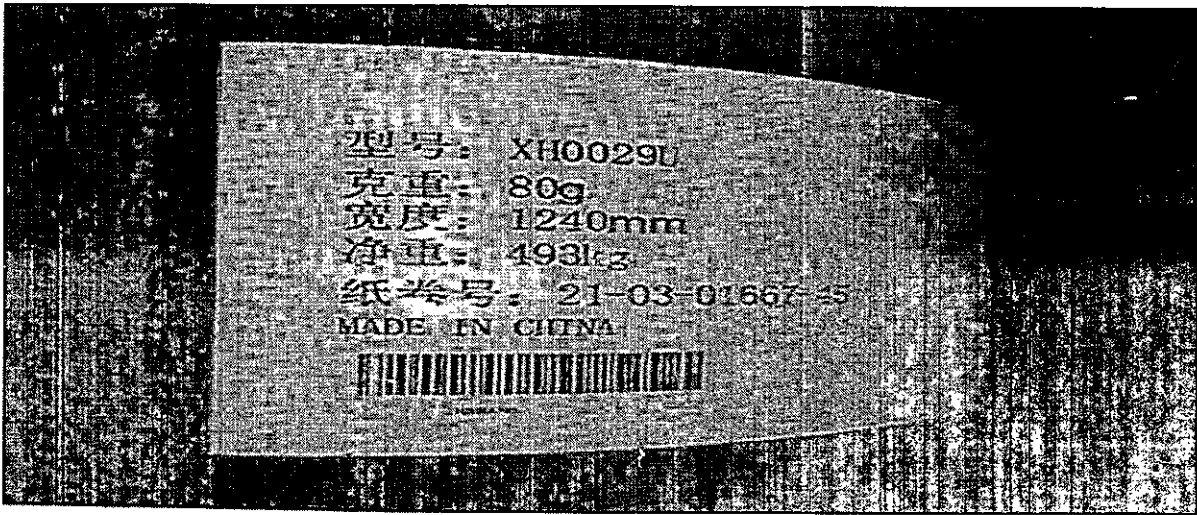
SARAF SALES CORPORATION
MUMBAI

Table-1

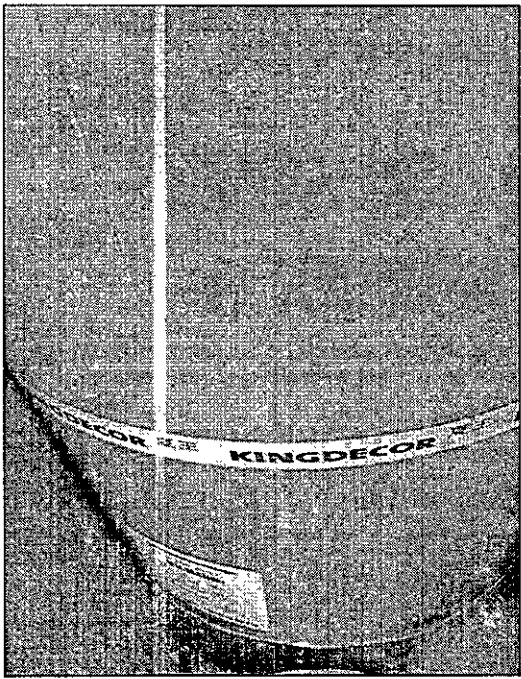
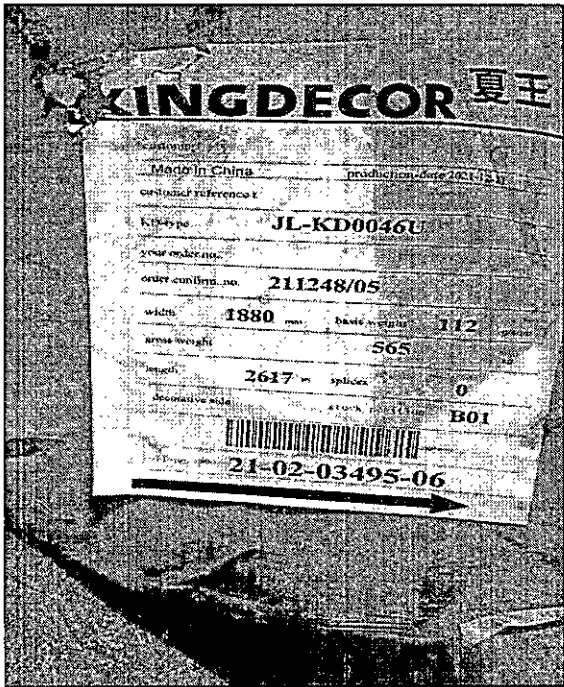
Sr. No.	Custom House Code	BE No.	BE Date	Invoice No.	Invoice date	Name of supplier	Description of imports	CTH declared	Quantity of imports goods in MT	Examined on	Examined by	Date of Seizure	Date of Provisional Release
1	2	3	4	5	6	7	8	9	10	11	12	13	14
1	INL DH 6	8077 146	30-03-2022	XH2 210 0	04-03-2022	ZHEJIAN G XIANHE NEW MATERIALS SALES CO., LTD.	Décor Paper	4802 2090	24.92 4	05-04-2022	DRI, Ludhiana	22.04.2022	06.07.2022
2	INS GF6	8212 628	09-04-2022	XH2 211 7	08-03-2022	ZHEJIAN G XIANHE NEW MATERIALS SALES CO., LTD	Décor Paper	4802 2090	24.85	22-04-2022	DRI, Ludhiana	22.04.2022	06.07.2022
3	INB DM 6	8259 362	13-04-2022	XH2 211 4	08-03-2022	ZHEJIAN G XIANHE NEW MATERIALS SALES CO., LTD.	Décor Paper	4802 2090	25.11 3	10-05-2022	DRI, DZU, New Delhi	10.05.2022	15.07.2022
4	INM BD 6	8210 380	09-04-2022	XH2 209 2	08-03-2022	ZHEJIAN G XIANHE NEW MATERIALS SALES	Décor Paper	4802 2090	25.26 1	27-04-2022	DRI, Noida RU	02.05.2022	03.08.2022
5	INM BD 6	8210 822	09-04-2022	XH2 208 3	08-03-2022	ZHEJIAN G XIANHE NEW MATERIALS SALES	Décor Paper	4802 2090	25.32 8	27-04-2022	DRI, Noida RU	02.05.2022	
6	INM UN 1	8176 130	07-04-2022	XH2 207 9A	01-03-2022	M/S. XIANHE CO.LTD	Décor Paper	4802 2090	59.87 5	23/2 4-04-2022	DRI, Ahmedabad ZU	20.07.2022	10.08.2022
7	INM UN 1	8174 724	07-04-2022	XH2 205 0C	01-03-2022	M/S. XIANHE CO, LTD	Décor Paper	4802 2090	45.12	23/2 4-04-2022	DRI, Ahmedabad ZU	20.07.2022	
8	INM UN 1	8176 605	07-04-2022	XH2 207 9B	01-03-2022	M/S. XIANHE CO, LTD	Décor Paper	4802 2090	45.10 5	23/2 4-04-2022	DRI, Ahmedabad ZU	20.07.2022	
9	INP AV1	8216 365	10-04-2022	XH2 143 0	08-03-2022	ZHEJIAN G XIANHE NEW MATERIALS SALES CO., LTD.	Décor Paper	4802 2090	14.95 3	18-05-2022	DRI, Jamnagar RU	18.05.2022	18.06.2022
10	INP AV1	8216 663	10-04-2022	XH2 143 1	08-03-2022	ZHEJIAN G XIANHE NEW MATERIALS SALES CO., LTD.	Décor Paper	4802 2090	14.93 8	18-05-2022	DRI, Jamnagar RU	18.05.2022	20.06.2022

1 1	INP AV1	8226 503	11- 04- 2022	XH2 211 6	08- 03- 2022	ZHEJIAN G XIANHE NEW MATERIAL S SALES CO., LTD.	Décor Paper	4802 2090	30.17 3	18- 05- 2022	DRI, Jamn agar RU	18.05 .2022	20.06.2 022
1 2	INR ML 6	8279 303	14- 04- 2022	XH2 136 4	25- 01- 2022	XIANHE CO., LTD.	Décor Paper	4802 2090	14.97 7	29- 04- 2022	DRI, Raipu r RU	29.04 .2022	25.07.2 022
1 3	INR ML 6	8282 947	15- 04- 2022	XH2 136 3	25- 01- 2022	XIANHE CO., LTD.	Décor Paper	4802 2090	15.19 2	28- 04- 2022	DRI, Raipu r RU	28.04 .2022	
1 4	INR ML 6	8284 959	15- 04- 2022	XH2 122 6	25- 02- 2022	XIANHE CO., LTD.	Décor Paper	4802 2090	14.87 3	29- 04- 2022	DRI, Raipu r RU	29.04 .2022	
1 5	INR ML 6	8285 728	15- 04- 2022	XH2 136 5	07- 03- 2022	ZHEJIAN G XIANHE NEW MATERIAL S SALES CO., LTD.	Décor Paper	4802 2090	15.21 2	29- 04- 2022	DRI, Raipu r RU	29.04 .2022	
1 6	INS AU6	8253 211	13- 04- 2022	XH2 208 6	08- 03- 2022	ZHEJIAN G XIANHE NEW MATERIAL S SALES CO LTD	Décor Paper	4802 2090	15.06 5	04- 05- 2022	DRI, Ahme daba d ZU	20.07 .2022	27.06.2 022
1 7	INS AU6	8254 223	13- 04- 2022	XH2 208 7	08- 03- 2022	ZHEJIAN G XIANHE NEW MATERIAL S SALES CO.,LTD	Décor Paper	4802 2090	14.93 6	04- 05- 2022	DRI, Ahme daba d ZU		
1 8	INR ML 6	8421 464	25- 04- 2022	XH2 212 1	28- 03- 2022	ZHEJIAN G XIANHE NEW MATERIAL S SALES CO., LTD.	Décor Paper	4802 2090	15.03 9	06- 05- 2022	DRI, Raipu r RU	06.05 .2022	25.07.2 022
1 9	INR ML 6	8421 264	25- 04- 2022	XH2 211 9	28- 03- 2022	ZHEJIAN G XIANHE NEW MATERIAL S SALES CO., LTD.	Décor Paper	4802 2090	15.01 8	06- 05- 2022	DRI, Raipu r RU	06.05 .2022	
2 0	INR ML 6	8320 366	18- 04- 2022	XH2 122 5	25- 02- 2022	XIANHE CO., LTD.	Décor Paper	4802 2090	14.97 9	06- 05- 2022	DRI, Raipu r RU	06.05 .2022	
2 1	INR ML 6	8422 811	26- 04- 2022	XH2 212 0	28- 03- 2022	ZHEJIAN G XIANHE NEW MATERIAL S SALES CO., LTD.	Décor Paper	4802 2090	14.99 7	06- 05- 2022	DRI, Raipu r RU	06.05 .2022	
Total									485.928				

3.1. Further, during physical examination of above 21 imported consignments (as per Table-1), no markings/labelling/packing tapes could be found which would link the consignments to M/s Kingdecor (Zhejiang) Co., Ltd. Sample markings/labelling/sticker found on these 21 imported consignments are below :-



3.2. In order to appreciate the appearance and labelling of goods produced by Kingdecor (Zhejiang) Co Ltd, a consignment of decor paper exported from China by Kingdecor (Zhejiang) Co Ltd and imported in India by M/s. Stylum Industries Ltd vide Bill of Entry no. 8009087 dated 25.03.2022 at ICD Chawapayal, Ludhiana was examined under Panchnama dated 13.04.2022. It can be seen that there are clear stickers/labels/tapes providing details of the producer of the goods i.e., KingDecor, production date, KD-type, order confirmation number, width, basis weight, length, stock position, roll number etc. All such details are missing in respect of goods imported by the importer Saraf Sales Corporation. Image is below:



3.3. In order to buttress the claim that the imported goods i.e. specifically those under Bill of Entry No. 8077146 dated 30.03.2022 with commercial invoice No XH22100 dated 04.03.2022 issued by Zhejiang Xianhe New Materials Sales Co. Ltd, China were produced by M/s Kingdecor (Zhejiang) Co Ltd only, the importer on 07.04.2022 presented a copy of a supposedly Chinese VAT Invoice dated 21.03.2022 which appears to record that Kingdecor (Zhejiang) Co Ltd had supplied 24.924 MT base paper to Zhejiang Xianhe New Materials Sales Co. Ltd, China. This VAT invoice copy is dated 21.03.2022 and carries Remarks 'XH22100' which corresponds to commercial invoice No XH22100 dated 04.03.2022 issued by Zhejiang Xianhe New Materials Sales Co. Ltd, China to the importer. Images of the commercial invoice and its supposed VAT Invoice is below:-

浙江仙鹤新材料销售有限公司
ZHEJIANG XIANHE NEW MATERIALS SALES CO., LTD.
BLOCK 1, NO.69 SOUTH TIANHU ROAD, GUJIANG DISTRICT, QUZHOU CITY,
ZHEJIANG PROVINCE, CHINA 324022

商业发票
COMMERCIAL INVOICE

TO: M/S. SARAF SALES CORPORATION
150, CHHOTALAL BHAVAN, 418, KALBADEVI
ROAD, MUMBAI-400 002, INDIA
EMAIL: SARFANSARAF.2008@REDIFFMAIL.COM
TEL: 91-0619061073

INVOICE NO.: XH22100
DATE: March 4, 2022

Description of goods	Quantity	Unit price	Amount
CIF MUNDRA/ICD LUDHIANA, INDIA			
FROM NINGBO, CHINA TO MUNDRA, INDIA BY SEA, THENCE TO ICD LUDHIANA, INDIA BY TRAIN			
UNCOATED BASE PAPER			
XH0029U 80GSM 1240MM	4931 KGS	2,255 /KG	USD 11,119.41
XH0071U 60GSM 1230MM	19993 KGS	1,900 /KG	USD 37,986.70
TOTAL:	24924 KGS.		USD 49,106.11
(SAY, UNITED STATES DOLLARS FORTY NINE THOUSAND ONE HUNDRED AND SIX AND CENTS ELEVEN ONLY.)			
PRODUCER & SUPPLIER IS KINGDECOR (ZHEJIANG) CO., LTD.			
GST ID NUMBER: 27AALP57121H1ZG			
IEC CODE: 0305082302			
TERMS OF PAYMENT: WITHIN 60 DAYS PAYMENT AFTER THE SHIPMENT DATE.			
BANK DETAILS:			
BENEFICIARY: ZHEJIANG XIANHE NEW MATERIALS SALES CO., LTD.			
ADDRESS: Block 1, NO.69 South Tianhu Road, Gujiang District, Quzhou City, Zhejiang Province, China 324022			
USD ACCOUNT: 1209260609146740771(USD)			
PAYMENT ROUTINE: INDUSTRIAL AND COMMERCIAL BANK OF CHINA, ZHEJIANG PROVINCIAL BRANCH			
SWIFT BIC: ICBKCNBJPJ			
Bank Address: NO. 150 ZHONGHEZHONG ROAD, HANGZHOU CITY, 310009, P.R. CHINA			

浙江夏王纸业股份有限公司
ZHEJIANG XIANHE NEW MATERIALS SALES CO., LTD.

王殿良

KINGDECOR 夏王
VAT INVOICE

NO.: 3300213130
34100530
Date: March 21, 2022

Buyer Name:	ZHEJIANG XIANHE NEW MATERIALS SALES CO., 91330603MA29THTK1X						
Buyer Address, Tel:	BLOCK 1, NO.69 SOUTH TIANHU ROAD, GUJIANG DISTRICT, QUZHOU CITY ZHEJIANG PROVINCE						
Buyer Bank:	INDUSTRIAL AND COMMERCIAL BANK OF CHINA, QUZHOU CITY, QUJIANG BRANCH 1209260609146740771						
Production	Size	Unit	Quantity	Unit Price	Amount	Tax rate	Amount of Tax
UNCOATED BASE PAPER		MT	24.924				-
Total							
TOTAL AMOUNT							
Supplier Name:	KINGDECOR (ZHEJIANG) CO., LTD.						Remark: XH22100
Supplier No.:	913308007686956395						
Supplier Address, Tel:	NO.20 SOUTH TIANHU ROAD, GUJIANG DISTRICT, QUZHOU CITY ZHEJIANG PROVINCE 0570-8768823						
Supplier Bank:	INDUSTRIAL AND COMMERCIAL BANK OF CHINA, QUZHOU CITY, QUJIANG BRANCH 1209260609146740771						

浙江夏王纸业股份有限公司
KINGDECOR (ZHEJIANG) CO., LTD.

7/4/22
PRUEEN KONAR
SIPACK

浙江夏王纸业股份有限公司
Kingdecor (Zhejiang) Co., Ltd. No.20 South Tianhu Road, Quzhou, Zhejiang, China 324022
中国浙江省衢州市天湖路20号 邮政编码 324022
电话/Tel: 0570-8768823; 传真/Fax: 0570-8768777; 邮箱/E-mail: kingdecor@kingdecor.cn

3.4. Aside from the fact that it is impossible to admit a photocopy of a supposedly Chinese VAT invoice as an authentic piece of evidence for grant of lower rate of anti-dumping duty in India, there are glaring discrepancies. To start with, is it a statutory invoice? Under which Chinese law or statute? How it came to be in possession of the importer? There are no vehicle details available on invoice unlike Indian e-way bills. No price/assessable value or tax payable has been mentioned in the invoice. Is it ok to issue a VAT Invoice in China without any assessable value or the VAT payable? To what end? The importer had no answer [pl see statement dated 19.04.2022 of Shri Sarwan Saraf at para 5]. Further, looking at invoice date, one should assume that goods were supplied by supplier M/s Kingdecor (Zhejiang) Co Ltd to the buyer Zhejiang Xianhe New Materials Sales Co. Ltd, China on 21.03.2022 but this goes against the fact that Zhejiang Xianhe New Materials Sales Co. Ltd, China had already issued the commercial invoice on 04.03.2022 and the goods had been dispatched to India on 07.03.2022 - see Bill of Lading -. Is it possible to dispatch the goods from China even before they have been bought in China? In a nutshell, the levy of anti-dumping duty rate in India cannot be based on photocopy of a supposedly VAT invoice issued in China between two Chinese entities.

4. Further, search was conducted on the premises of M/s Saraf Sales Corporation at BLDG No. B-19, Om Rudra Complex, Village-Kalwar, Kaman Road, NR- Chandni Dhaba, Bhiwandi-421302 on 24.05.2022 by DRI, Zonal Unit, Ahmedabad. During search proceedings, stock of 234.235 MTs of base paper imported under 16 Bills of Entries (As detailed in Table-2) was found. The supplier of imported décor paper for these 16 Bills of Entry is, once again, either Zhejiang Xianhe New Materials Sales Co Ltd. or Xianhe Co. Ltd and no markings/labelling/packing tapes of M/s Kingdecor (Zhejiang) Co., Ltd., China could be found on these imported goods. Accordingly, the imported goods were detained by the DRI, Zonal Unit, Mumbai under detention memo dated 25.05.2022.

Table-2

S r. N o.	CUST OM HOUS E CODE	BE NUMB ER	BE DATE	Invoic e No.	Invoic e date	Name of supplier	ITEM DESCRIPTION	UNI T PRI CE per MT (US D)	SEIZED QUANTI TY IN MTS	DATE OF SEIZ URE	DAT E OF PRO VISI ONAL REL EAS E
1	2	3	4	5	6	7	8	9	10		11
1	INNSA 1	76546 74	26-02- 2022	XH214 04	24-01- 2022	M/S. XIANHE CO.,LTD	BASE PAPER- 60 GSM (UNCOATED PLAIN BASE PAPER-60 GSM) (XH0007 60 GSM 1850 MM)	155 0	2.059	22.08 .2022	11.10 .2022
2	INNSA 1	77067 92	02-03- 2022	XH220 29	27-01- 2022	M/S. XIANHE CO.,LTD	BASE PAPER- 60 GSM (UNCOATED PLAIN BASE PAPER-60 GSM) (XH0007 60 GSM 1250MM)	155 0	4.491		
3	INNSA 1	77447 55	05-03- 2022	XH214 03	14-02- 2022	M/S. XIANHE CO.,LTD	BASE PAPER- 60 GSM (UNCOATED PLAIN BASE	155 0	5.709		

							PAPER-60 GSM) (XH0007 60 GSM 1850 MM)				
4	INNSA 1	77447 55	05-03-2022	XH214 03	14-02-2022	M/S. XIANHE CO.,LTD	BASE PAPER-50 GSM (UNCOATED PLAIN BASE PAPER-50 GSM) (XH0007 50 GSM 1310 MM)	155 0	2.658		
5	INNSA 1	79079 24	17-03-2022	XH220 67	28-02-2022	M/S. XIANHE CO.,LTD	BASE PAPER-60 GSM (UNCOATED PLAIN BASE PAPER-60 GSM) (XH0007 60 GSM 1250 MM)	155 0	3.019		
6	INNSA 1	79945 86	24-03-2022	XH220 65	28-02-2022	M/S. XIANHE CO.,LTD	BASE PAPER-60 GSM (UNCOATED PLAIN BASE PAPER-60 GSM) (XH0007 60 GSM 1250 MM)	155 0	7.983		
7	INNSA 1	79945 86	24-03-2022	XH220 65	28-02-2022	M/S. XIANHE CO.,LTD	BASE PAPER-60 GSM (UNCOATED PLAIN BASE PAPER-55 GSM) (XH5021D 55 GSM 1250 MM)	155 0	3.019		
8	INNSA 1	80275 45	26-03-2022	XH220 70B	01-03-2022	M/S. XIANHE CO.,LTD	BASE PAPER-65 GSM (UNCOATED PLAIN BASE PAPER-65 GSM) (XH0092D 65 GSM 1240 MM)	191 0	24.957		
9	INNSA 1	80247 26	26-03-2022	XH220 70A	01-03-2022	M/S. XIANHE CO.,LTD	BASE PAPER-60 GSM (UNCOATED PLAIN BASE PAPER-60 GSM) (XH0007 60 GSM 1250 MM)	155 0	25.364		
10	INNSA 1	80247 26	26-03-2022	XH220 70A	01-03-2022	M/S. XIANHE CO.,LTD	BASE PAPER-65 GSM (UNCOATED PLAIN BASE PAPER-65 GSM) (XH0092D 65 GSM 1240 MM)	191 0	8.638		
11	INNSA 1	80252 07	26-03-2022	XH221 08	07-03-2022	M/S. ZHEJIAN XIANHE NEW MATERIALS	BASE PAPER-80 GSM (UNCOATED PLAIN BASE PAPER-80 GSM) (XH1008U 80 GSM 1240 MM)	221 5	5.013		

1 2	INNSA 1	80253 92	26-03- 2022	XH221 09	07-03- 2022	M/S. ZHEJIA NG XIANHE NEW MATERI ALS	BASE PAPER- 80 GSM (UNCOATED PLAIN BASE PAPER-80 GSM) (XH1008U 80 GSM 1240 MM)	221 5	0.499		
1 3	INNSA 1	80260 21	26-03- 2022	XH221 07	07-03- 2022	M/S. ZHEJIA NG XIANHE NEW MATERI ALS	BASE PAPER- 80 GSM (UNCOATED PLAIN BASE PAPER-80 GSM) (XH1008U 80 GSM 1240 MM)	221 5	2.512		
1 4	INNSA 1	80388 85	28-03- 2022	XH220 73	01-03- 2022	M/S. XIANHE CO.,LTD	BASE PAPER- 50 GSM (UNCOATED PLAIN BASE PAPER-50 GSM) (XH0007 50 GSM 1240 MM)	155 0	23.79		
1 5	INNSA 1	80421 30	28-03- 2022	XH220 72B	01-03- 2022	M/S. XIANHE CO.,LTD	BASE PAPER- 65 GSM (UNCOATED PLAIN BASE PAPER-65 GSM) (XH0092D 65 GSM 1240 MM)	191 0	25.127		
1 6	INNSA 1	80541 57	29-03- 2022	XH220 68A	28-02- 2022	M/S. XIANHE CO.,LTD	BASE PAPER- 60 GSM (UNCOATED PLAIN BASE PAPER-60 GSM) (XH0007 60 GSM 1250 MM)	155 0	16.875		
1 7	INNSA 1	80586 25	29-03- 2022	XH221 11	08-03- 2022	M/S. ZHEJIA NG XIANHE NEW MATERI ALS	BASE PAPER- 65 GSM (UNCOATED PLAIN BASE PAPER-65 GSM) (XH0092D 65 GSM 1250 MM)	191 0	15.028		
1 8	INNSA 1	80586 25	29-03- 2022	XH221 11	08-03- 2022	M/S. ZHEJIA NG XIANHE NEW MATERI ALS	BASE PAPER- 65 GSM (UNCOATED PLAIN BASE PAPER-65 GSM) (XH0092D 65 GSM 1250 MM)	191 0	13.705		
1 9	INNSA 1	80539 28	29-03- 2022	XH220 68B	28-02- 2022	M/S. XIANHE CO.,LTD	BASE PAPER- 65 GSM (UNCOATED PLAIN BASE PAPER-65 GSM) (XH0092D 65 GSM 1230 MM)	191 0	18.766		
2 0	INNSA 1	80575 66	29-03- 2022	XH220 69	28-02- 2022	M/S. XIANHE CO.,LTD	BASE PAPER- 60 GSM (UNCOATED PLAIN BASE PAPER-60	155 0	25.023		

							GSM) (XH0007 60 GSM 1250 MM)				
TOTAL 234.235 MT											

5. Summons were issued to Shri Sarwan Saraf, Proprietor of M/s. Saraf Sales Corporation and statement dated 19.04.2022 was recorded under Section 108 of the Customs Act, 1962. The relevant part of the statement is reproduced as below:-

“Questions: Please give a brief about your company?

Answer: Our company i.e. M/s. Saraf Sales Corporation (IEC-0305082302) is a proprietorship firm having head office at, 418, Kalbadevi Road, 50 Chota Lal Bhavan, 2nd Floor, Mumbai-400002 and present address of office 101, Panchwati co-operative Society, near Tilak Vidyalaya School, Hanuman Road, Vile Parle East, Mumbai-400063. I am proprietor of M/s. Saraf Sales Corporation and this firm was incorporated in 1983 and we are importing base papers from 2003 onwards. We are registered under GST in Mumbai and our GST No. is 27AALPS7121HIZG. Our E-mail address is sarwansaraf.2008@rediffmail.com.

Question: What type of items are imported by M/s. Saraf Sales Corporation and from where?

Answer. I state that we mainly do import of BASE Paper from China since 2003. Presently, we are purchasing/importing goods from M/s Zhejiang Xianhe New Materials Sales Co. Ltd, China and M/s Xianhe Co. Ltd., China.

Question:- You are being shown a set of documents submitted by you i.e.

- (i) Printout purchase order (email);
- (ii) Proforma invoices, and
- (iii) Commercial Invoices

It is seen from the documents submitted that you have raised purchase order to M/s Zhejiang Xianhe New Materials Sales Co. Ltd, China, wherein there was no mention that goods produced by KINGDECOR (ZHEJIANG) CO. LTD are to supplied. Further in Proforma invoices also it is not mentioned that goods were produced by Kingdecor. However, in Commercial invoice a line "PRODUCER & SUPPLIER IS KINGDECOR (ZHEJIANG) CO. LTD." Is inserted. Kindly explain the same?

Answer. I agree that we have raised purchase order to M/s Zhejiang Xianhe New Materials Sales Co. Ltd, China and have not mentioned that goods should be produced by Kingdecor (Zhejiang) Co. Ltd. I also agree that in Proforma invoice supplied by M/s Zhejiang Xianhe New Materials Sales Co. Ltd, China does not have any mention of producer of goods. Further, I state that I am aware the line "PRODUCER & SUPPLIER IS KINGDECOR (ZHEJIANG) CO. LTD." is inserted in Commercial invoices as we were suggested is required.

Question:- It is seen from printouts of Purchase order taken from e-mail i.e. sarwansaraf.2008@rediffmail.com submitted by you that you have raised purchase orders to M/s Zhejiang Xianhe New Materials Sales Co. Ltd, China and nowhere in purchase order Kingdecor is mentioned. Kindly explain the same?

Answer. In this regard, I state that I was in the opinion that M/s Zhejiang Xianhe New Materials Sales Co. Ltd, China purchased goods from M/s Kingdecor, China and then supply to us.

Question: You are being shown copies of Bill of Entries No 7881201 dated 15.03.2022, 7885084 dt 16.03.2022 & 7654674 dt 26.02.2022. It is seen that you have mentioned M/s Kingdecor (Zhejiang) Co Ltd as third party. Please explain whether you have made any payment to M/s Kingdecor?

Answer. It is submitted that we have not made any payment to M/s Kingdecor (Zhejiang) Co Ltd. for the said mentioned Bills of Entries. Further, it is also submitted that we have not made any payment to M/s Kingdecor (Zhejiang) Co Ltd. for the goods imported till date where M/s Kingdecor (Zhejiang) Co Ltd is mentioned as third party. May be it based upon invoice, our CHA may mentioned the details of M/s Kingdecor (Zhejiang) Co Ltd.

Question: You are being shown the tax invoices No. PORT/019 dated 1.02.2022, PORT/020 dated 02.02.2022, PORT/021 dated 02.02.2022. It is seen that you have dispatched the imported goods to the buyers but have not mentioned the details like gsm etc. Please explain?

Answer. I hereby state that we normally sell the imported goods from port itself and dispatch the goods from there directly to the buyers after raising tax invoices. We verbally inform them goods supplied are as per requirement given by them.

Question: You have been shown Panchnama dated 05.04.2022 drawn at ICD Concor Ludhiana for examination of goods covered under Bill of Entry no. 8077146 dated 30.03.2022 filed by M/s. Saraf Sales Corporation. Do you agree with the contents of the Panchnama. Was there any markings of M/s Kingdecor (Zhejiang) Co Ltd on the import goods in said Bill of entry?

Answer. I state that I fully agree with the contents of the Panchnama dated 05.04.2022 drawn at ICD Concor Ludhiana for examination of imported goods covered under Bill of Entry No 8077146 dated 30.03.2022 and I hereby put my dated signature in token of having seen and understood it. I, further admit that there was no marking/stickers showing that the goods were manufactured by of M/s Kingdecor (Zhejiang) Co Ltd on any of the reels imported vide above said Bill of entry.

Question: You have been shown Panchnama dated 13.04.2022 drawn at ICD Chawapayal Ludhiana for examination of goods covered under Bill of Entry no. 8009087 dated 25.03.2022 (imported from M/s Kingdecor (Zhejiang) Co Ltd, China) and 8071371 dated 30.03.2022 filed by M/s. Stylum Industries Limited. Do you agree with the contents of the Panchnama wherein you have been shown Annexure-

E, F, G, H, I, J and K along with other annexures of said Panchnama where goods found during examination were having markings/stickers and tapes of M/s Kingdecor (Zhejiang) Co Ltd. Due you agree that no such markings are present/pasted on goods imported by M/s. Saraf Sales Corporation vide Bill of Entry no. 8077146 dated 30.03.2022?

Answer: I have seen the Panchnama dated 13.04.2022 and signed the same in token of seen and understood it. I agree that in respect goods imported by M/s. Stylum Industries Limited from M/s Kingdecor (Zhejiang) Co Ltd have clear cut markings/packaging details showing that the goods were produced/manufactured by M/s Kingdecor (Zhejiang) Co Ltd. I also agree that I respect of good imported by us vide Bill of entry. No. 8077146 dated 30.03.2022 no such markings/stickers or tapes of M/s Kingdecor (Zhejiang) Co Ltd are present. I further agree that on none of the consignments imported by us after 27/12/2021, from M/s Zhejiang Xianhe New Materials Sales Co. Ltd, China or Xianhe Co. Ltd, China had any markings/packaging details showing that the goods were produced/manufactured by M/s Kingdecor (Zhejiang) Co Ltd were present on imported goods.

Question: From the Documents submitted under the statement dated 07.04.2022 tendered by Shri Parveen Kumar Singla, it has been found that VAT Invoice was shown to be issued by M/s Kingdecor (Zhejiang) Co Ltd to M/s Zhejiang Xianhe New Materials Sales Co. Ltd, China on 21.03.2022 but M/s Zhejiang Xianhe New Materials Sales Co. Ltd, China, issued commercial invoice to M/s Saraf Sales Corporation on 04.03.2022 for the same goods. Please explain how can goods be sold/exported to M/s Saraf Sales before they were purchased by M/s Zhejiang Xianhe New Materials Sales Co. Ltd?

Answer. I have nothing to say but, will check with them and get Explanation about it.

Question: From the Documents submitted under the statement dated 07.04.2022 tendered by Shri Parveen Kumar Singla, It has been seen that VAT Invoice was issued by M/s Kingdecor (Zhejiang) Co Ltd to M/s Zhejiang Xianhe New Materials Sales Co. Ltd, China on 21.03.2022 with the remarks 'XH22100'. Further, M/s Zhejiang Xianhe New Materials Sales Co. Ltd, China, issued commercial invoice No XH22100 dated 04.03.2022 to M/s Saraf Sales Corporation. How can M/s Kingdecor (Zhejiang) Co Ltd ascertain the Invoice No of M/s Zhejiang Xianhe New Materials Sales Co. Ltd, China?

Answer. I have no explanation for the same.

Question. You have been shown following invoices of M/s Kingdecor (Zhejiang) Co Ltd, China issued to various importers in India whereunder Base paper has been imported in India

Sr. No.	Invoice No. & date	Bill of Entry No. & date	Name of the Importer	Description of Goods	Rate/Unit (USD)
1	2022020961D dated 19.02.2022	7817458 dated 10.03.2022	JKS Décor Paper LLP	Base paper (60 gsm) (Width 1230mm)	2.00

2	202203011. dated 01.03.2022	7914339 dated 17.03.2022	JKS Décor Paper LLP	Base paper (60 gsm) (Width 1230mm)	2.00
3	202201118 dated 25.01.2022	7718314 dated 03.03.2022	Stylam Industries Ltd	Base paper (60 gsm) (Width 1230mm)	2.20
4	202201070 dated 14.01.2022	7504285 dated 15.02.2022	Century Plyboards (I) Ltd	Base paper (80 gsm) (Width 1240mm)	2.40
5	202202052 dated 15.02.2022	7870149 dated 15.03.2022	Stylam Industries Ltd	Base paper (60 gsm) (Width 1230mm)	2.05
6	202203017 dated 01.03.2022	8060717 dated 29.03.2022	Century Plyboards (II) Ltd	Base paper (80 gsm) (Width 1240mm)	2.40

Further, in invoice no. XH22100 dated 04.03.2022 issued by Zhejiang Xianhe New Materials Sales Co. Ltd; China to you, the rates are mentioned as below:

Sr. No.	Invoice No. & date	Bill of Entry No. & date	Name of the Importer	Description of Goods	Rate/Unit (USD)
1	XH22100 dated 04.03.2022	8077146 dated 30.03.2022	M/s. Saraf Sales Corporation	Base paper (80 gsm) (Width 1240mm)	2.255
2	XH22100 dated 04.03.2022	8077146 dated 30.03.2022	M/s. Saraf Sales Corporation	Base paper (60 gsm) (Width 1230mm)	1.90

From the above it is seen that your Supplier M/s Zhejiang Xianhe New Materials Sales Co. Ltd, China are supplying Base paper at lesser rate than M/s Kingdecor (Zhejiang) Co Ltd supplying the same goods directly to its customers in India. It is against the business sense. Moreover, the code names mentioned on goods directly supplied by M/s Kingdecor (Zhejiang) Co Ltd starts with series "KD...." Whereas goods imported by have different series which starts with 'XH.... please explain?

Answer. I agreed that M/s Kingdecor (Zhejiang) Co Ltd had directly supplied the goods with different code item numbers to Indian Importers at high rates, whereas in our case Zhejiang Xianhe New Materials Sales Co. Ltd, China has procured the goods first from M/s Kingdecor (Zhejiang) Co Ltd and then supplied to us at cheaper rates. The goods supplied to us by Zhejiang Xianhe New Materials Sales Co. Ltd, China are of slightly cheaper quality and most of them are used only for design printing, which makes the price difference. Same is the case in respect of Goods supplied by like. M/s Xianhe Co. Ltd. Regarding the difference in code/series, I have nothing to add. KD

material like 180-60 etc are direct solid Colour and XH Peeper - 4009/2008 etc are print base paper with low purity.

Question. It is seen from the invoices issued by M/s Zhejiang Xianhe New Materials Sales Base Co. Ltd, China that the line "PRODUCER & SUPPLIER IS KINGDECOR (ZHEJIANG) paper. CO. LTD." was inserted from December 2021 only. In the previous invoices no such line was mentioned by the same supplier. Kindly explain the same?

Answer: I state that the anti-dumping duty become applicable on base paper w.e.f. 27.12.2021 thereafter on our request they have started mentioning "PRODUCER & SUPPLIER IS KINGDECOR (ZHEJIANG) CO. LTD." on invoices issued by M/s Zhejiang Xianhe New Materials Sales Co. Ltd, China and M/s Xianhe Co. Ltd., China."

6. Thus, Shri Sarwan Saraf, proprietor of the importer firm, agreed that while proforma invoices supplied by Zhejiang Xianhe New Materials Sales Co. Ltd, China [and later also by Xianhe Co. Ltd., China] did not carry any endorsement or mention Kingdecor (Zhejiang) Co. Ltd, the endorsement "PRODUCER & SUPPLIER IS KINGDECOR (ZHEJIANG) CO. LTD." was inserted on his suggestion by the Chinese exporters as the same was required for claiming lower rate of anti-dumping duty. He also agreed that no payment has been made to Kingdecor (Zhejiang) Co Ltd. in respect of the imported goods. When confronted with Panchnama dated 05.04.2022 drawn at ICD Concor Ludhiana for examination of imported goods covered under Bill of Entry No 8077146 dated 30.03.2022, he admitted that there were no marking/stickers showing that the imported goods were manufactured by of M/s Kingdecor (Zhejiang) Co Ltd. When he was also confronted with Panchnama dated 13.04.2022 drawn at ICD Chawapayal Ludhiana for examination of goods covered under Bill of Entry no. 8009087 dated 25.03.2022 (imported from M/s Kingdecor (Zhejiang) Co Ltd, China) by M/s. Stylum Industries Limited, he agreed that those imported goods were carrying markings/stickers and tapes of M/s Kingdecor (Zhejiang) Co Ltd and that no such markings/ stickers or tapes were present in respect of goods imported by him. When asked to explain the endorsement "PRODUCER & SUPPLIER IS KINGDECOR (ZHEJIANG) CO. LTD.", he stated that it was inserted from December 2021 onwards [anti-dumping duty notification was issued on 27.12.2021] and in the previous invoices, no such endorsement was made by the very same exporters from China and that since the anti-dumping duty become applicable on base paper w.e.f. 27.12.2021, on his request, the Chinese exporters - M/s Zhejiang Xianhe New Materials Sales Co. Ltd, China and M/s Xianhe Co. Ltd., China - started incorporating the endorsement "PRODUCER & SUPPLIER IS KINGDECOR (ZHEJIANG) CO. LTD." on commercial invoices issued by them.

6.1. In view of above, the imported goods mentioned in Table-1 and 2 were seized under the provisions of Section 110 of the Customs Act, 1962 on the reasonable belief that these liable for confiscation under Section 111 of the Customs Act, 1962 inasmuch as these appears to have not been produced by Kingdecor (Zhejiang) Co., Ltd and as such anti-dumping duty @ USD 542 per MT was payable instead of @ USD 116 per MT. Subsequently, the said seized goods were released provisionally on furnishing bond and bank guarantees [see last column of Table 1 and 2].

7. During the course of investigation, the importer Saraf Sales Corporation imported one consignments of décor paper from M/s Kingdecor (Zhejiang) Co., Ltd only vide Bill of Entry No. 8926374 dated 01.06.2022. Commercial Invoice No. XW22166B dated 06.05.2022 in respect of these goods was issued by M/s Kingdecor (Zhejiang) Co., Ltd. This consignment was examined by SIIB, Mundra on 10.06.2022 and during examination, the labels/stickers clearly mentioning "Kingdecor" were found pasted on each rolls of décor paper. Images taken during the examination are as below:

浙江夏王纸业有限公司

KINGDECOR (ZHEJIANG) CO.,LTD

NO.20 SOUTH TIANHU ROAD,QUJIANG DISTRICT, QUZHOU CITY, ZHEJIANG 324022 CHINA

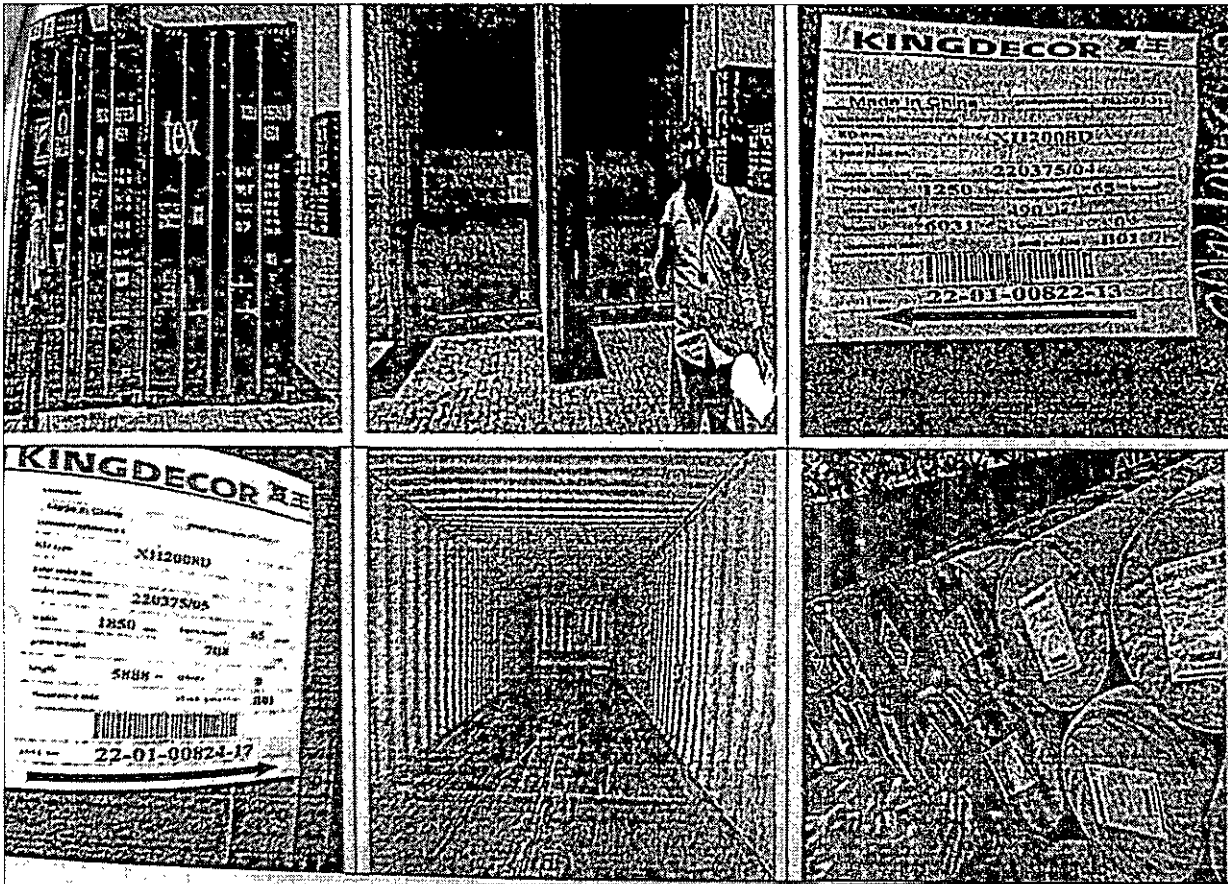
商业发票

COMMERCIAL INVOICE

TO: M/S.SARAF SALES CORPORATION
50,CHHOTALAL BHAVAN,418,KALBADEVI
ROAD,MUMBAI-400 002,INDIA
EMAIL:SARWANSARAF.2008@REDIFFMAIL.COM
TEL:91-9619661073

INVOICE NO.:XW22166B
DATE:May 6,2022

Description of goods	Quantity	Unit price	Amount
CIF MUNDRA,INDIA			
FROM NINGBO, CHINA TO MUNDRA, INDIA BY SEA			
UNCOATED PLAIN BASE PAPER			
XH2008D 65G 1850MM	25307 KGS	1.680 /KG	USD 42,515.76
XH2008D 65G 1250MM	24728 KGS	1.680 /KG	USD 41,543.04
TOTAL:		50035 KGS	USD 84,058.80
(SAY, UNITED STATES DOLLARS EIGHTY FOUR THOUSAND AND FIFTY EIGHT AND CENTS EIGHTY ONLY)			
GST ID NUMBER:27AALPS7121H1ZG			
IEC CODE:0305082302			
1)TERMS OF PAYMENT: WITHIN 60 DAYS PAYMENT AFTER THE SHIPMENT DATE.;			
2) BANK DETAILS:			
BENEFICIARY: KINGDECOR (ZHEJIANG) CO.,LTD.			
ADDRESS:NO.20 SOUTH TIANHU ROAD,QUJIANG DISTRICT, QUZHOU CITY, ZHEJIANG 324022,CHINA			
USD ACCOUNT: 1209210009142426763			
BANK NAME: INDUSTRIAL AND COMMERCIAL BANK OF CHINA,			
ZHEJIANG PROVINCIAL BRANCH			
ADDRESS: NO.150 ZHONGHEZHONG ROAD HANGZHOU CITY,			
310009 P.R. CHINA			
SWIFT BIC: ICBKCNBJZJP			
浙江夏王纸业有限公司			
KINGDECOR (ZHEJIANG) CO.,LTD.			
朱毅			
Signature Not Verified			
Digitally signed by Kingdecor (Zhejiang) Co., Ltd.			
DN: cn=Kingdecor (Zhejiang) Co., Ltd.			
c=CN, o=Kingdecor (Zhejiang) Co., Ltd.			
email=kingdecor@kingdecor.com.cn			
Date: 2022.05.28 12:24:57			
Reason: Signature Document			
Lundbury India			



8. Another statement of Sh. Sarwan Saraf, Proprietor of M/s. Saraf Sales Corporation was recorded on 01.03.2024 under Section 108 of the Customs Act, 1962. The relevant part of the statement is reproduced as below:-

“Questions 1: Please state to whom you raised Purchase Orders for import of base paper for the period 27.12.2021 to 30.04.2022 and provide copies of all these Purchase Orders raised by your firm. Also state the mode through which you raised these purchase orders?

Answer: I hereby state that we have ordered import of base paper from the period 27.12.2021 to 30.04.2022 to M/s Xianhe Co. Ltd, China and M/s Zhejiang Xianhe New Materials Sales Co. Ltd, China only. We usually raise purchase orders either through telephonic conversation, e-mail or We-Chat app. I hereby state that I have only four purchase orders dated 07.01.2022 (three in no.) and 04.03.2022(one) raised to M/s Xianhe Co. Ltd, China, which I have submitted earlier vide statement dated 19.04.2022.

Questions 2: As per documents submitted by you, you have raised purchase orders of base paper at the following e-mails hopejin566@vip.163.com & hanna8757@163.com. Please state who operates these email ids?

Answer: I hereby state that the e-mails hopejin566@vip.163.com & hanna8757@163.com were operated by Ms. Jin and her secretary Ms. Hanna on behalf of M/s Xianhe Co. Ltd., China.

Questions 3: Please provide the copies of all the Proforma invoices, Commercial Invoices, Packing list, Foreign Advice issued for import of base paper for the period 27.12.2021 to 30.04.2022. Also state the mode through which you have received these documents?

Answer: I hereby submit copies of Commercial Invoices, Packing list, Foreign Advice issued for import of base paper for the period 27.12.2021 to 30.04.2022. Further, I state that I have almost all the Proforma invoices of base paper imported between the period 27.12.2021 to 30.04.2022 and I will provide these all the Proforma invoices by today or tomorrow. Further, all these Proforma invoices, Commercial Invoices, packing list were issued to us by M/s Xianhe Co. Ltd, China and M/s Zhejiang Xianhe New Materials Sales Co. Ltd, China only. We have sent the payments of the goods imported between 27.12.2021 to 30.04.2022 to these two firms i.e. M/s Xianhe Co. Ltd, China and M/s Zhejiang Xianhe New Materials Sales Co. Ltd, China only. We received all these documents i.e. Proforma invoices, Commercial Invoices, Packing list through email and Courier.

Questions 4: Please state the name of supplier from whom you are purchasing base paper after 30.04.2022?

Answer: I hereby state that we are raising purchase orders for import of base paper to M/s Kingdecor (Zhejiang) Co. Ltd after 30.04.2022 and M/s Kingdecor (Zhejiang) Co. Ltd raised us Commercial Invoices, Packing list in lieu of these orders.”

8.1. Thus, Shri Saraf confirmed that during the period 27.12.2021 to 30.04.2022, he had placed orders for import of décor paper only to M/s Xianhe Co. Ltd, China or M/s Zhejiang Xianhe New Materials Sales Co. Ltd, China through telephonic conversation, e-mail or We-Chat App though he had in his

possession only four purchase orders dated 07.01.2022 (total 3) and 04.03.2022 (total 1) which were raised to M/s Xianhe Co. Ltd, China. He also confirmed that the purchase orders of base paper sent by him sarwansaraf.2008@rediffmail.com at e-mails hopejin566@vip.163.com & hanna8757@163.com were operated by Ms. Jin and her secretary Ms. Hanna on behalf of M/s Xianhe Co. Ltd., China. He reiterated that all the Proforma invoices, Commercial Invoices, Packing list, etc. were issued to him by M/s Xianhe Co. Ltd, China and M/s Zhejiang Xianhe New Materials Sales Co. Ltd, China only and that for all the goods imported between 27.12.2021 to 30.04.2022, he had sent payments to either M/s Xianhe Co. Ltd, China or M/s Zhejiang Xianhe New Materials Sales Co. Ltd, China only. Finally, he stated that after initiation of DRI investigation, he was raising purchase orders for import of décor paper to Kingdecor (Zhejiang) Co. Ltd and all the commercial Invoices and packing lists in lieu of these purchase orders were issued by Kingdecor (Zhejiang) Co. Ltd only.

9. The relevant legal provisions are as under

The Legal Provisions of the Customs Act, 1962, and rules made thereunder relevant to the present matter are discussed herein under:

9.1. Whereas, SECTION 17 of the Act, prescribes that an importer entering any imported goods under section 46, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.

9.2. Whereas, SECTION 46 of the Act prescribes that 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.

9.3 Whereas, SECTION 28 Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded

(4) 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, 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.

(5) Where any 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 may pay the duty in full or in part, as may be accepted by

him, and the interest payable thereon under section 28AA and the penalty equal to fifteen per cent 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.

Explanation- For the purposes of this section, "relevant date" means,-

(a) in a case where duty is not levied or not paid or short-levied or short-paid, or interest is not charged, the date on which the proper officer makes an order for the clearance of goods;

(b) in a case where duty is provisionally assessed under section 18, the date of adjustment of duty after the final assessment thereof or re-assessment, as the case may be;

(c) in a case where duty or interest has been erroneously refunded, the date of refund ;

(d) in any other case, the date of payment of duty or interest.

9.4 SECTION 28AA Interest on delayed payment of duty—

(1) 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 paid 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.

(2) Interest at such rate not below ten per cent. and not exceeding thirty - six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

(3) Notwithstanding anything contained in sub-section (1), no interest shall be payable where-

(a) the duty becomes payable consequent to the issue of an order, instruction or direction by the Board under section 151A; and

(b) such amount of duty is voluntarily paid in full, within forty-five days from the date of issue of such order, instruction or direction, without reserving any right to appeal against the said payment at any subsequent stage of such payment.

9.5. Improper Import:

Since the goods were imported by importer on the basis of wilful mis-statement on the commercial invoices presented to the Customs that imported décor paper was produced by M/s Kingdecor (Zhejiang) Co Ltd so that they could pay a lower rate of anti-dumping duty than actually payable under Notification 77/2021-Customs (ADD) dated 27th December 2021 and thus evade payment of anti-dumping duty as well as IGST. Therefore, the goods are liable to be

confiscated under Section 111 (m) of the Customs Act, 1962. By these acts of omission and commission, the importer has rendered themselves liable to penalty under Section 112(a)(ii) and Section 114A of the Customs Act, 1962 for the goods imported by them. The relevant legal provisions are as under:

SECTION 111 Confiscation of improperly imported goods, etc. –

The following goods brought from a place outside India shall be liable for confiscation:

(a).....

(b).....

(c).....

(d) *any goods which are imported or attempted to be imported or 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;*

....

.....

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

(o) *any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer;...*

(q) *any goods imported on a claim of preferential rate of duty which contravenes any provision of Chapter VAA or any rule made thereunder.*

SECTION 112. Penalty for improper importation of goods, etc.-

Any person, -

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

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

shall be liable, -

(i) *in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty ¹ [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 ⁴ [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 ⁵ [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 ⁶ [not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest.]

SECTION 114A. - Penalty for short-levy or non-levy of duty in certain cases. - Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-section (8) of section 28 shall also be liable to pay a penalty equal to the duty or interest so determined.

10. The investigation has thus revealed that M/s Saraf Sales Corporation made a wilful mis-statement on the commercial invoices presented to the Customs that imported décor paper was produced by M/s Kingdecor (Zhejiang) Co Ltd so that it could pay a lower rate of anti-dumping duty than actually payable under Notification 77/2021-Customs (ADD) dated 27th December 2021 and thus evade payment of anti-dumping duty as well as IGST. The importer has thus imported 4433.6 MT base paper under 174 Bills of Entry (as mentioned in Annexure-A) and the differential anti-dumping duty of **Rs.14,44,07,177/-** and IGST of **Rs.9,44,91,478/-**, as detailed in Annexure B, has been evaded on such imports. The provisions of Section 28(4) of the Customs Act, 1962 are therefore applicable for recovery of duty. Further, on account of wilful mis-statement made by the importer, 4433.6 MT of imported décor paper is liable for confiscation under Section 111[m] of the Customs Act, 1962 although only 720.16 MT of imported décor paper is actually available for confiscation [As per Table-1& 2]

and the importer is liable for penal action under Section 114A as well as 112a (ii) of Customs Act, 1962.

11. From the foregoing paras, it appears:

- that the differential **Anti-dumping duty** of **Rs.14,44,07,177/-** and **IGST** of **Rs.1,73,28, 861/-** as detailed in Annexure-B, should be demanded and recovered from the importer under Section 28 (4) of the Customs Act, 1962;
- that the Interest under Section 28AA of the Customs Act, 1962 should be recovered from the importer on the said differential Customs Duty.
- that **4433.6 MT** imported décor paper, having assessable value of **Rs.57,92,98,928/-** should be held liable for confiscation under Section 111(m) and out of which 720.16 MT of importer décor paper valued at **Rs.9,07,67,379/-** which is still available, should be confiscated.
- that Penalty should be imposed upon the importer under Section 114A as well as 112(a) (ii) of Customs Act, 1962.

12. Further, as per Notification No. 28/2022-Customs (N.T.), dated 31.03.2022, under 110AA for assigning proper officer for multiple Jurisdictions:

".....in a case of multiple jurisdictions as referred in section 110AA of the said Act, the report in writing, after causing the inquiry, investigation or audit as the case may be, along with the relevant documents, shall be transferred, as described in column (2) of the Table, who shall also be the proper officer for the purpose of exercise of powers under sections 28, section 28AAA or Chapter X of the said Act, as the case may be, and assigns the said functions to such officers for which purpose invests them with jurisdiction over the whole of India with all the powers under the said Act....."

Customs port wise anti-dumping duty and IGST evaded is below in Table-3:

Table-3

Sr. No.	Customs House	Differential Duty involved [Rs.]
1	INMUN1	51184722
2	INNSA1	46054140
3	INMAA1	17538077
4	INSBI6	9879700
5	INRML6	4957276
6	INSAU6	4395267
7	INPAV1	4218302
8	INMBD6	3645047
9	INTKD6	3259562
10	INSNF6	3305803
11	INDER6	2739496
12	INKNU6	2528945
13	INPNK6	1830417
14	INBDM6	1817829
15	INCCU1	1099657
16	INLDH6	914475
17	INGHR6	903932
18	INSGF6	910574

19	INCOK1	552816
Total duty involved		16,17,36,038/-

13. Therefore, as per Section 110AA of the Customs Act, 1962, inserted vide Finance Act, 2022 read with Notification No. 28/2022-Customs (NT) dated 31.03.2022, the proper officer for exercising the powers under Section 28 and 28AAA of the Customs Act, 1962 in the instant case would be the Principal Commissioner of Customs or Commissioner of Customs in the jurisdiction having the highest amount of duty. Hence, this Show Cause Notice needs to be made answerable to the Principal Commissioner of Customs, Custom House, Mundra.

14. Now, therefore in view of foregoing paras, **M/s Saraf Sales Corporation, (IEC 0305082302), Head office at 418, Kalbadevi Road, 50 Chota Lal Bhavan, 2nd Floor, Mumbai-400002** are hereby called upon to show cause within thirty days from the date of receipt of this notice to **the Principal Commissioner of Customs**, Customs House Mundra, First Floor, Port User Building, Custom House Mundra, Kutch, Gujarat-370421, as to why:-

- (e) the total differential duty of **Rs. 16,17,36,038/-/- (Rupees Sixteen Crores Seventeen Lakhs Thirty Six Thousand and Thirty Eight only) (Anti-dumping duty of Rs.14,44,07,177/- and IGST of Rs.1,73,28,861/-)** as detailed in Annexure-B, should not be demanded and recovered from the importer under Section 28 (4) of the Customs Act, 1962
- (f) **4433.6 MT** of imported décor paper imported by **M/s Saraf Sales Corporation, (IEC-0305082302)**, having assessable value of **Rs.57,92,98,928/-** should not be held liable for confiscation under Section 111(m) and out of which **720.16 MT** of importer décor paper valued at **Rs.9,07,67,379/-** which is still available, should not be confiscated under Section 111(m) of the Customs Act, 1962.
- (g) Interest at appropriate rates should not be levied and recovered from them under Section 28AA of the Customs Act, 1962 on the demand of differential duty at (i) above.
- (h) Penalty should not be imposed upon them under the provisions of Section 112 (a)(ii) as well as Section 114 A of the Customs Act, 1962.

Written Submissions and Personal hearing

15. I observe that 'Audi alteram partem', is an important principal of natural justice that dictates to hear the other side before passing any order. Therefore, personal hearing in the matter was granted to all the noticees on 18.02.2025 and 27.02.2025. Accordingly, Advocate Shri J.C. Patel, authorized representative of the noticee appeared on behalf of the Noticee in PH and during PH they have stated that:

- They have paid the anti-dumping duty at the rate specified in Sr. No.1 of the Notification No.77/2021-CUS (ADD) dated 27-12-2021 which applies when the producer is Kingdecor (Zhejiang) Co. Ltd, the Show Cause Notice has proposed to recover the anti-dumping duty under Sr. No.4/5 on the premise that the goods were not produced by Kingdecor.
- The imports were made from two traders, related to Kingdecor viz. Zhejiang Xiane New Materials Sales Co. Ltd and Xiane Co Ltd. and it is apparent from the Invoices, Packing List and Certificates of Origin that the goods supplied by them were produced by Kingdecor. It is neither alleged in the SCN nor is

there any evidence in the SCN that the Invoices, Packing List and Certificates of Origin were not genuine.

- iii. It is evident from Para 43 of the Final findings of the Directorate General of Trade Remedies (DGTR) that Kingdecor supplies the Décor paper to India directly as well as through the said two traders who are related to them. The SCN has completely ignored the said Final Findings and the contention in the SCN is contrary to the said Final Findings.
- iv. It is also evident from the Reponses submitted by Kingdecor and the said two traders before the DGTR that Décor paper supplied by the said two traders to India is produced by Kingdecor. The contention raised in the SCN is contrary to the said responses submitted before DGTR.
- v. Kingdecor has by Certificate dated 6-6-2024 confirmed that the goods supplied by the said two traders to Saraf Sales Corporation during the period in question were produced by Kingdecor and the said two traders have also endorsed their confirmation of this fact on the said Certificate. By the said Certificate Kingdecor has given the details of their VAT Invoices under which they supplied the said goods to the said two traders.
- vi. By way of examples, Notary Certified VAT Invoices of Kingdecor in respect of goods supplied by them to the said two traders, which in turn were supplied to Saraf sales corporation were shown at the hearing. Same will be submitted with additional submission to be filed within one week.
- vii. The contention in the SCN that VAT invoices of Kingdecor are subsequent to Invoices of the said two traders on Saraf sales corporation stands explained by the fact that VAT was being paid subsequently in a consolidated manner, periodically covering transactions up to the date of payment of VAT.
- viii. Contention in SCN that Proforma Invoices do not mention that goods are produced by Kingdecor is of no consequence since the Proforma Invoice mentions the Code of XH series which is series of paper produced by Kingdecor. It is evident from Certificate dated 6-6-2024 of Kingdecor annexing extracts from their production register, that they were manufacturing Paper with Code XH which was supplied through the said two traders and Paper with Code KD which they supplied directly.
- ix. The investigation in the present case did not choose to make any inquiry with Kingdecor through Indian Consulate or otherwise, whether the goods of XH series supplied by the said two traders were produced by Kingdecor. Such investigation through Indian Consulate was made by DRI in case of another importer, Match Graphics, and the result of such inquiry as communicated by the Indian Consulate was that the XH series of Décor paper supplied by the said two related traders is produced by Kingdecor. This is clearly recorded in Para 4.6.2 of Hon'ble CESTAT Order dated 19-11-2024 passed in case of Match Graphics.
- x. Contention in SCN that label on goods imported by Saraf Sales Corporation did not mention Kingdecor (page 8 of SCN) unlike label on goods imported by Stylum Industries Ltd directly from Kingdecor (page 9 of SCN) is of no consequence since the code XH0029U (page 8 of SCN) as well as code JL-

KD0046U (page 9 of SCN) are both figuring in the production registers of Kingdecor. By certificate dated 6-6-2024, Kingdecor have clarified that in case of direct supplies by Kingdecor, the label mentioned Kingdecor and in case of supplies through the two related traders, the labels were plain.

- xi. The decision of the Hon'ble CESTAT in the case of Match Graphics (Final Order No.12740-12742/2024 dated 19-11-2024, clearly holds in Para 4.2 that XH series paper supplied by the said two traders is produced by Kingdecor. The said decision further holds in Paras 4.4 and 4.5 that it is evident from the Final Findings of the DGTR that the paper supplied by the said two traders to India is produced by Kingdecor. It is further held in Paras 4.6.1 and 4.6.4 that XH series of the said Paper is produced by Kingdecor. The said decision of the Hon'ble CESTAT is squarely applicable in the present case.
- xii. The SCN itself in Para 7 accepts that in view of the objection raised by DRI in April 2024 by doubting the claim that the paper supplied by the two traders was produced by Kingdecor, subsequent supplies of the XH series of Paper was made directly by Kingdecor instead of supplying the same through their two related traders, thereby putting an end to the needless controversy created by DRI. All such subsequent imports of XH series have been assessed to anti-dumping duty at US \$116 per M.Ton under Sr. No.1 of the Table of Notification No. 77/2021-CUS (ADD). This is conclusive evidence of the fact that the XH series of the said Paper is also produced by Kingdecor in addition to the KD series.
- xiii. The SCN proceeds on the erroneous basis that the statement in the Commercial Invoices that the paper is produced by Kingdecor was being mentioned only after the coming into force of Notification No.77/2021-CUS (ADD) dated 27-12-2021. Even prior to 27-12-2021, there are Invoices of the said traders which mention that the paper is produced by Kingdecor.
- xiv. In any event, SCN is barred by time.

16.1 The Noticee vide letter dated 31.08.2024 and 05.03.2025 submitted their written submission in response to the subject show cause notice. Wherein they interalia stated that:

16.1 No evidence led by DRI and no evidence in the Show Cause Notice to establish that the Uncoated Base Paper' (Décor Paper) imported by us from the two suppliers-traders viz. Xianhe Co. Ltd and Zhejiang Xianhe New Material Sales Co. Ltd was not produced by Kingdecor (Zhejiang) Co. Ltd:

16.2 At the outset we submit that not only the Commercial Invoices and Packing Lists of the said two suppliers viz. Xianhe Co. Ltd and Zhejiang Xianhe New Material Sales Co. Ltd. but also the Certificates of Origin issued by the competent authority under the Asia-Pacific Trade Agreement, expressly mention that the Paper is produced by Kingdecor (Zhejiang) Co. Ltd.

16.3 The department has neither asserted nor led any evidence whatever to establish that the said Commercial Invoices, Packing Lists and Certificates of Origin are not authentic and genuine. On the contrary, the Certificates of Origin issued by the competent authority under the Asia-Pacific Trade Agreement, have been accepted by the department. In the absence of any such evidence, it cannot be said that the department has established that the Paper supplied by the said two traders-suppliers is not produced by Kingdecor (Zhejiang) Co. Ltd. The proceedings before the Director General of Trade Remedies (Designated

Authority) and the Final findings of the Designated Authority pursuant to which Anti-dumping Notification No.77/2021-CUS (ADD) has been issued themselves establish that the Décor paper supplied by the said two suppliers-traders is produced by Kingdecor (Zhejiang) Co. Ltd:

16.4 We submit that the proceedings before the Director General of Trade Remedies (Designated Authority) and the Final findings of the Designated Authority pursuant to which Anti-dumping Notification No. 77/2021-CUS (ADD) has been issued, themselves establish that the Décor paper supplied by the said two suppliers-traders is produced by Kingdecor (Zhejiang) Co. Ltd.

16.5. Para 43 of the Final Findings of the Designated Authority notified under Notification No. 6/38/2020-DGTR, dated 28th September 2021, expressly mentions that Kingdecor (Zhejiang) Co. Ltd has during the period of investigation, exported Décor Paper to India, both directly as well as through two different related traders viz. Xianhe Co. Ltd and Zhejiang Xianhe New Material Sales Co. Ltd., China PR. In view of the said categorical finding of the Designated authority that apart from directly supplying the Décor Paper to importers in India, Kingdecor (Zhejiang) Co. Ltd also supplies the Décor Paper produced by it, through its two related entitles-traders viz. Xianhe Co. Ltd and Zhejiang Xianhe New Material Sales Co. Ltd., China PR, it is idle for the DRI and the Show Cause notice to speculate and allege that the Decor paper imported by us from the said two traders was not produced by Kingdecor (Zhejiang) Co. Ltd.

16.6 It is evident that the Show Cause Notice has been issued in total ignorance of the said Final Findings of the Designated authority pursuant to which the Anti-dumping duty Notification No.77/2021-CUS (ADD).

16.7 When the final findings of the Designated Authority expressly record that the said two traders viz. Xianhe Co. Ltd and Zhejiang Xianhe New Material Sales Co. Ltd; are related to Kingdecor (Zhejiang) Co. Ltd and that Kingdecor (Zhejiang) Co. Ltd supplies Décor paper to India through them apart from direct supplies, the customs department cannot contend that the Decor paper supplied by the said two traders to us was not produced by Kingdecor (Zhejiang) Co. Ltd and that too, without any evidence whatever to contradict the said Final Findings of the Designated Authority. There is absolutely no evidence to rebut and contradict the said findings in Para 43 of the Final Findings of the Designated Authority.

16.8 We also place reliance on the relevant extracts from the Responses submitted by Kingdecor (Zhejiang) Co. Ltd, Xianhe Co. Ltd and Zhejiang Xianhe New Material Sales Co. Ltd before the designated authority, which are here to annexe as **Annexures "B", "C" and "D"** respectively.

16.9. In Para 3 of Section B and in Paras 1 and 3 of Section E of their said response, Kingdecor (Zhejiang) Co. Ltd have categorically stated that they exported the goods under consideration to India either directly to Indian customers or through Xianhe Co. Ltd and Zhejiang Xianhe New Materials Sales Co. Ltd. They have further stated that Xianhe Co. Ltd is the parent company of Kingdecor (Zhejiang) Co. Ltd and that Zhejiang Xianhe New Material Sales Co. Ltd is subsidiary of Xianhe Co. Ltd. They have further stated that even for supplies through Xianhe Co. Ltd and Zhejiang Xianhe New Material Sales Co. Ltd, the negotiations with Indian customers are done by them.

16.10 In Paras 4 and 5 of Part 1 and in Paras 1, 3 and 6 of Part E of their response submitted to Designated authority, Xianhe Co. Ltd, has submitted that does not produce the subject goods and that the subject goods exported by it to India are purchased from Kingdecor (Zhejiang) Co. Ltd, who also negotiate with the Indian importers.

16.11 Similarly, in Paras 1, 3 and 6 of Part E of their response submitted to Designated authority, Zhejiang Xianhe New Material Sales Co. Ltd, has submitted that they do not produce the subject goods and that the subject goods exported by it to India are purchased from Kingdecor (Zhejiang) Co. Ltd, who also negotiate with the Indian importers.

16.12 In view of the above, there is absolutely no scope for contending that the Décor paper imported by us from Xianhe Co. Ltd and Zhejiang Xianhe New Material Sales Co. Ltd, was not produced by Kingdecor (Zhejiang) Co. Ltd

Following Evidence conclusively establishes that the Uncoated base paper (Décor paper) imported by us from Xianhe Co. Ltd and Zhejiang Xianhe New Material Sales Co. Ltd, was produced by Kingdecor (Zhejiang) Co. Ltd:

16.13 Apart from the fact that the Final Findings of the Designated Authority themselves record that Kingdecor (Zhejiang) Co. Ltd, supplied the Décor paper produced by it through Xianhe Co. Ltd and Zhejiang Xianhe New Material Sales Co. Ltd, we place reliance on the following evidence which conclusively establishes that the Uncoated base paper (Décor paper) imported by us from Xianhe Co. Ltd and Zhejiang Xianhe New Material Sales Co. Ltd, was produced by Kingdecor (Zhejiang) Co. Ltd:

a) Certificate dated 6-6-2024 of Kingdecor (Zhejiang) Co. Ltd, certifying that the consignments of Uncoated Base Paper supplied by Zhejiang Xianhe New Materials Sales Co. Ltd and Xianhe Co. Ltd to us under their Invoices detailed in Annexure A to the Certificate, were produced by Kingdecor (Zhejiang) Co. Ltd and sold under their VAT Invoices to Zhejiang Xianhe Co. Ltd and Xianhe Co. Ltd as detailed in Annexure B to the said Certificate. The same has been confirmed by Zhejiang Xianhe New Materials Sales Co. Ltd and Xianhe Co. Ltd by countersigning the said Certificate. A copy of the said Certificate dated 6-6-2024 is hereto annexed as **Annexure "E"**, original of the same will be produced at hearing.

b) Certificate dated 6-6-2024 of Kingdecor (Zhejiang) Co. Ltd., certifying by enclosing illustrative extracts from their computerized production lists, showing that the goods directly sold by them to Stylam Industries Ltd (whose imports have been relied upon in the Show Cause Notice) and the goods sold to us by their related concerns, Zhejiang Xianhe New Material Sales Co. Ltd and Xianhe Co. Ltd, have both been produced by Kingdecor (Zhejiang) Co. Ltd in their factory, Copy of the said Certificate dated 6-6-2024 is hereto annexed as Annexure "F", original of the same will be produced at hearing

c) By the said Certificate dated 6-6-2024 referred to in (b) above, Kingdecor (Zhejiang) Co. Ltd have further clarified and explained in case of direct supplies made by them they were using Kingdecor labels whereas in case of goods supplied through their said two related concerns they were using plain labels,

d) It would be further evident from the extracts of the computerised production lists of Kingdecor (Zhejiang) Co. Ltd., attached with their said Certificate dated 6-6-2024 referred to in (b) above that while they were using the code KD in respect of direct supplies made by them, the code XH was being used in respect of the paper supplied through their said two related traders.

e) Container Load Plan, Notarial Certified with English Translation, by way of example in respect of the paper supplied to us under Invoice No.XH22100 dated 4th March 2022 of Zhejiang Xianhe New Materials Sales Co. Ltd, and shipped under Bill of Lading OOLU2130939400 dated 7th March 2022. Copies of the said Invoice, related Packing List, Bill of lading. Certificate of Origin and Container Load Plan Notarial Certified are annexed hereto as Annexure "G", original of the same will be produced at hearing.

f) It would be evident from the said set of documents that the Paper supplied to us under the said Invoice dated 4th March 2022 of Zhejiang Xianhe New Materials Sales Co. Ltd and shipped under the said Bill of lading dated 7th March 2022 in Container No.CSNU7197041 having Seal No.OOLGPL4548 was loaded in the said Container at the factory of Kingdecor (Zhejiang) Co. Ltd, which is conclusive evidence of the said Paper having been produced by Kingdecor (Zhejiang) Co. Ltd.

g) In the proceedings before the Designated authority, Kingdecor (Zhejiang) Co. Ltd, Xianhe Co. Ltd and Zhejiang Xianhe New Material Sales Co. Ltd have all submitted that for supplies through Xianhe Co. Ltd and Zhejiang Xianhe New Material Sales Co. Ltd, the negotiations with Indian customers are done by Kingdecor (Zhejiang) Co. Ltd. Further, in his statement dated 1-3-2024, Mr Sarwan Saraf, our proprietor, has stated that such negotiations were through telephonic conversation, e-mails and We-Chat. We enclose herewith as Annexure "H", some e-mails exchanged by us from which it is clear that not only there is reference to the e-mail hopejin566@vip.163.com of Ms Jin of Xianhe Co. Ltd, but also e-mail jin wangia kingdecor en of Mr. Jin Wang of Kingdecor (Zhejiang) Co. Ltd. This clearly establishes that the Paper imported by us from the said two related traders of Kingdecor (Zhejiang) Co. Ltd was manufactured by Kingdecor (Zhejiang) Co. Ltd..

h) The Show Cause notice itself in Para 7 accepts that in view of the impediments created by DRI in April 2024 by doubting the claim that the paper supplied by Xianhe Co. Ltd and Zhejiang Xianhe New Material Sales Co. Ltd to us was produced by Kingdecor (Zhejiang) Co. Ltd, we requested Kingdecor (Zhejiang) Co. Ltd to henceforth directly supply the XH series of Paper to us instead of supplying the same through their two related traders and thereafter all subsequent supplies of XH series of the said Paper were shipped directly by Kingdecor (Zhejiang) Co. Ltd, thereby putting an end to the needless controversy created by DRI and which imports have all been assessed to anti-dumping duty at US \$116 per M.Ton under Sr. No.1 of the Table of Notification No. 77/2021-CUS (ADD). This is conclusive evidence of the fact that the XH series of the said Paper is also produced by Kingdecor (Zhejiang) Co. Ltd in addition to the KD series.

Reasons advanced in the Show Cause Notice for contending that the paper supplied by Xianhe Co. Ltd and Zhejiang Xianhe New Materials Sale Co. Ltd to us was not produced by Kingdecor (Zhejiang) Co. Ltd are purely speculative and mere assumptions and presumptions:

16.14 We submit that the reasons advanced in the Show Cause Notice for contending that the paper supplied by Xianhe Co. Ltd and Zhejiang Xianhe New Materials Sale Co. Ltd to us was not produced by Kingdecor (Zhejiang) Co. Ltd are purely speculative and mere assumptions and presumptions.

16.15 The first reason advanced in the Show Cause Notice for so contending is that though the Commercial Invoices of the said two suppliers-traders mention that the producer is Kingdecor (Zhejiang) Co. Ltd, there is no such mention in the Purchase orders placed by us and in Proforma Invoices issued by the said two suppliers-traders. We submit that this by itself cannot be a ground for concluding that the paper supplied to us by the said two suppliers-traders was not produced by Kingdecor (Zhejiang) Co. Ltd. The Purchase Orders/Proforma Invoices clearly mention the Code XH and it is conclusively established by the evidence referred to herein above that XH series is produced by Kingdecor (Zhejiang) Co. Ltd. Before the Designated authority, Kingdecor (Zhejiang) Co. Ltd, Xianhe Co. Ltd and Zhejiang Xianhe New Material Sales Co. Ltd have all submitted that for supplies through Xianhe Co. Ltd and Zhejiang Xianhe New Material Sales Co. Ltd, the negotiations with Indian customers are done by Kingdecor (Zhejiang) Co. Ltd.. E-mails exchanged by us clearly show that not only there is reference to the e-mail hopejin566@163 of Ms Jin of Xianhe Co. Ltd, but also e-mail jin wang@kingdecor.on of Mr. Jin Wang of Kingdecor. It is therefore clearly established that all concerned were aware of the fact that the Paper to be supplied by Xianhe Co. Ltd and Zhejiang Xianhe New Material Sales Co. Ltd is the one produced by Kingdecor (Zhejiang) Co, Ltd. Therefore, merely because reference to Kingdecor (Zhejiang) Co. Ltd is not made in the Purchase Order/ Proforma Invoice cannot lead to the conclusion that the paper was not produced by Kingdecor (Zhejiang) Co. Ltd. Not only the Commercial Invoices and Packing Lists of the said two suppliers viz. Xianhe Co. Ltd and Zhejiang Xianhe New Material Sales Co. Ltd, but also the Certificates of Origin issued by the competent authority under the Asia-Pacific Trade Agreement, expressly mention that the Paper is produced by Kingdecor (Zhejiang) Co. Ltd.. The proceedings before the Director General of Trade Remedies (Designated Authority) and the Final findings of the Designated Authority pursuant to which Anti-dumping Notification No.77/2021-CUS (ADD) has been issued, themselves establish that the Décor paper supplied by the said two suppliers-traders is produced by Kingdecor (Zhejiang) Co. Ltd. Further, the evidence discussed herein above in Para 27 conclusively establishes that the paper supplied to us by Xianhe Co. Ltd and Zhejiang Xianhe New Material Sales Co. Ltd, was manufactured by Kingdecor (Zhejiang) Co. Ltd. Therefore, the mere fact that there was no reference to Kingdecor (Zhejiang) Co. Ltd in the Purchase order/ proforma invoice, cannot by itself lead to the conclusion that the paper imported by us was not produced by Kingdecor (Zhejiang) Co. Ltd. Such a contention is at best speculative and mere assumption/presumption which is belied by the evidence discussed herein above.

16.16. The second reason advanced in the Show Cause Notice is that while on examination of the Décor Paper imported by another importer, Stylam Industries Ltd, directly from Kingdecor (Zhejiang) Co. Ltd, vide Bill of Entry No.8009087 dated 25-3-2022, it was found that the same had stickers/ labels/tapes mentioning "Kingdecor", on examination of the 21 consignments imported by us from the said two Suppliers-traders, it was found that the labels thereon did not mention "Kingdecor". This again, we submit, cannot lead to the conclusion that the Paper imported by us was not produced by Kingdecor (Zhejiang) Co. Ltd. By Certificate dated 6-6-2024 (Annexure "F"), Kingdecor (Zhejiang) Co. Ltd., have certified by enclosing illustrative extracts from their computerized production lists, that the goods directly sold by them to Stylam Industries Ltd (whose imports have been relied upon in the Show Cause Notice) and the goods sold to us by their related concerns, Zhejiangn Xianhe New Material Sales Co. Ltd and Xianhe Co. Ltd, have both been produced by Kingdecor (Zhejiang) Co. Ltd in their factory. By the said Certificate dated 6-6-2024, Kingdecor (Zhejiang) Co. Ltd have

further clarified and explained that in case of direct supplies made by them they were using Kingdecor labels whereas in case of goods supplied through their said two related concerns they were using plain labels. Therefore, merely because the labels on the Paper supplied to us by Kingdecor (Zhejiang) Co. Ltd., there was no mention of Kingdecor, that by itself cannot lead to the conclusion that the same was not produced by Kingdecor (Zhejiang) Co. Ltd. In fact, the Container Load Plan (Annexure G), clearly established that the container was loaded at the factory of Kingdecor (Zhejiang) Co. Ltd.

16.17. The third reason advanced in the Show Cause Notice is that photocopy of VAT Invoice dated 21-3-2022 of Kingdecor (Zhejiang) Co Ltd on Zhejiang Xianhe New Materials Sales Co bearing cross-reference of Invoice No. XH22100 of Zhejiang Xianhe New Materials Sales Co Ltd on us in respect of goods imported under Bill of Entry No.8077146 dated 30-3-2022, which was submitted by us during investigation to establish that goods supplied by Zhejiang Xianhe New Materials Sales Co Ltd were produced by Kingdecor (Zhejiang) Co Ltd, is not admissible in evidence since it is only a photocopy and is not an authentic piece of evidence for the reasons set out in Para 3.4 of the Notice.

16.18. The objection that what was submitted was only a photocopy and the other objections raised in Para 3.4 are of no relevance now that Kingdecor (Zhejiang) Co. Ltd have themselves issued Certificate dated 6-6-2024 (Annexure E) certifying that the consignments of Uncoated Base Paper supplied by Zhejiang Xianhe New Materials Sales Co. Ltd and Xianhe Co. Ltd to us under their Invoices detailed in Annexure A to the Certificate, were produced by Kingdecor (Zhejiang) Co. Ltd and sold under their VAT Invoices to Zhejiang Nianhe Co. Ltd and Xianhe Co. Ltd as detailed in Annexure B to the said Certificate. The same has been confirmed by Zhejiang Xianhe New Materials Sales Co. Ltd and Xianhe Co. Ltd by countersigning the said Certificate. Therefore, the doubts raised in Para 3.4 of the Show Cause notice, which are at best speculative in nature, are set to rest by the said Certificate dated 6-6-2024 (Annexure E) issued by Kingdecor (Zhejiang) Co. Ltd and confirmed and countersigned by Zhejiang Xianhe New Materials Sales Co. Ltd and Xianhe Co. Ltd.

16.19. The Show Cause Notice proceeds on the basis that the statement in the Commercial Invoices that the paper is produced by Kingdecor (Zhejiang) Co Ltd was being mentioned only after the coming into force of Notification No.77/2021-CUS (ADD) dated 27-12-2021, apart from being factually incorrect is entirely misconceived. Firstly, even prior to 27-12-2021, there are Invoices of the said traders which mention that the paper is produced by Kingdecor (Zhejiang) Co. Ltd. Copies of such Invoices are hereto annexed as Annexure I. Secondly, once the said Notification No. 77/2021-CUS (ADD) dated 27-12-2021 was issued, it became imperative to indicate in the Trader's Invoices as to who the producer was, because the rate of anti-dumping duty is dependent on who the producer is. Therefore, there can be no objection to have the name of the producer indicated in the Trader's Invoices, without which it would be difficult to ascertain the applicable rate of anti-dumping duty. Further, in any event, as set out herein above the correctness of the said statement in the Traders Invoices stands established by the evidence discussed herein above.

16.20 In view of the above submissions, it follows that while we have conclusively established that the Uncoated Base Paper (Décor Paper) supplied to us by Zhejiang Xianhe New Materials Sales Co. Ltd and Xianhe Co. Ltd. was produced by Kingdecor (Zhejiang) Co. Ltd, the Show Cause Notice miserably fails to establish that the same was produced by some producer other than Kingdecor (Zhejiang) Co. Ltd. The Show Cause Notice has merely proceeded on speculation,

assumptions/ presumptions. It is not even indicated and established in the Show Cause Notice that if the same was not produced by Kingdecor (Zhejiang) Co. Ltd, then who was the producer.

16.21. In the circumstances, the goods are correctly liable to anti-dumping duty at US \$116 per M. Ton under Sr. No.1 of the Table of Notification No. 77/2021-CUS (ADD), which we have claimed and paid and the demand for differential duty and IGST on the basis that the goods are liable to Anti-dumping duty at US \$ 542 per M.Ton, under Sr. No.5 of the said Table, must necessarily fail.

Show Cause Notice is barred by time:

16.22 Without prejudice to the aforesaid submissions, in any event, we submit that the Show Cause Notice dated 10-4-2024 demanding duty in respect of goods imported and cleared during December 2021 to March 2022 is barred by time, having been issued beyond the limitation period of two years provided in Section 28 (1) of the Customs Act 1962. We submit that the larger period of limitation of 5 years provided in Section 28 (4) of the said Act has no application to the present case since there has been no collusion, wilful mis-statement or suppression of facts on our part. The evidence discussed herein above clearly establishes that we have correctly claimed that anti-dumping duty on the goods imported by us was payable at US \$116 per M. Ton under Sr. No.1 of the Table of Notification No. 77/2021-CUS (ADD).

Goods not liable to confiscation under Section 111(m) of the Customs Act 1962:

16.23 Section 111(m) of the Customs Act 1962 applies in a case where any goods do not correspond in respect of value or in any other particular with the declaration made in the Bill of Entry. In the present case there is no dispute about valuation of the goods. Further, all particulars of the goods have been correctly declared and the goods have been correctly described in the Bills of entry. Therefore, Section 111(m) is not attracted. It is settled law that when the goods have been correctly described, the mere dispute about the applicable rate of duty does not attract Section 111(m).

Penalty not imposable:

16.24 Since as submitted hereinabove, the goods are not liable to confiscation under Section 111(m) of the Customs Act 1962, penalty is not imposable under Section 112 (a) of the said Act. Further, since the demand for duty is liable to fail, both on merits and on limitation, no penalty is imposable under Section 114A of the said Act.

16.25 In the circumstances, we submit that the Show Cause Notice is liable to be discharged and dropped and Your Honour is accordingly requested so to do and requested for personal hearing in the matter.

DISCUSSION AND FINDINGS

17. I find that Intelligence was gathered that **M/s Saraf Sales Corporation, (IEC-0305082302)** is engaged in import of uncoated base paper for decorative laminates, also known as décor paper, from China and evading anti-dumping duty thereon by making wilful mis-statement regarding producer of the said imported décor paper. The Central Government vide Notification No. 77/2021-Customs (ADD) dated 27th December 2021 has imposed anti-dumping duty on import of Décor Paper. As per said ADD Notification, imported décor paper

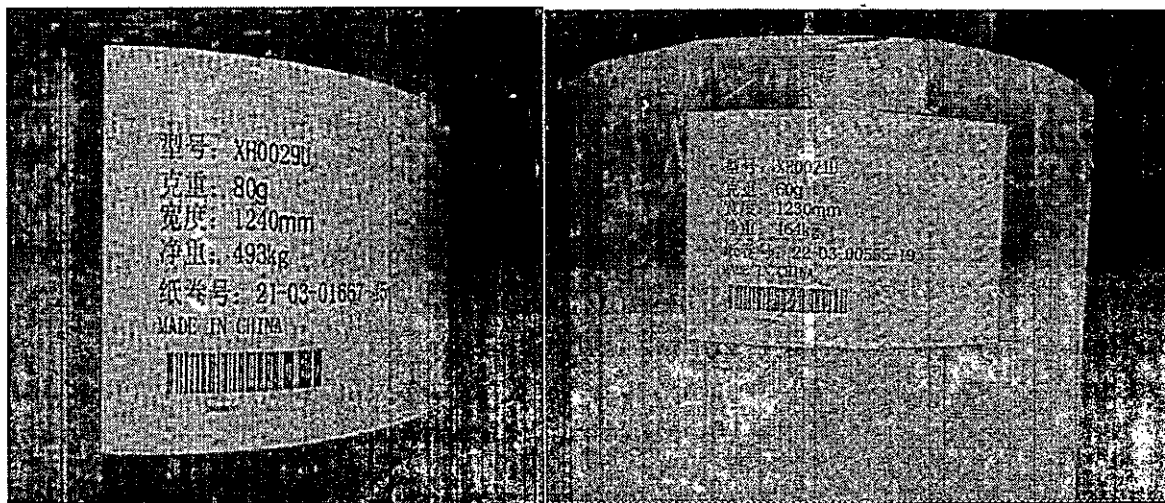
produced by Kingdecor (Zhejiang) Co., Ltd attracts a lower anti-dumping duty of USD 116 PMT. However, if the importer is unable to prove that imported décor paper was produced by Kingdecor (Zhejiang) Co., Ltd, the same will be out of ambit of S.No.1 of the Table to said Notification and instead will be covered by S.No.4 of the same Table and the anti-dumping duty shall be payable at higher rate of USD 542 per MT.

17.1 I find that Acting upon the intelligence, documents of 21 imported consignments (as per Table-1 above) of the importer from China were examined by officers of different DRI Zonal Units in which the importer claimed lower rate of anti-dumping duty of USD 116 PMT on basis of an endorsement made in all commercial invoices that –

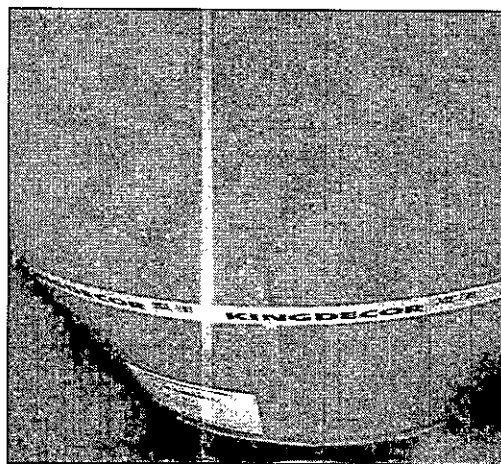
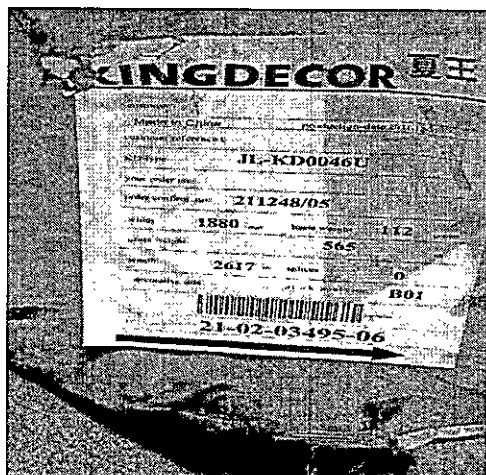
PRODUCER & SUPPLIERS IS KINGDECOR (ZHEJIANG) CO., LTD.

When the importer's documents were examined, it was found that contrary to endorsement, the imported goods were not supplied by Kingdecor (Zhejiang) Co., Ltd. Out of 21 consignment, 14 were supplied by ZHEJIANG XIANHE NEW MATERIALS SALES CO., LTD and 07 were supplied by XIANHE CO., LTD. None of these two exporters from China figures in the Notification No. 77/2021-Customs (ADD). It was further found during investigation that the above endorsement was missing in all 21 Proforma Invoices which were sent by the said two exporters to the importers for approval.

17.2 Further, I find that during physical examination of above 21 imported consignments, no markings/labelling/packing tapes could be found which would link the consignments to M/s Kingdecor (Zhejiang) Co., Ltd. Sample markings/labelling/sticker found on these 21 imported consignments are below :-



17.3 In order to appreciate the appearance and labelling of goods produced by Kingdecor (Zhejiang) Co Ltd, a consignment of decor paper exported from China by Kingdecor (Zhejiang) Co Ltd and imported in India by M/s. Stylum Industries Ltd vide Bill of Entry no. 8009087 dated 25.03.2022 at ICD Chawapayal, Ludhiana was examined under Panchnama dated 13.04.2022. It can be seen that there are clear stickers/labels/tapes providing details of the producer of the goods i.e., KingDecor, production date, KD-type, order confirmation number, width, basis weight, length, stock position, roll number etc. All such details are missing in respect of goods imported by the importer Saraf Sales Corporation. Image is below:



18. I find that the imported goods mentioned in Table-1 and 2 (above) were seized under the provisions of Section 110 of the Customs Act, 1962 on the reasonable belief that these liable for confiscation under Section 111 of the Customs Act, 1962 inasmuch as these appears to have not been produced by Kingdecor (Zhejiang) Co., Ltd and as such anti-dumping duty @ USD 542 per MT was payable instead of @ USD 116 per MT. Subsequently, the said seized goods were released provisionally on furnishing bond and bank guarantees [see last column of Table 1 and 2].

19. Further, I find that during the course of investigation, the importer Saraf Sales Corporation imported one consignments of décor paper from M/s Kingdecor (Zhejiang) Co., Ltd only vide Bill of Entry No. 8926374 dated 01.06.2022. Commercial Invoice No. XW22166B dated 06.05.2022 in respect of these goods was issued by M/s Kingdecor (Zhejiang) Co., Ltd. This consignment was examined by SIIB, Mundra on 10.06.2022 and during examination, the labels/stickers clearly mentioning "Kingdecor" were found pasted on each rolls of décor paper.

20. I find that it has been alleged in the Show Cause Notice that The investigation has thus revealed that M/s Saraf Sales Corporation made a wilful mis-statement on the commercial invoices presented to the Customs that imported décor paper was produced by M/s Kingdecor (Zhejiang) Co Ltd so that it could pay a lower rate of anti-dumping duty than actually payable under Notification 77/2021-Customs (ADD) dated 27th December 2021 and thus evade payment of anti-dumping duty as well as IGST. The importer has thus imported 4433.6 MT base paper under 174 Bills of Entry (as mentioned in Annexure-A) and the differential anti-dumping duty of **Rs.14,44,07,177/-** and IGST of **Rs.9,44,91,478/-**, as detailed in Annexure B, has been evaded on such imports. The provisions of Section 28(4) of the Customs Act, 1962 are therefore applicable for recovery of duty. Further, on account of wilful mis-statement made by the importer, 4433.6 MT of imported décor paper is liable for confiscation under Section 111[m] of the Customs Act, 1962 although only 720.16 MT of imported décor paper is actually available for confiscation [As per Table-1& 2] and the importer is liable for penal action under Section 114A as well as 112a (ii) of Customs Act, 1962.

21. I have gone through the facts of the case, records and documents placed before me. Personal hearing was attended by Authorized Representatives of the Noticee on the scheduled date i.e. 27.02.2025 and written submissions dated 31.08.2024 and 05.03.2025 were made by the Noticee.

21.1 After carefully considering the facts of the case, written submissions made by the Noticee and records of Personal Hearing, the issues to be decided before

me

are:-

- i. Whether the goods imported by the Noticee from the Chinese Suppliers M/s Zhejiang Xianhe New Materials Sales Co. Ltd. and M/s Xianhe Co. Ltd. were manufactured by M/s Kingdecor (Zhejiang) Co., Ltd.?
- ii. Whether the Noticee made mis-statement that the goods are manufactured by M/s Kingdecor (Zhejiang) Co. Ltd. and paid lower Anti-Dumping Duty of USD116/MT as per Sr. no. 1 of Notification No. 77/2021-Customs (ADD) dated 27th December 2021 instead of ADD of \$542/MT?
- iii. Whether the total differential duty of **Rs. 16,17,36,038/-/-** (*Rupees Sixteen Crores Seventeen Lakhs Thirty Six Thousand and Thirty Eight only*) (*Anti-dumping duty of Rs.14,44,07,177/- and IGST of Rs.1,73,28,861/-*) as detailed in Annexure-B, be demanded and recovered from the importer under Section 28 (4) of the Customs Act, 1962?
- iv. Whether **4433.6 MT** of imported décor paper imported by **M/s Saraf Sales Corporation**, having assessable value of **Rs.57,92,98,928/-** be held liable for confiscation under Section 111(m) and out of which **720.16 MT** of importer décor paper valued at **Rs.9,07,67,379/-** which is still available, be confiscated under Section 111(m) of the Customs Act, 1962.
- v. Whether Interest at appropriate rates be levied and recovered from them under Section 28AA of the Customs Act, 1962 on the demand of differential duty at (i) above.
- vi. Whether Penalty be imposed upon them under the provisions of Section 112 (a)(ii) as well as Section 114 A of the Customs Act, 1962.

22. Accordingly, I proceed to examine these issues one by one.

Whether the impugned goods manufactured by M/s Kingdecor (Zhejiang) Co., Ltd.

23. I find that Advocate Shri J.C. Patel, authorized representative of the noticee appeared for Personal Hearing and during PH he inter alia stated that:

- i. The imports were made from two traders, related to Kingdecor viz. Zhejiang Xianhe New Materials Sales Co. Ltd and Xianhe Co Ltd. and it is apparent from the Invoices, Packing List and Certificates of Origin that the goods supplied by them were produced by Kingdecor. It is neither alleged in the SCN nor is there any evidence in the SCN that the Invoices, Packing List and Certificates of Origin were not genuine.
- ii. It is evident from Para 43 of the Final findings of the Directorate General of Trade Remedies (DGTR) that Kingdecor supplies the Décor paper to India directly as well as through the said two traders who are related to them. The SCN has completely ignored the said Final Findings and the contention in the SCN is contrary to the said Final Findings.
- iii. It is also evident from the Reponses submitted by Kingdecor and the said two traders before the DGTR that Décor paper supplied by the said two

traders to India is produced by Kingdecor. The contention raised in the SCN is contrary to the said responses submitted before DGTR.

- iv. Kingdecor has by Certificate dated 6-6-2024 confirmed that the goods supplied by the said two traders to Saraf Sales Corporation during the period in question were produced by Kingdecor and the said two traders have also endorsed their confirmation of this fact on the said Certificate. By the said Certificate Kingdecor has given the details of their VAT Invoices under which they supplied the said goods to the said two traders.
- v. The contention in the SCN that VAT invoices of Kingdecor are subsequent to Invoices of the said two traders on Saraf sales corporation stands explained by the fact that VAT was being paid subsequently in a consolidated manner, periodically covering transactions up to the date of payment of VAT.
- vi. Contention in SCN that Proforma Invoices do not mention that goods are produced by Kingdecor is of no consequence since the Proforma Invoice mentions the Code of XH series which is series of paper produced by Kingdecor. It is evident from Certificate dated 6-6-2024 of Kingdecor annexing extracts from their production register that they were manufacturing Paper with Code XH which was supplied through the said two traders and Paper with Code KD which they supplied directly.
- vii. The investigation in the present case did not choose to make any inquiry with Kingdecor through Indian Consulate or otherwise, whether the goods of XH series supplied by the said two traders were produced by Kingdecor. Such investigation through Indian Consulate was made by DRI in case of another importer, Match Graphics, and the result of such inquiry as communicated by the Indian Consulate was that the XH series of Décor paper supplied by the said two related traders is produced by Kingdecor. This is clearly recorded in Para 4.6.2 of Hon'ble CESTAT Order dated 19-11-2024 passed in case of Match Graphics.
- viii. Contention in SCN that label on goods imported by Saraf Sales Corporation did not mention Kingdecor (page 8 of SCN) unlike label on goods imported by Stylum Industries Ltd directly from Kingdecor (page 9 of SCN) is of no consequence since the code XH0029U (page 8 of SCN) as well as code JL-KD0046U (page 9 of SCN) are both figuring in the production registers of Kingdecor. By certificate dated 6-6-2024, Kingdecor have clarified that in case of direct supplies by Kingdecor, the label mentioned Kingdecor and in case of supplies through the two related traders, the labels were plain.
- ix. The decision of the Hon'ble CESTAT in the case of Match Graphics (Final Order No.12740-12742/2024 dated 19-11-2024, clearly holds in Para 4.2 that XH series paper supplied by the said two traders is produced by Kingdecor. The said decision further holds in Paras 4.4 and 4.5 that it is evident from the Final Findings of the DGTR that the paper supplied by the said two traders to India is produced by Kingdecor. It is further held in Paras 4.6.1 and 4.6.4 that XH series of the said Paper is produced by Kingdecor. The said decision of the Hon'ble CESTAT is squarely applicable in the present case.

- x. The SCN itself in Para 7 accepts that in view of the objection raised by DRI in April 2024 by doubting the claim that the paper supplied by the two traders was produced by Kingdecor, subsequent supplies of the XH series of Paper was made directly by Kingdecor instead of supplying the same through their two related traders, thereby putting an end to the needless controversy created by DRI. All such subsequent imports of XH series have been assessed to anti-dumping duty at US \$116 per M.Ton under Sr. No.1 of the Table of Notification No. 77/2021-CUS (ADD). This is conclusive evidence of the fact that the XH series of the said Paper is also produced by Kingdecor in addition to the KD series.
 - xi. The SCN proceeds on the erroneous basis that the statement in the Commercial Invoices that the paper is produced by Kingdecor was being mentioned only after the coming into force of Notification No.77/2021-CUS (ADD) dated 27-12-2021. Even prior to 27-12-2021, there are Invoices of the said traders which mention that the paper is produced by Kingdecor.
24. In this regard, I have gone through the Show Cause Notice along with submissions of the Importer wherein I find that:-

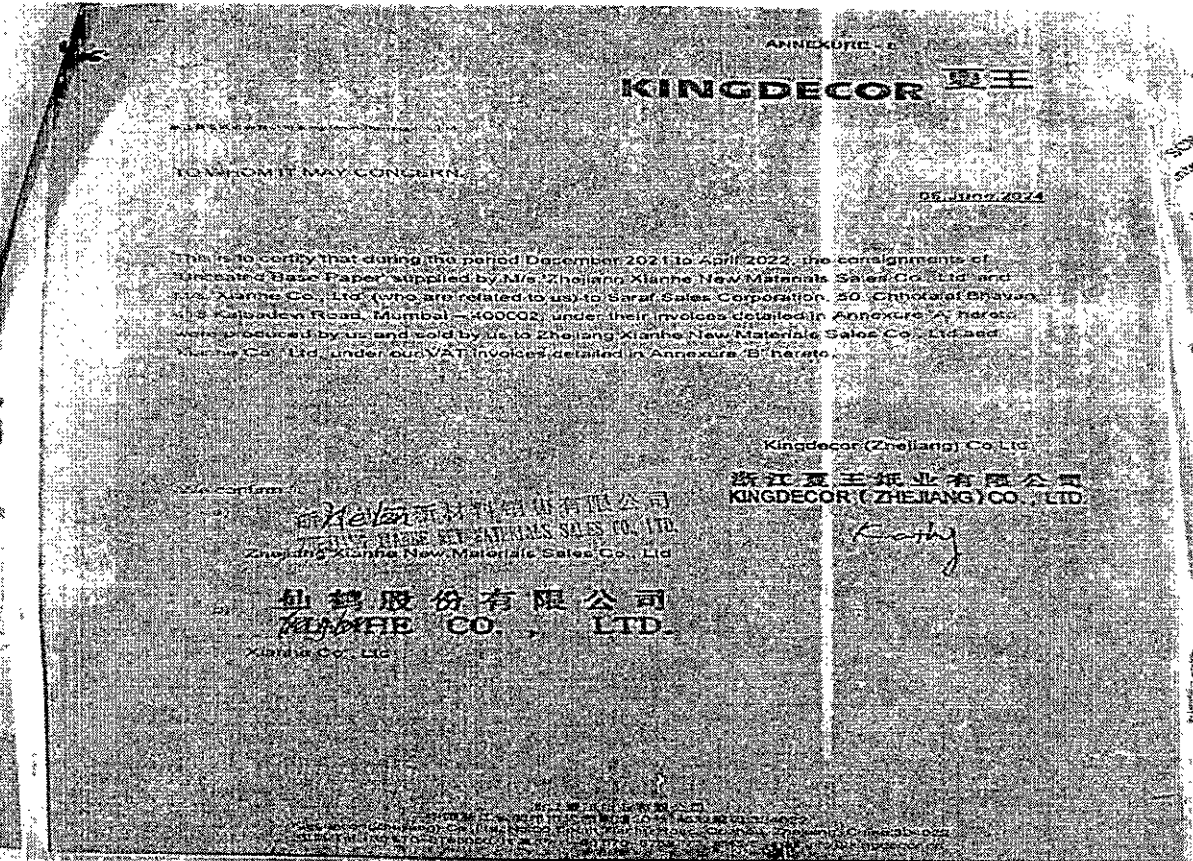
- the importer was engaged in import of décor paper from two Chinese Suppliers i.e. M/s Zhejiang Xianhe New Materials Sales Co. Ltd. and M/s Xianhe Co. Ltd. It was seen from documents filed that importer claimed lower rate of anti-dumping duty of USD 116 PMT on basis of an endorsement made in all commercial invoices as "**Producer and Supplier is M/s Kingdecor (Zhejiang) Co., Ltd.**" but the same is not mentioned on the Proforma invoice and supplier is also different. Further, during examination, it was found that there was no marking of manufacturer on the impugned goods. Further, invoice no. starts with 'XH' in imports from said suppliers.
- Similar goods wherein Chinese supplier was M/s Kingdecor (Zhejiang) Co., Ltd., were intercepted by DRI and found that the goods had marking of manufacturer i.e. M/s Kingdecor (Zhejiang) Co., Ltd. on it along with various aspects of paper like GSM, width, weight, length etc. Further, invoice no. starts with 'KD' in imports from said suppliers.

However, I find that importer itself during investigation imported the goods i.e. decor paper, directly from M/s Kingdecor (Zhejiang) Co., Ltd. and it is seen that the invoice no. under said import start with '**XH**' (as mentioned at para 3.3 of the SCN).

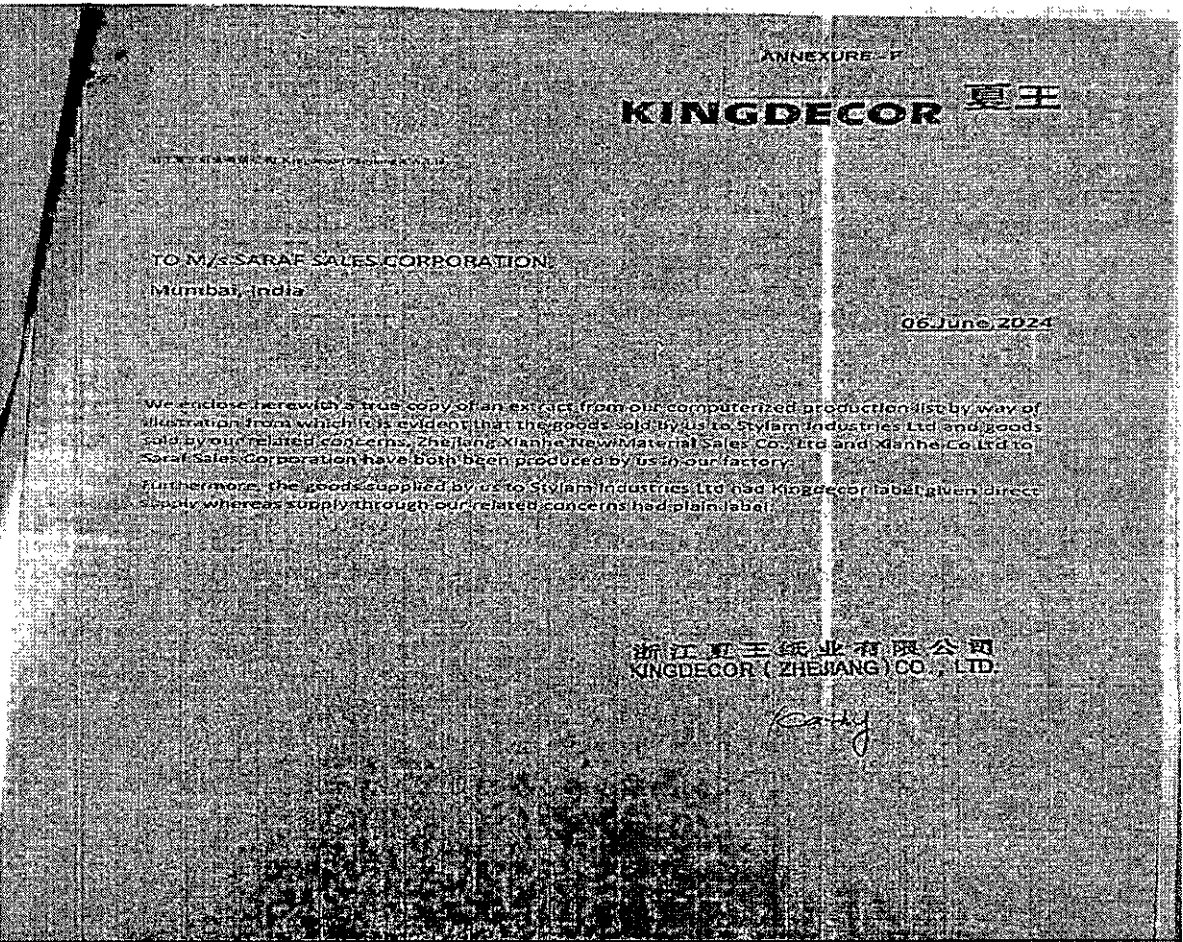
25. Further, on perusal of the Final Findings Case No. AD (01) - 33/2020 dated 28.09.2021 issued by DGTR (Directorate General of Trade Remedies) under Ministry of Commerce, I find that at Para 43 of said findings, it is mentioned that Kingdecor supplies the Décor paper to India directly as well as through the two traders i.e. M/s Zhejiang Xianhe New Materials Sales Co. Ltd. and M/s Xianhe Co. Ltd. The same is produced below:

"43. Kingdecor (Zhejiang) Co., Ltd., is a limited liability Company (a joint venture enterprise). The legal statute of Kingdecor has not changed in the last three years. During the POI, Kingdecor (Zhejiang) Co., Ltd., has directly exported x: MT of the PUC to India and *** MT through two different related traders, namely, Xianhe Co., Ltd. and Zhejiang Xianhe New Materials Sales Co., Ltd., China PR."*

26. Further, I find that M/s Kingdecor vide Certificate dated 06.06.2024 confirmed that the goods supplied by the said two traders to Saraf Sales Corporation during the period in question were produced by Kingdecor and the said two traders have also endorsed their confirmation of this fact on the said Certificate. The certificate is produced below:



27. I find that M/s Kingdecor vide Certificate dated 6-6-2024, clarified that in case of direct supplies by Kingdecor, the label mentioned Kingdecor and in case of supplies through the two related traders i.e. M/s Zhejiang Xianhe New Materials Sales Co. Ltd. and M/s Xianhe Co. Ltd. , the labels were plain.



28. Further, I find that M/s Kingdecor vide Certificate dated 06.06.2024 submitted extracts from their production register, that they were manufacturing Paper with Code XH which was supplied through the said two traders i.e. M/s Zhejiang Xianhe New Materials Sales Co. Ltd. and M/s Xianhe Co. Ltd. and Paper with Code KD which they supplied directly. The said extract is produced

The image shows a document with a large arrow pointing to it from the left. The document contains text and numbers, but it is mostly illegible due to the quality of the scan. The text appears to be a production register or certificate, with columns of data. The document is titled 'KINGDECOR' and '浙江夏王纸业股份有限公司' (Zhejiang Xianhe Paper Co., Ltd.).

29. I further find that in the similar matter in case of M/s Match Graphics, DRI made investigation through Indian Consulate wherein it was informed by Indian consulate that XH series of Décor paper supplied by the said two related traders i.e. M/s Zhejiang Xianhe New Materials Sales Co. Ltd. and M/s Xianhe Co. Ltd. is produced by M/s Kingdecor. The same is evident from the Para4.4, 4.5 & 4.6.2 of Hon'ble CESTAT Order dated 19-11-2024 passed in case of M/s Match Graphics. There is no such enquiry made by DRI in present case. The relevant para of Hon'ble CESTAT Order dated 19-11-2024 is produced below:-

"4.4 We find that in DGTR final finding Notification dated 28.09.202, Export price fixation for deciding antidumping duty was decided by considering M/s Kingdecor, Xianhe and Zhejiang Xianhe as one source. DGTR notification clearly states that Kingdecor also supplies material through Xianhe and Zhejiang Xianhe to India".

"4.5. We find that in replies to DGTR, M/s Kingdecor has clearly stated that they also supplied material to India through traders namely Xinahe and Zhejiang Xianhe. Xianhe and Zhejiang Xianhe also stated that they do not produce material subject to antidumping duty but they purchase it from M/s Kingdecor and supplied to India. Thus, the assumption in the SCN that imported goods are manufactured by Xianhe and Zhejiang Xianhe are completely baseless".

"4.6.2. Letter dated 7.4.2023 issued by consulate general of India, Guangzhou states that imported goods were manufactured by M/s Kingdecor and old tape was used for packing."

In view of above discussions, I conclude the findings as follows:

30. I find that in the Show Cause Notice, it has been alleged that the impugned goods imported by importer from two suppliers i.e. M/s Zhejiang Xianhe New Materials Sales Co. Ltd. and M/s Xianhe Co. Ltd but the importer made wilful mis-statement regarding producer of the said imported décor paper and got endorsement as **"Producer and Supplier is M/s Kingdecor (Zhejiang) Co., Ltd."** on all commercial invoices to evade anti-dumping duty. I find the allegations were made without investigating the factual correctness of such declaration on invoice by the importer. I find no force in the allegations in SCN as no investigation was conducted to ascertain validity of said claim of importer. Just because supplier is different, doesn't amount to mis-declaration on account of producer/manufacturer of the goods. These allegation do not sustain when reference is made to para 43 of Final Finding dated 28.09.2021 issued by DGTR wherein, it is clearly mentioned that M/s Kingdecor supplies the Décor paper to India directly as well as through the two traders i.e. M/s Zhejiang Xianhe New Materials Sales Co. Ltd. and M/s Xianhe Co. Ltd. I find that without any corroborative findings/ documents in support of the claim that importer wilfully mis-declared the producer to avail lower ADD appear to be not tenable. Further, I find that the Certificate dated 06.06.2024 issued by M/s Kingdecor confirmed that the goods supplied by the said two traders i.e. M/s Zhejiang Xianhe New Materials Sales Co. Ltd. and M/s Xianhe Co. Ltd. to M/s Saraf Sales Corporation during the period in question were produced by M/s Kingdecor and the said two traders have also endorsed their confirmation of this fact on the said Certificate. Further, the goods supplied by two Chinese Suppliers i.e. M/s Zhejiang Xianhe New Materials Sales Co. Ltd. and M/s Xianhe Co. Ltd. manufactured by M/s Kingdecor is clearly established through the reply of Indian Consulate as mentioned in Hon'ble CESTAT order dated 19-11-2024 passed in case of M/s Match Graphics (as discussed in Para 29 above).

31. Further, in the SCN, allegations were further strengthened when on examination of impugned goods by DRI, no marking of the manufacturer mentioned on the goods whereas the manufacturer markings were mentioned on the goods of another importer wherein supplier was M/s Kingdecor. I find that on basis of this, it appears right to be presumed by DRI that the goods were not manufactured by M/s Kingdecor (in absence of manufacturer markings) but investigation need to verify the same by enquiring with the supplier M/s Kingdecor or some documents/evidences need to be collected during investigation to give force to the allegations. No such efforts were made during the investigation. Further, I find that the allegation that absence of manufacturer marking means the goods are manufactured by the two suppliers

and not by M/s Kingdecor, is vague and without any substantial evidences and the same proves wrong when Hon'ble CESTAT in Para 4.5 of their order dated 19.11.2024 in case of M/s Match Graphics confirmed that M/s Zhejiang Xianhe New Materials Sales Co. Ltd. and M/s Xianhe Co. Ltd. are not the manufacturers of Décor paper and they purchase the same from M/s Kingdecor (as discussed in para 29 above). Further, I find that M/s Kingdecor vide Certificate dated 06.06.2024 clarified that in case of direct supplies by M/s Kingdecor, the label mentioned Kingdecor and in case of supplies through the two related traders i.e. M/s Zhejiang Xianhe New Materials Sales Co. Ltd. and M/s Xianhe Co. Ltd., the labels were plain.

32. Further, in the SCN, it has been alleged that impugned goods imported under commercial invoice started with "XH" whereas goods imported directly from M/s Kingdecor has commercial invoice started with "KD". In this regard, I find that it is already mentioned at Para 3.3 of SCN that the importer during investigation imported one consignment from M/s Kingdecor and the commercial invoice of said consignment started with "XH". I find the allegations incorrect because SCN itself talk about contradictory statements. During investigation, it was clarified that import from M/s Kingdecor is also under commercial invoice started with "XH", investigation failed to justify their allegation that "XH" code is not used by M/s Kingdecor. Further, investigation made no effort to verify the same from supplier M/s Kingdecor itself as the same efforts were made in similar case of M/s Match Graphics. I find that in case of M/s Match Graphics, DRI made investigation through Indian Consulate wherein it was informed by Indian consulate that XH series of Décor paper supplied by the said two related traders i.e. M/s Zhejiang Xianhe New Materials Sales Co. Ltd. and M/s Xianhe Co. Ltd. were produced by M/s Kingdecor. The same is evident from the Para 4.6.2 of Hon'ble CESTAT Order dated 19-11-2024 passed in case of M/s Match Graphics (as discussed in para 29 above).

33. In the instant case, the show cause notice has failed to bring out anything on records in material form which could prove that impugned goods are not manufactured by M/s Kingdecor. Therefore, I find that the allegations in the Show Cause Notice are not substantiated. In this regard, I place reliance on following judgements:

A. Hon'ble Supreme Court in case of **Union of India v. Garware Nylons Ltd.** [1996 (87) E.L.T. 12 (S.C.) has held that

"the conclusion reached by the High Court is fully in accord with the decisions of this Court and the same is justified in law. The burden of proof is on the taxing authorities to show that the particular case or item in question, is taxable in the manner claimed by them. Mere assertion in that regard is of no avail."

B. Hon'ble Madras High Court in case of **Raymond Limited vs. Union of India** (Writ Petition No. 26693 of 2022) has held that

"this Court merely observes that any show cause notice whether u/S.73 or otherwise can withstand the test judicial scrutiny only when the same contains enough and adequate material which motivated the notice issuing Authority to take a prima facie view against the noticee. If the contents of impugned show cause notice are lacking in material particulars or are vague in regard to any of the entries contained therein then such show caused notice becomes vulnerable to judicial review"

34. In view of above, it is evident and clear that the goods i.e. decor paper imported by M/s Saraf Sales Corporation from two Chinese suppliers i.e. M/s Zhejiang Xianhe New Materials Sales Co. Ltd. and M/s Xianhe Co. Ltd. are manufactured by M/s Kingdecor (Zhejiang) Co., Ltd. and M/s Kingdecor sells his goods directly as well as through these two Chinese suppliers. Further, it appears that there has been a practise that M/s Kingdecor make manufacturer marking on the goods sold directly to importer and make no such marking on the goods sold through above mentioned two Chinese suppliers/traders.

35. Accordingly, it comes out that Noticee has made the correct declaration regarding the manufacturer of goods i.e. Decor paper. Therefore, I find that there is no point of mis-statement on side of Noticee in terms of the producer of the goods as M/s Kingdecor (Zhejiang) Co. Ltd.

36. Further, as the goods are manufactured by M/s Kingdecor (Zhejiang) Co., Ltd. and importer paid correct Anti-Dumping Duty of \$116/MT as per Sr. no. 1 of Notification No. 77/2021-Customs (ADD) dated 27th December 2021, I find that no demand for differential duty arises under section 28(4) of the Customs Act, 1962 as well as interest under Section 28AA of the Customs Act, 1962.

37. Further, as the goods are manufactured by M/s Kingdecor (Zhejiang) Co., Ltd. and importer has not mis-declared any aspect related to correctness of declaration, I find that imported goods cannot be held liable for confiscation under Section 111(m) of the Customs Act, 1962.

38. Further, the importer made the correct declaration in terms of producer and availed correct ADD rate as per Notification No. 77/2021 dated 27.12.2021, I find that penalty cannot be imposed. In this regard, I relied upon the Judgement **of P & B Pharmaceuticals (P) Ltd. vs. Collector of Central Excise 2003 (153) E.L.T. 14 (SC)** wherein it was held that in the absence of any liability for confiscation, penalty shall not be imposed on the assessee.

39. In view of above discussions and findings supra, I pass the following order.

Order

39.1 I hold that **4433.6 MT** of imported décor paper imported by M/s Saraf Sales Corporation, (IEC-0305082302), having assessable value of **Rs.57,92,98,928/-** is not liable for confiscation under Section 111(m) and out of which **720.16 MT** of importer décor paper valued at **Rs.9,07,67,379/-** which is still available, is not liable for confiscation under Section 111(m) of the Customs Act, 1962.

39.2 I drop the proposal of demand of differential duty of **Rs. 16,17,36,038/-** (*Rupees Sixteen Crores Seventeen Lakhs Thirty Six Thousand and Thirty Eight only*) (*Anti-dumping duty of Rs.14,44,07,177/- and IGST of Rs.1,73,28,861/-*) under Section 28 (4) of the Customs Act, 1962 and interest under Section 28AA of the Customs Act, 1962.

39.3 I refrain from imposing any penalty on M/s Saraf Sales Corporation under Section 112 (a)(ii) as well as Section 114 A of the Customs Act, 1962.

40. The O-i-O 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 any other law for the time being in force.


(K. Engineer)

Pr. Commissioner of Customs,
Custom House, Mundra.

DIN:

F. No.: GEN/ADJ/COMM/164/2024-Adjn-O/o Pr Commr-Cus-Mundra.

To (The Noticee),

M/s Saraf Sales Corporation,

(IEC 0305082302),

Head office at 418, Kalbadevi Road,

50 Chota Lal Bhavan,

2nd Floor, Mumbai-400002.

Copy to:

- 1) The Additional Director, Directorate of Revenue Intelligence (DRI) Ludhiana Zonal Unit, 213, Rani Jhansi Road, Civil Lines, Ludhiana. Email: dri-ldh-pb@nic.in.
- 2) The Deputy/ Assistant Commissioner (Imports), Custom House, Mundra.
- 3) The Deputy/ Assistant Commissioner (EDI), Custom House, Mundra.
- 4) Commissioner of Customs, Imports, Nhava Sheva (INSAA1) commr-ns1@gov.in, for favour of information.
- 5) The Commissioner of Customs, Imports, Chennai Port (INMAA1) Custom House, 60, Rajaji Salai Chennai 600001. Email: commr2-cuschn@gov.in, for favour of information.
- 6) The Commissioner of Customs, Import ICD Sabarmati (INSBI6) ICD Sabarmati, Kaligam Sabarmati Ahmedabad 382470. Email: custahd@nic.in, for favour of information.
- 7) The Commissioner of Customs, Import ICD- Naya Raipur (INRML6), for favour of information.
- 8) The Commissioner of Customs, Import ICD Thar Dry Port (INSAU6) ICD Thar Dry Port, Kadi Road Sanand Ahmedabad. Email: custahd@nic.in, for favour of information.
- 9) The Commissioner of Customs, Import Pipavav Port Pipavav Port P:Ucchaiya D: Amreli Gujarat 365560. Email: ch-custppv@gov.in, for favour of information.
- 10) The Commissioner of Customs, Import ICD Moradabad ICD Loco shed Moradabad Uttar Pradesh, for favour of information.
- 11) The Commissioner of Customs, Import ICD Tughlakabad (INTKD6) ICD Tughlakabad New Delhi 110020. Email: commrtdimp-cusdel@nic.in, for

favour of information.

- 12) The Commissioner of Customs, Import ICD Hyderabad (INSNF6) ICD Hyderabad Andhra Pradesh. Email: icdhyderabad@gmail.com Email: icd-hyderabad@gov.in, for favour of information.
- 13) The Commissioner of Customs, Import ICD Dadri (INDER6) ICD noida-customs@gov.in Dadri, Gautam Budh Nagar, UP -203207, for favour of information.
- 14) The Commissioner of Customs, Import ICD Jry Kanpur (INKNU6) ICD Jry Kanpur, Po:R.K.Nagar Kanpur Pin - 208012 ccp-lko@gov.in, for favour of information.
- 15) The Commissioner of Customs, Import Kipl ICD, Panki (INPNK6) Kipl Icd, Pank. Kanpur. Email: kanpurccp-lko@gov.in for favour of information.
- 16) The Commissioner of Customs, Import ICD Panchi Gujuran, (INBDM6) Panchi Gujuran, Tehsil-Gannaur-Sonepat Dist. HRICD Email: commricdppg-cusdel@gov.in, for favour of information.
- 17) The Commissioner of Customs, Import Kolkata Port (INCCU1) 15/1 Strand Road, Custom House Kolkata 700001. Email:prcommmr-port-cuskol@gov.in, for favour of information.
- 18) The Commissioner of Customs, Import ICD Ludhiana (INLDH6) ICD Ludhiana, Dhandari Kalan Pin-141001commmr-cusldh@nic.in customs.ldh@gov.in ICD Garhi Harsaru, Sri Maruthi Nagar, Gurgaon. Email:gurgaonicedgarhiharsaru@gmail.com Email:icd.garhi@icegate.gov.in, for favour of information.
- 19) The Commissioner of Customs, Import ICD GFRL, (INSGF6) ICD GFRL, Email: ludhianacommr-cusldh@nic.in Email:customs.ldh@gov.in, for favour of information.
- 20) The Commissioner of Customs, Import Cochin Customs House (INCOK1) North End, Willingdon Island, Cochin, Kerala, India, PIN-682 009. Email:cochincustoms@nic.in, for favour of information.
- 21) Notice Board.
- 22) Guard File.