

	<p>कार्यालय: प्रधान आयुक्त सीमा शुल्क, मुन्द्रा, सीमा शुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421 <b>OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT- 370421</b> <b>PHONE:02838-271426/271423 FAX:02838-271425</b> <b>Email: adj-mundra@gov.in, commr-cusmundra@nic.in</b></p>	
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DIN- 20241171MO000000A411

Date: 07.11.2024

**SHOW CAUSE NOTICE**

M/s. JMV Enterprises (IEC No. AUWPM9653R), 216, Vishal Tower, Janakpuri, Delhi-110058, (hereinafter referred to as "M/s. JMV"), is engaged in import of PU-coated Fabrics and other fabrics from China for home consumption. M/s. JMV used to import these goods in Mundra SEZ Warehouse Unit M/s. OWS Warehouse Services LLP, Mundra and subsequently file SEZ to DTA Bill of Entry in the SEZ for their DTA removal.

2. Intelligence gathered by the Directorate of Revenue Intelligence (DRI) indicated that M/s. JMV is evading payment of Anti-dumping duty and appropriate levy of Customs duty in the import of Fabrics by way of mis-declaration of description and mis-classification of these good during their imports. The intelligence further indicated 02 such consignments of PU Coated fabrics imported by M/s. JMV from China through Container Nos. HLXU6433720 and ESDU1224964 by mis-declaring the description of goods as Felt Woven Coated Fabric and mis-classifying it under CTI 59119090 are lying at Mundra SEZ Warehouse Unit M/s. OWS Warehouse Services LLP.

3. Acting upon the above intelligence, the live import consignments of M/s. JMV were examined by the officers of DRI at Mundra SEZ Warehouse Unit. M/s. OWS Warehouse Services .LLP, under Panchnama dated 12.11.2022 (**RUD No. 1**). The imported goods were covered under below mentioned details during the course of examination –

**Table-1**

Bill of Entry No. & Date	1015305 dt.27.10.2022	1015832 dt.04.11.2022
SEZ to DTA Bill of Entry No. & Date	2017048 dt.03.11.2022	2017572 dt.10.11.2022
Declared Goods Description	Felt Woven Coated Fabric	Felt Woven Coated Fabric
Bill of Lading No. & Date	VOLNGBMUN2212885	EPIRCHNNBO227479
Container No.	HLXU6433720	ESDU1224964

**4. Examination of the goods;**

**4.1** During the examination of the goods under Panchnama dt. 12.11.2022, the goods in respect of B/E No. 1015305 dt. 27.10.2022 were found at Mundra SEZ Warehouse Unit M/s. OWS Warehouse Services LLP as mentioned below;

**Table-2**

SEZ BE No. and Date	DTA BE No. and Date	Container No.	Total no. of Rolls declared in BE	Type of Rolls	Type wise number of Rolls	Each Roll Length (In Meter) (B)	Total length (in Meter) (A*B)
1015305 dated 27.10.2022	2017048 Dated 03.11.2022	HLXU6433720	1078	Type-1	370	50	18500
				Type-2	101	50	5050
				Type-3	420	50	21000
				Type-4	162	50	8100
				Type-5	23	40	920
Total			1078		1076		53570

Since these goods were differently identifiable, 03 Samples each for all 5 Types of Goods in respect of B/E No. 1015305 dt. 27.10.2022 were drawn to find out the actual nature, description and classification of the goods. and these goods were detained pending Test report from CRCL Vadodara.

**4.2** The goods in respect of B/E No. 1015832 dated 04.11.2022 found at Mundra SEZ Warehouse Unit M/s. OWS Warehouse Services LLP as mentioned below;

**Table-3**

SEZ BE No. and Date	DTA BE No. and Date	Container No.	Total no. of Rolls declared in BE	Total no. of Rolls found during examination (A)	Each Roll Length (In Meter) (B)	Total length (in Meter) (A*B)
1015832 dated 04.11.2022	2017572 dated 10.11.2022	ESDU1224964	791	792	50	39600
<b>Total</b>			<b>791</b>	<b>792</b>	<b>50</b>	<b>39600</b>

Since all the goods in the above import were identified to be similar therefore 03 Samples were drawn to find out the actual nature, description and classification of the goods and these goods were detained pending Test report from CRCL Vadodara.

**4.3** The above drawn samples were sent to the CRCL, Vadodara for conducting test to ascertain the actual identification of the goods. The details divulged in Test Reports provided by CRCL provided in respect of all the 6 samples are as under -

**Table-4**

Sr. No	Test Report No. and Date	SEZ Bill of Entry No. & Date	DTA Bill of Entry No. & Date	Container No.	Declared Description and classification in BE	Appropriate description of goods as per Test Reports
01	RCL/AH/DRI/3030/0 1.12.2022 Dated- 26.12.2022 (RUD-2)	1015305 Dated- 27.10.2022	2017048 dated 03.11.2022	HLXU6433720	Felt Woven Coated Fabric	White Woven Coated Fabric coated with compounded Polyurethane (PU)

02	RCL/AH/DRI/3031/0 1.12.2022 Dated- 26.12.2022 <b>(RUD-3)</b>					White Woven Coated Fabric coated with compounded Polyurethane (PU)
03	RCL/AH/DRI/3032/0 1.12.2022 Dated- 26.12.2022 <b>(RUD-4)</b>					White Knitted Fabric having raised fibers, coated with compounded polyurethane (PU)
04	RCL/AH/DRI/3033/0 1.12.2022 Dated- 26.12.2022 <b>(RUD-5)</b>					White Knitted Fabric having raised fibers, coated with compounded polyurethane (PU)
05	RCL/AH/DRI/3034/0 1.12.2022 Dated- 26.12.2022 <b>(RUD-6)</b>					Dyed woven fabric coated with compounded polyurethane (PU) laminated with PVC film on one side.
06	RCL/AH/DRI/3035/0 1.12.2022 Dated- 26.12.2022 <b>(RUD-7)</b>	1015832 Dated 04.11.2022	2017572 Dated 10.11.2022	ESDU1224964	Felt Woven Coated Fabric	Dyed woven fabric coated with compounded polyurethane (PU)

5. The above Test Reports revealed that the goods imported by M/s. JMV vide Bill of Entry No. 1015832 Dated 04.11.2022 & Bill of Entry No. 1015305 Dated- 27.10.2022 which were declared as Felt Woven Coated Fabric and classified under CTI 59119090, were actually PU-coated fabrics which merit classification under CTI 59032090. The test report received from CRCL, Vadodara, revealed that the goods covered under above 02 Bills of Entry by M/s. JMV were mis-declared and mis-classified, hence these imported goods were placed under seizure vide Seizure memo issued on 11.01.2023 from file no. DRI/AZU/CI/ENQ-02(INT-21)/2023 **(RUD No.8)**.

6. In terms of Notification No. 14/2022-Customs (ADD) dated 20.05.2022**(RUD No.9)**, PU-coated fabric falling under CTI 59032090, when imported from any Country including China and produced by entities other than by M/s. Anhui Anli Material Technology Limited, attracts Anti-dumping duty @USD 0.46 per Meters. Therefore, the Felt Woven Coated Fabric totaling to 93170 meters imported by M/s. JMV vide Bill of Entry No. 1015832 Dated 04.11.2022 & Bill of Entry No. 1015305 Dated- 27.10.2022 (Table-2 & Table-3 above) and found to be PU Coated Fabric in terms of CRCL, Vadodara Test Report as mentioned under Table-4, were leviable to Anti-dumping duty as per Notification No. 14/2022-Customs (ADD) dated 20.05.2022.

6.1. The above notification further clarified that ***‘for the purposes of this notification, rate of exchange applicable for calculation of such anti-dumping duty, shall be the rate which is specified in the notification of the Government of India, Ministry of Finance (Department of Revenue), issued from time to time, in exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and the relevant date for the determination of the rate of exchange shall be the date of presentation of the bill of entry under section 46 of the said Act.’*** Accordingly, in the present case, the rate of exchange is to be taken as per Notification No. 90/2022-Customs (N.T.) dated 20.10.2022 which was prevalent during the relevant period of import.

## 7. Search conducted

**7.1** During the course of investigation, search at the registered premises of M/s. JMV at 216, Vishal Tower, Distt Centre, Janakpuri, New Delhi was carried out under Panchnama dated 21.11.2022 (**RUD NO.10**). During the search one person namely Shri Kapil Kotiya was found present there, who was found to be the owner of M/s Ocean Logistics, a freight Forwarder and also working as the representative of M/s JMV. On being asked he informed that he looks after the clearance & transportation work related to import made by M/s JMV and also provided documents pertaining to imports of goods made by M/s. JMV from his email id [kapillogis@gmail.com](mailto:kapillogis@gmail.com). On being asked about the person sending such documents to him, he stated that M/s. Dee Pee Leather, M/s. Jai Maa Enterprises and M/s. A. N. Enterprises are providing him documents by hand delivery. Proprietor of M/s JMV also joined the search proceedings later on. He informed that his firm provides end to end solution to his clients. Their clients used to place order goods to overseas supplier in his firm's name and after due customs clearance these goods are transported and delivered to them.

**7.2** Further, Search at the registered premises, godown of M/s Jai Maa Enterprises and residence of Shri Arun Jyoti Mahajan, Partner of M/s Jai Maa Enterprises was carried out on 21.11.2022 & 28.12.2022 under Panchnama (**RUD No. 11& 12**). During the search purchase and sales documents related to the firm were resumed. Further during the search Shri Arun Jyoti Mahajan informed that they make most of their purchases from M/s. JMV Enterprises, M/s. OM Enterprises and Alfa Impex. He further stated that the goods which were purchased from said firms were PU coated fabric, Flock fabric, Glitter fabric, Polyester Bonded fabric etc.

**7.3** Search at the Shop of M/s Ritika Traders and M/s Kishor Traders located at MG/54/1/10, Thakkar Bapa Nagar, CS Road, Chembur, Mumbai & 53/2/2 Thakkar Bapa Nagar, CS Road, Chembur, Mumbai was carried out under Panchnama dated 16.12.2022(**RUD NO.12**). M/s. Ritika Traders & M/s. Kishor Traders are engaged in trading of various fabrics used in footwear & other goods and the search was carried out in connection with purchases of imported goods by them. During the search, Shri Kishor Kumar Ramuram Naval, Proprietor of M/s. Kishor Traders stated that they purchase PU Coated Fabric, Flock Fabric, Glitter Fabric etc. which is used in Ladies Footwear and their main suppliers are M/s. Jai Maa Enterprises, M/s. Bhagwati International & M/s. Tyesha International. The officers drew sample of goods purchased by M/s. Kishor Traders against Invoice No.2022-23/1405 dt. 12.1.2022 issued by M/s. Jai Maa Enterprises & sample of goods purchased by M/s.Ritika Traders against Invoice No.2022-23/2022 dt. 20.10.2022 issued by M/s. Jai Maa Enterprises.

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

Sr. No	Test Memo No. and Date	Test Report No. and Date	Bill of Entry No. (SEZ and SEZ to DTA) & Date	Declared Description declared in BE	Appropriate description of goods as per Test Reports
1	52/KISHOR/54 dated 19.12.2022	RCL/AZU/DRI/3351/22. 12.2022 dt. 04.01.2023 <b>(RUD No.13)</b>	Sample of goods purchased by M/s. Kishor Traders, Mumbai which were drawn under Panchnama dt.16.12.2022	Textile Coated Fabric Sold to M/s. Kishor Trader by M/s. Jai Maa Enterprises under Invoice No. 2022-23/1045 dt. 12.11.2022	Dyed Knitted Fabric having raised fibers on one surface, coated with compounded polyurethane on one side.
2	53/RITIKA/47 dated 19.12.2022	RCL/AZU/DRI/3352/22. 12.2022 dt. 04.01.2023 <b>(RUD No.14)</b>	Sample of goods purchased by M/s. Ritika Traders, Mumbai which were drawn under Panchnama dt.16.12.2022	Glitter Fabric Sold to M/s. Kishor Trader by M/s. Jai Maa Enterprises under Invoice No. 2022-23/1312 dt. 23.10.2022	White Knitted Fabric having raised fibers on one surface, coated with compounded polyurethane on one side.

## 8. Statements recorded in the case

**8.1** Statement of Shri Sanjeev Shekhar Malhotra S/o Shri B.N. Malhotra Proprietor of M/s JMV Enterprises was recorded u/s. 108 of the Customs Act, 1962 on 27.11.2022 **(RUD No.15)** wherein he inter alia stated that M/s. JMV Enterprises was established in the year 2020 on per the direction/guidance given by Shri Kapil Kotiya; that he had lost his job during COVID lockdown and at that time Shri Kapil Kotiya helped him and gave him an offer to open a firm in his name; that he does not have any knowledge about import of goods and had given documents to Shri Kapil Kotiya who has done all the formalities for opening of the firm; that Shri Kapil Kotiya had taken him to the Bank for opening Bank Account of the firm; that he only knows that the Bank Account of the firm is in Kotak Mahindra Bank and all other details are available with Shri Kapil Kotiya; that Shri Kapil Kotiya's wife and his wife are friends and that way that Shri Kapil Kotiya got acquainted with him and later gave him an offer to open a firm in his name; that he was paid Rs.15000/- per month by Shri Kapil Kotiya for agreeing to his offer and the amount was transferred by Shri Kapil Kotiya to his wife's bank account; that he does not know about the business activity of the firm and Shri Kapil Kotiya looks after all the work of M/s JMV Enterprises; that Shri Kapil Kotiya has informed him that this firm will be working as a mediatory firm to import goods for various other firms; that he used to work in Marketing of Plywood in the firm M/s. Tridev International; that as per direction of Shri Kapil Kotiya, he had signed the document in respect of business, RTGS form & Cheques etc.; that he does not know the person who are employed by M/s. JMV; that he does not know the names of the buyers of the goods imported by M/s. JMV, however, Shri Kapil Kotiya had once made reference of M/s. Jai Maa Enterprise and Bhagwati Enterprise; that he had not made any communication with overseas suppliers and domestic buyers of the imported goods; that

office address of the Shri Kapil Kotiya was 212, Vishal Tower, District Center, Janakpuri, Delhi-110058.

**8.2** Statement of Shri Kapil Kotiya s/o Shri Ratan Lal proprietor of M/s Ocean Logistics was recorded u/s. 108 of the Customs Act, 1962 on 27.11.2022 (**RUD No.16**), wherein he inter alia stated that he is the Proprietor of M/s Ocean Logistics, situated at 212, Vishal Tower, District Center, Janakpuri, New Delhi-110058; that M/s Ocean Logistics was established in the year 2017; that M/s Ocean Logistics does not have an IEC and the firm is handling work related to Freight Forwarding and Customs Clearance; that apart from M/s. Ocean Logistics, he is not a partner or director in any other firm/company; that his firm does not have any Customs Brokers License and gives the work related to customs clearance to M/s. Rainbow Shipping Service & Lara Exim Pvt. Ltd.; that he is handling all the day to day work of the firm M/s JMV Enterprises, M/s. Om Enterprises & M/s. J Bridge World Wide; that IEC of this firm is lent to Domestic firms for importing of the goods they require; that various Domestic Traders (Actual Importer of Goods) import their goods through the IEC & the name of these IEC holding firms and after import they take these imported goods by way of domestic sale from the IEC holding firms; that the modus adopted in the above transaction is that the Domestic firm/Traders orders the goods from overseas supplier and provide them the credentials of these IEC lending firm as an importer to facilitate the import of the goods; that the import related documents from overseas supplier are received by the domestic firms/traders (Actual owner of the goods) which they forward to the IEC lending firm for customs clearance and after the customs clearance, these imported goods are directly forwarded from the port to the premises of these domestic firm/traders (the actual importer of goods) by showing it as domestic sale by IEC lending firm; that due to the market being very competitive, the domestic firms/traders/actual owner of the goods want to hide the details of overseas suppliers and therefore they use such IEC lending firms to import the goods; that he had approached his relatives or friends, who lost jobs during COVID-19 lock down and gave them idea to open IEC lending firm for some monetary benefit for which they agreed; that no fix amount is paid for the same to the owner of the firm, it varied from person to person; that the IEC of the firm M/s JMV Enterprise was intended to be utilized by domestic traders (actual importer of goods) M/s. Jai Maa Enterprises, M/s. Skytex and M/s. Madhav Life; that these domestic firm/traders were known to him and since they required IEC firm for import, he provided them this firm; that the proprietor of M/s. JMV Enterprises is not looking after any work of the firm except signing documents related to import and banking transaction; that he is charging Rs.15000/- per container to Domestic firm/Traders (actual importer of goods) for lending IEC; that this amount is added to value of goods in the Invoice when the goods are removed for domestic sale; that the Domestic firm/Traders (actual importer of goods) are importing Polyester Woven Fabric, Knitted Fabric, Polyester Bonded Fabric, PVC Coated Fabric, PA Coated Fabric, Textile Coated Fabric etc. through these IEC lending firms; that these domestic traders/firms place the order to overseas supplier and later on send the import documents to him for the purpose of freight forwarding or customs clearance; that he did not know anything about the mis-declaration of goods, as goods are directly ordered by the Domestic Traders (actual importer of goods) and after import the same is directly dispatched to the Domestic Traders (actual

importer of goods); that all the domestic traders were his regular clients and are communicating with him only; that domestic traders used to import PU Coated Fabric before imposing of Anti-dumping duty on the PU Coated Fabric, however after imposing Anti-dumping duty, they discontinued import of PU Coated Fabric.

**8.3** Further statement of Shri Kapil Kotiya s/o Shri Ratan Lal Proprietor of M/s Ocean Logistics was recorded on 03.03.2023 u/s. 108 of the Customs Act, 1962 (**RUD-17**), wherein he was perused with his earlier statement recorded in the case on 27.11.2022 (**RUD-16**) and after perusing the same he stated that he agrees with all the facts and version recorded in the statement; that after being perused with the statement dated 27.11.2022 tendered by Shri Sanjeev Shekhar Malhotra, Proprietor of M/s. JMV Enterprises u/s.108 of the Customs Act, 1962, he stated that he agrees with all the version and facts recorded in the statement; that he was also perused with the printout of email received from email id [jmv.enterprises121@gmail.com](mailto:jmv.enterprises121@gmail.com) of Shri Sanjeev Shekhar Malhotra, Prop. of M/s. JMV Enterprises wherein it was stated that Mr. Kapil is looking all the business in his (Shri Malhotra's) name; that after perusing the contents of the email he admits and agrees that he is looking after all the business activity of M/s. JMV Enterprises; that after being perused with the copy of Letter dated 19.01.2023 of M/s. JMV Enterprises addressed to the Deputy Commissioner, SEZ Mundra requesting for clearance of goods PU Fabrics covered under (DTA) Bill of Entry No.2019872 dt. 14.12.2022 and B/E No.2019670 dt. 12.12.2022, he stated that he is aware of the above letter and the same was issued and signed by Shri Sanjeev Shekhar Malhotra under his instructions; that he is looking after the activity related to clearance of the above consignments imported by M/s. Om Enterprises and M/s. JMV Enterprises; that he provided with the details of Domestic traders who had utilized the IEC of M/s. Om Enterprises and M/s. JMV Enterprises for importing their consignments as detailed here-in-under –

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

He stated that no remittance in the above imports have been sent by him to the Overseas Supplier through M/s. Om Enterprises and M/s. JMV Enterprises as he had not received the payment for the value of goods from the domestic traders for whom the goods were imported; that he have received payment amount for customs duty only in respect of the above imports from these domestic traders; that he doesn't have any knowledge as to whether the overseas suppliers had made any communication regarding the outstanding

payments of the goods as the goods were directly ordered by these domestic traders and the payment terms were also finalised by them; that on being asked as to why in the B/E No.2019872 dt. 14.12.2022 and B/E No.2019670 dt. 12.12.2022 filed subsequently by M/s. JMV Enterprises the description of the goods is mentioned as PU Fabric under CTI 59032090, when in the corresponding Bills of Lading the description of the goods is mentioned as Fabric with CTI 59119090, he stated that he had discussed this matter with the respective domestic traders who had ordered these goods from the overseas supplier before filing of Bill of Entry and they have intimated them that these goods are PU Coated goods and should be declared as mentioned in the Invoice; that he does not know why the goods were mentioned as Fabric under CTI 59119090 in the Bills of Lading; that he does not know why the goods were mentioned as Fabric under CTI 59119090 in the Bills of Lading; that he does not have any written communication of the domestic traders in the above matter; that the documents viz. Bill of Lading and Invoices were physically delivered to him by the domestic traders; that he was perused with Panchnama dated 12.11.2022 drawn at M/s.OWS warehouse Services LLP, APSEZ, Mundra in respect of examination of goods imported by M/s. OM Enterprises, M/s. JMV Enterprises and M/s. Bridge Worldwide and he was also perused with the Test Memo in respect of representative samples of goods drawn under the above Panchnama dated 12.11.2022 and also with the Test Results issued by the CRCL, Vadodara in respect of the samples sent for testing vide the above said Test Memos and after perusing these documents, he stated that as per the CRCL Vadodara Test Report, the goods imported from whom these samples were taken are found to be coated with Compounded Polyurethane (PU); that he accepts and agrees with the finding of the Test Report issued by CRCL, Vadodara in respect of the goods imported by M/s. OM Enterprises, M/s. JMV Enterprises and M/s. Bridge Worldwide which were examined under Panchnama dt. 12.11.2022 at M/s.OWS warehouse Services LLP, APSEZ, Mundra.

**8.4** Further, statement of Shri Kapil Kotiya s/o Shri Ratan Lal proprietor of M/s Ocean Logistics u/s. 108 of the Customs Act, 1962 was recorded on 16.07.2024 under section 108 of the Customs Act, 1962 **(RUD-18)**, wherein he stated that he looks after the customs clearance of all the imported goods, local sales and banking transactions in respect of M/s. JMV Enterprises and M/s. Om Enterprises; that the Order to the Overseas Suppliers in respect of the goods imported by M/s. JMV Enterprises and M/s. Om Enterprises were directly placed by the actual owner of the goods and after completion of the imports, these goods are directly transported from the port to the premises of the above actual owners as per their directions; that the Bill of Lading, Packing List, Invoice etc. were directly received by the actual owners of the goods from the Overseas Suppliers and the same was then provided by them to him for facilitating the clearance of the goods from the customs; that in respect of goods which were imported by M/s. JMV Enterprises, the actual owners of the goods are M/s. Jai Maa Enterprises and M/s. Skytex and they have provided him with the documents viz. Bill of Lading, Invoice, Packing List etc. for customs clearance of the goods; that he submitted Annexure-A i.e. consignment-wise details of the goods imported by M/s. JMV Enterprises along with the name of Actual Owner of these goods and also puts his signature on it, in token of its correctness; that the consignments of M/s. JMV Enterprises Seized by the DRI were released on furnishing



of Bond and Bank Guarantee and the funds for obtaining the above Bank Guarantee were also actually provided by the above actual owner of the goods as mentioned in Annexure-A; that he didn't take any salary or profit from the above transaction but his firm M/s. Ocean Logistics used to raise forwarding charges bill to M/s. JMV Enterprise.

**8.5** Statement of Shri Ankur Mahajan S/o Shri Arun Jyoti Mahajan Proprietor of M/s Bhagwati International was recorded u/s. 108 of Customs Act, 1962 on 28.12.2022 (**RUD-19**), wherein he inter alia stated that M/s.Bhagwati International was established in the year 2013 and its registered address is 7034/3, Mata Rameshwari Nehru Nagar, Karol Bagh, Delhi; that he is the Proprietor of this firm and is trading various types of goods through this firm; that his family owns two other firms namely M/s. Jai Maa Enterprises which is a partnership firm & M/s.Tayesha International in which his father is the Proprietor; that all the business of M/s. Jai Maa Enterprises, M/s.Bhagwati International and M/s.Tayesha International is being looked after by him and his father Shri Arun Jyoti Mahajan; that these firms buy and sell various types of fabric i.e. PU Coated Fabric, PVC Coated Fabric, Glitter Fabric, Non-Woven Fabric, Bonded Fabric etc.; that they have imported PU Coated Fabric, PVC Coated Fabric, Glitter Fabric, Non-Woven Fabric, Bonded Fabric etc. through their three firms; that in M/s. Jai Maa Enterprises, they had started import from the year 2012 and in M/s. Bhagwati International and M/s.Tayesha International, they started imports from the year 2013 and 2016 respectively; that they had stopped import from the year 2018 and had started purchasing fabrics directly from Domestic Manufacturer; that he purchased goods from M/s.JMV Enterprises, M/s.Om Enterprises, M/s.Alpha Impex etc.; that he did not know Shri Sanjeev Shekhar Malhotra; that they had purchased PU Coated Fabric, Textile Coated Fabric, Bonded Fabric etc. from M/s.JMV Enterprises; that PU Coated Fabric is artificial leather which is used in footwear and garments; that Textile Coated Fabric is PU Coated Fabric which is used in footwear and garments; that Textile Coated Fabric is just another name given to PU Coated Fabrics; that he did not know, why in their purchase of PU Coated Fabric, this term Textile Coated Fabric is used by his local supplier firms in their invoices; that the goods purchased from local supplier were imported from China; that they ordered PU Coated Fabric and received the PU Coated Fabric, but the goods in their invoice were mentioned as Textile Coated Fabric; that M/s.JMV Enterprises is the firm who is mentioning the PU Coated Fabric as Textile Coated Fabric in their invoices; that he did not know the Proprietor/Partner/Employee of M/s. JMV Enterprises and only contacts Shri Kapil Kotiya for purchase of goods from this firm; that Shri Kapil Kotiya had visited their shop in Karol Baug and had offered door-step delivery of these goods; that the payment of the goods is transferred by them to M/s. JMV Enterprises at his convenience since a credit period of 15 to 120 days is available for making payment; that on one or two occasion they have also made advance payment to M/s. JMV Enterprises towards delivery of the goods; that he took sample of the goods from manufacturer in China i.e. Volcano International and Cinorich and gave the details of shortlisted samples of the goods with desired quantity to Shri Kapil Kotiya, who places the order in China but sometimes he himself had also placed the order directly to the Overseas Supplier in China; that he placed the order to suppliers in China through his phone; that Invoice and packing list were directly received by Shri Kapil Kotiya whereas BL copy is received through telex by him or Shri Kapil Kotiya; that he was dealing with

Volcano International, China and Cinorich, China since two three years and their representative had approached him as he was dealing in various kind of fabrics; that he further introduced Shri Kapil Kotiya to these firms; that Order were placed to suppliers in China by him as well as by Shri Kapil Kotiya and the import of the goods, Customs clearance and payment was looked after by Shri Kapil Kotiya; that they have always communicated through whatsapp and never through e-mail; that he was aware of Anti-Dumping Duty on import of PU Coated Fabric from China; that he had not used the term Textile Coated Fabric in ordering the goods from China and M/s JMV Enterprises had mentioned the PU Coated Fabric as Textile Coated Fabric; that he also mentioned the "Textile Coated Fabric" in his invoices when he further sold the goods to various buyers; that he received invoice of Textile Coated Fabric and same was entered in his accounting software, therefore he also had to mention the goods description as Textile Coated Fabric instead of correct goods description i.e. PU Coated Fabric in the invoice issued by him; that he is getting monetary benefit of Rs.30,000/- to Rs.90,000/- per container when the goods are being purchased from local firms instead of purchasing directly from the overseas suppliers; that he exactly does not know how the local firms are providing goods at cheaper rates but they may be ordering in bulk and getting discount from the overseas suppliers.

**8.6** Statement of Shri Arun Jyoti Mahajan S/o Shri Hansraj Mahajan, Partner of M/s Jai Maa Enterprises was recorded u/s. 108 of Customs Act, 1962 on 17.05.2023 **(RUD-20)**, wherein he inter alia stated that M/s Jai Maa Enterprises was established in the year 2000 and he and his wife Smt. Raman Mahajan were partners of the firm; that the registered address of the M/s Jai Maa Enterprises is 5289, Hardhyan Singh Road, Karol Bagh, New Delhi-110005; that he and his son Shri Ankur Mahajan are looking after all the work of M/s Jai Maa Enterprises; that M/s Jai Maa Enterprises is into trading of various types of fabrics e.g. Bonded Fabric, PU Coated Fabric, PVC Coated Fabric, Glitter Fabric, Non-Woven Fabric etc.; that he is also proprietor of the firm M/s. Tayesha International; that they are purchasing fabrics from Domestic Market and majority of the fabrics purchased are manufactured in China.; that they had directly imported fabrics from China also; that they purchase fabrics from M/s.JMV Enterprises, M/s.Om Enterprises, M/s.Alpha Impex etc.; that they purchased Glitter Fabric, Polyester Bonded, PU Coated Fabric, Textile Coated Fabric etc. from M/s.Om Enterprises & M/s.JMV Enterprises; that the order for these fabrics were directly placed by them to overseas supplier and the same was then imported in the name and IEC of M/s.Om Enterprises & M/s.JMV Enterprises; on being asked about the Proprietor/Partner of M/s. Om Enterprises & M/s. JMV Enterprises he stated that Shri Kapil Kotiya is looking after all the work of M/s.Om Enterprises & M/s.JMV Enterprises and he does not know what was his designation in these firms; that their role was limited to placing orders for the goods to Chinese Suppliers and rest of all the work was being handled by Shri Kapil Kotiya; On being asked as to how to identify Glitter Fabrics, he stated that Glitter Fabrics are embedded with small, reflective particles, giving it a sparkling and glamorous appearance and it is used in ladies footwear; On being asked as to how to identify Bonded Fabrics, he stated that Bonded fabric was made by pasting two fabrics together and is used in footwear and garments; On being asked about how to identify PU Coated Fabrics, he stated that PU Coated Fabric is artificial leather which is used in

footwear and garments; On being asked about the identity of the description Textile Coated Fabric, he stated that Textile Coated Fabric is actually PU Coated Fabric; On being asked about the identity of the description Felt Woven Coated Fabric, he stated that Felt Woven Coated Fabric is actually PU Coated Fabric; On being asked why PU Coated Fabrics are mentioned as Textile Coated Fabrics or Felt Woven Fabrics, he stated that he did not know the reason of using term Textile Coated Fabric or Felt Woven Coated Fabric for declaring PU Coated Fabric but they have received invoices mentioning these descriptions instead of PU Coated Fabric; on being asked as to what they are mentioning the description of these imported PU Coated goods during their further sale to various buyers in domestic market, he stated that while sale of the PU Coated goods which they have received as "Textile Coated Fabric", they continued to declared it as "Textile Coated Fabrics" during their further sale; that they have sold such Textile Coated Fabric to Kishore Traders, Mumbai; on being shown Invoice No. 2022-23/1405 dated 12.11.2022 (RUD NO. 11) he stated that the said invoice was signed by him and was issued to Kishore Traders, Mumbai for sale of 964.89 KGS Textile Coated Fabric; that after perusing the Panchanama dated 16.12.2022 (RUD No. 12) drawn at the premises of Kishore Traders, Mumbai and Bill Number 274769 dated 15.11.2022 issued by Satkartar Roadlines he stated that the goods covered under Invoice No. 2022-23/1405 dated 12.11.2022 were transported under Bill Number 274769 dated 15.11.2022 issued by Satkartar Roadlines; that after perusing the Test Memo No. 52/Kishor/54 dated 19.12.2022 in respect of the sample of goods drawn from the premises of M/s. Kishore Traders, Mumbai under the Panchnama date 16.12.2022 and Test Report Lab No. RCL/AZU/DRI/3351/22-12-2022 dated 04.01.2023 issued by CRCL Vadodara (**RUD-13**), in respect of the said goods, he stated that the identity of the sample goods tested in test report is revealed to be coated with compounded Polyurethane and he accepts the test report; that he agrees that he sold PU Coated Fabric to Kishore Traders, Mumbai by mentioning the same as Textile Coated Fabric in the invoice; that he further agrees that all the Textile Coated Fabric procured by his firm i.e. M/s Jai Maa Enterprise from M/s.Om Enterprises & M/s. JMV Enterprises were PU Coated Fabric and the same was sold to various firms mentioning the same as Textile Coated Fabric in their sale Invoices.

**8.7** Statement of Shri Narendrachand Ramniwas Moriya S/o Shri Ramniwas Moriya, Authorized person of Kishor Traders, Mumbai was recorded on 10.02.2023 (**RUD-21**), wherein he inter alia stated that M/s Kishor Traders is a Proprietorship firm and Shri Kishor Kumar Naval is the Proprietor of the firm; that the firm was established in the year 2007 and is dealing in sale and purchase of various types of fabrics; that in the absence of Shri Kishor Kumar Naval, he is looking after work related to the accounts and sale-purchase of the firm and is also dealing with different buyers/supplier firms for purchase & sale of the goods for the firm; On being asked about M/s Ritika Traders, he stated that M/s. Ritika Traders is a Proprietorship firm and Shri Shankarlal Ramuram Naval is the proprietor of the said firm; that Shri Kishor Kumar Naval is looking after the work related sale and purchase of Ritika Traders; that in absence of Shri Kishor Kumal Naval, he is looking after the work of M/s. Ritika Traders; that both the firms are dealing with various types of fabric i.e. Firangi, Munmun, Nonwoven Napa, Madras, Wrinkle Free Jelly, Samosa, Tracktor, Armani etc; that these names are the general trade names of the fabric which was being used in the market, but in the invoice, they mention

the goods as PU Coated Fabric, PVC Coated Fabric, Glitter Fabric, Flock Fabric etc.; that the PU Coated fabric is mostly known as Napa, Firangi, Wrinkle Free Jelly etc., the PVC Coated fabric is known as Sheesha or Mota Sheesha, the Glitter Fabric is Known as Munmun, Jajba etc. and the Flock Fabric is known as Madras; that all these fabrics are also known with various other names based on colour and design; that the Textile Coated Fabric purchased by them from M/s. Jai Maa Enterprises was PU Coated Fabric; that they have ordered goods viz. Napa, Firangi, Wrinkle Free Jelly etc. from their domestic suppliers and have received these goods from the suppliers but they mentioned the description of the goods as Textile Coated Fabric in its invoices; that he was perused with Panchnama dated 16.12.2023 **(RUD-22)** drawn at the premises of Kishor Traders, Mumbai wherein samples of goods having Product Mark(PM) as "Kishor/54 which were purchased by M/s. Kishor Traders from M/s. Jai Maa Enterprises, New Delhi, under Invoice No.2022-23/1405 dated 12.11.2022 and transported under E-way Bill Number 741297609478 dated 12.11.2022, Transportation Bill/invoice No.274769 dated 15.11.2022 issued by M/s. Satkartar Roadline; that after perusing these documents he confirms that the sample drawn under the Panchnama dated 16.12.2023 were from the goods that was purchased by M/s. Kishor Traders from M/s. Jai Maa Enterprises under their Invoice No.2022-23/1045 dated 12.11.2022; that he did not know much about Polyurethane but as per his knowledge, the fabric, in which his firm dealt with the local name viz. Firangi Napa, Napa, Wrinkle free Jelly etc. were called as PU Coated Fabric and PU was the short name of Polyurethane; that at the time of purchase of the goods, they always used their local name viz Firangi Napa, Napa, wrinkle free Jelly etc. but the supplier used the name as PU Coated or Textile Coated Fabric; that after being perused with Panchnama dated 16.12.2023 **(RUD-22)** drawn at the premises of Kishor Traders, Mumbai wherein samples of goods having Product Mark(PM) as "RITIKA/47 which were purchased by M/s. Ritika Traders from M/s. Jai Maa Enterprises, New Delhi under Invoice No.2022-23/1312 dated 20.11.2022 and transported under E-way Bill Number 761293259608 dated 20.10.2022, Transportation Bill/invoice No.271194 dated 23.10.2022 issued by M/s. Satkartar Roadlines, he stated that he confirms that the sample drawn under the Panchnama dated 16.12.2023 were from the goods that was purchased by M/s. Ritika Traders from M/s. Jai Maa Enterprises under their Invoice No.2022-23/1312 dated 20.11.2022; that he did not know much about Polyurethane but as per his knowledge, the fabric, in which his firm dealt with the local name viz. Firangi Napa, Napa, Wrinkle free Jelly etc. were called as PU Coated Fabric and PU was the short name of Polyurethane; that at the time of purchase of the goods, they always used their local name viz Firangi Napa, Napa, wrinkle free Jelly etc. but the supplier used the name as PU Coated or Textile Coated Fabric; that they had ordered the goods by name of their local name, therefore, he could not offer any comment that why the seller had mentioned the goods as Glitter Fabric or Textile Coated Fabric in their invoices; that he did not know that how many time M/s Jai Maa Traders mentioned as PU Coated Fabric as Textile Coated Fabric or Glitter fabric in the invoices, but his firm had purchased PU Coated fabric from M/s Jai Maa Enterprises; that after perusing the contents of their Purchase Register, he stated that their firms have purchased PU Coated Fabrics from M/s: Hero Traders, M/s. Chawla Rexine, M/s. Jai Prakash & Sons, M/s. A.N. Enterprises, Delhi, M/s. Sai Traders, Delhi, M/s.Shree Ganesh Overseas, M/s. Khurana & Khurana, M/s. Jai Maa Enterprises & M/s. Bhagwati Enterprises wherein the invoices for sale of

these goods raised by the above firms carried the description as Textile Coated Fabrics; that the payment of the goods purchased from M/s. Jai Maa Enterprises were made through banking channels.

**8.8** Statement of Shri Lakshay Lamba, S/o Late Shri Rajinder Lamba, Parter, M/s Skytex was recorded on 14.02.2024 under section 108 of the Customs Act, 1962 (**RUD-23**) wherein he inter-alia stated that M/s Skytex is a partnership firm in which he and Shri Bharat Bhushan Malik (age-78 year) are the partners; that the GST registration of the firm is 07AEBFS1018M1Z2; that they are dealing in trading of fabrics used in the manufacturing of Jackets in their firm; that they are trading PA Coated Fabric, Woven Fabric, Non-Woven Polyester Bonded fabrics, however they majorly trade in PA Coated Fabrics; that they procure the goods originated and manufactured in China from domestic suppliers; that they did not have an IEC and did not indulge in direct import of any goods; that Sometimes they order the goods from the overseas supplier by taking the services of freight forwarders for import and subsequently these freight forwarder supply the imported goods to them; that they had purchased 50,735 KGS of Non-Woven Polyester Bonded Fabric manufactured by M/s. Anhui Tianyi New Fiber Technology Co., Ltd, China through M/s.JMV Enterprises; that JMV Enterprises has also provide them a copy of DTA Bills of Entry No. 2015500 dated 10.10.2022 & 2016144 dated 18.10.2022 through which they imported the above goods; that import work of the above goods was given to the forwarder who had imported these goods i.e. Non-Woven Polyester Bonded Fabric through the IEC of M/s.JMV Enterprise from Anhui Tianyi New Fiber Technology Co., Ltd, China; that they had finalized the order for the goods with Anhui Tianyi New Fiber Technology Co., Ltd, China afterwards they had given the details of overseas supplier to the forwarder for import of ordered goods; that Overseas supplier had issued the bill in the name of M/s. JMV Enterprises and after import the said goods were subsequently forwarded to them under bills issued by M/s. JMV Enterprise after adding all their charges; that he also produced copy of Bills of entry, Invoice, Bill of Lading and Packing list under his dated signature which was received from JMV Enterprises along with invoices in respect of purchase of imported goods from Anhui Tianyi New Fiber Technology Co., Ltd, China; that instead of Nov-Woven Polyester Bonded Fabric they had received domestic sale invoice of Textile Coated Fabric from M/s.JMV Enterprises in respect of sale of goods imported from Anhui Tianyi New Fiber Technology Co.; that they had raised a concern of the same with Shri Kapil Kotiya of M/s. JMV Enterprises and it was informed that due to some mis-understanding supplier has mentioned the goods as Textile Coated Fabric in the invoices and they had filed the Bills of Entry by mentioning the same; that he did not know about the classification of goods as per Indian Customs Tariff or GST, they only issue invoice in the HSN in which they received the invoice from the supplier; that he agreed to have ordered Non-Woven Polyester Bonded Fabric from overseas supplier M/s. Anhui Tianyi New Fiber Technology Co., Ltd, China. and he had received the same goods under the goods description of Textile Coated Fabric in two consignments having total quantity 50,735 KGs; that on being perused the invoices number JE94 (**RUD-24**) & JE95 (**RUD-25**) both dated 12.11.2022 issued by M/s.JMV Enterprises, he stated that vide invoices bearing number JE94 & JE95 both dated 12.11.2022, he had received 25365 KGs & 25370 KGs Non-Woven Polyester Bonded Fabric

respectively, however in both the invoices item description mentioned as Textile Coated Fabric; that he had further sold the above Non-Woven Polyester Bonded Fabric to various firms i.e. M/s Gee EN Enterprises, M/s J R N Fabrics, M/s A K Fashions & M/s ANC Manufacturers.

**8.9** Statement of Shri Ashok Kumar, S/o Shri Mahendra Kumar, Accountant, M/s JRN Fabrics, recorded on 07.06.2024 under section 108 of the Customs Act, 1962 **(RUD-26)**, wherein he inter alia stated that Shri Nitesh Jain is the Proprietor of M/s JRN Fabrics; that the GST registration number of the firm is 07ALWPJ4168R1ZZ and its address is Ground Floor, 6629, Nehru Gali, Gandhi Nagar, East Delhi, Delhi-110031; that he is handling the accounting work in the firm since August-2022; that M/s. JRN Fabrics is into trading of fabrics e.g. PVC Coated Fabric, Polyester Knitted Fabric, Woven Fabric, Non-Woven Fabric, PA Coated Fabric etc. which was used in manufacturing of jackets; that after being perused with Invoice no. 2022-23/203 dated 19.11.2022 **(RUD-27)** issued by M/s Skytex to M/s JRN Fabrics for sale of 835 Kgs. Textile Coated Fabric, he states that they had purchased and received Non-Woven Fabric under invoice no. 2022-23/203 dated 19.11.2022; that he further stated that M/s Skytex had supplied Non-Woven Fabric but they had mentioned the description of the goods as Textile Coated Fabric in their invoice; that after being perused with various Invoices issued to them by M/s Skytex, he states that M/s JRN Fabrics had purchased and received Non-Woven Fabric vide all the said invoices from M/s Skytex however M/s. Skytex had mentioned the description of goods as Textile Coated Fabric; that the fabric received by them vide said various invoices did not have any kind of coating; that they did not raise any concern to M/s Skytex for mentioning of Non-Woven Fabric as Textile Coated Fabric in the invoices issued by them as the GST rate on Non-Woven Fabric is 12% and they had supplied the said goods on 12% GST; that they had also prepared invoices of further sale of these goods mentioning the same Goods Description and HSN/CTH which were mentioned in the purchase invoice of these goods; that M/s JRN Fabric had purchased goods from domestic market only.

**8.10** Statement of Shri Kunal Joshi, S/o Shri Praful Joshi, M/s A.K. Fashions, recorded on 27.06.2024 under section 108 of the Customs Act, 1962 **(RUD-28)** wherein he inter alia stated that M/s A. K. Fashions is a Proprietorship firm and Shri Pulkit Kohli is the Proprietor of the firm ; that the firm is situated at 5919, Block No. 4B, Gali Number 2, New Delhi, Central Delhi, Delhi-110005; that the GST registration of M/s A.K. Fashions is 07BPBPK4947P1ZB; that he submits Purchase Invoices, Sale & Purchase Ledger of M/s A. K. Fashions duly attested by the Proprietor Shri Pulkit Kohli; that he assists Shri Pulkit Kohli in operating his business which includes Sale, Purchase, Storage etc.; that he had joined M/s A.K. Fashions in November 2022; that M/s A. K. Fashions is retailer of various kinds of fabrics e.g. PVC Coated Fabric, PU Coated Fabric, Non-Woven Fabric, Polyester Lining Fabric, Polyester Dyed Fabric, PA Coated Fabric, Woven Fabric etc; that he knows about the various kind of fabrics which are sold by M/s A.K. Fashions; that fabrics which were being sold by M/s A.K. Fashions; that these fabrics are used in the manufacturing of various kind of items viz. Ladies Footwear, Jackets, Lower(pants) etc.; that M/s A.K. Fashions purchases goods from domestic market only; that after being perused with Invoice no. 2022-23/224 dated 29.11.2022 **(RUD-29)** issued by M/s Skytex to M/s A. K.

Fashions for sale of 5675 Kgs. "Textile Coated Fabric", he states that they had given order of "Non-Woven Fabric" to M/s Skytex and they have received the same but M/s. Skytex had issued Invoices in respect of the same goods to them mentioning these goods as "Textile Coated Fabric"; that they had raised their concern in respect of mentioning "Textile Coated Fabric" instead of correct goods description i.e. "Non-Woven Fabric" to M/s. Skytex; that M/s.Skytex had informed them that their supplier had mentioned "Textile Coated Fabric" for supply of "Non-Woven Fabric" hence they also had mentioned the same to keep proper accounting; that they also informed that there is no difference in the GST rate; that the GST rate on the invoices given by M/s Skytex in which they had mentioned "Textile Coated Fabric" had GST rate of 12% which is similar to GST Rate on "Non-Woven Fabric", therefore they had not raised any further concern; that after being perused with various Invoices issued to them by M/s Skytex, he states that M/s A.K. Fashions had purchased and received "Non-Woven Fabric" vide all the said invoices from M/s Skytex however M/s. Skytex had mentioned the description of goods as "Textile Coated Fabric"; that they do not have knowledge about specific HSN or CTH code for these fabric, however as practical knowledge they know applicable GST rate on each fabric; that the fabric received by them vide above mentioned invoices did not have any kind of coating; that they prepared invoices of further sale of these goods mentioning the same Goods Description and HSN/CTH which were mentioned in the purchase invoice of these goods.

**8.11** Statement of Shri Sanjeev Shekhar Malhotra, S/o Shri B.N. Malhotra, Proprietor of M/s. JMV Enterprises was recorded on 09.09.2024 under section 108 of the Customs Act, 1962 **(RUD-30)** wherein he was perused with his earlier recorded statement dated 27.11.2022 in the case and after perusing the same he agreed with all the facts mentioned by him in the said statement and in token of his acceptance, he appends his signature on each page of the said statement; that he was inter-alia also perused with Test Memo and their Test Reports issued by Central Excise & Customs Laboratory, Vadodara in respect of sample of goods drawn from the goods imported vide Bills of Entry by them as mentioned here-in-under –

Sr. No	Test Memo No. and Date	Test Report No. and Date	Bill of Entry No. (SEZ and SEZ to DTA) & Date	Declared Description declared in BE	Appropriate description of goods as per Test Reports
1	20/JMV/1015305 Dated-18.11.2022	RCL/AH/DRI/3030/01. 12.2022 Dtd-26.12.2022 <b>(RUD No.2)</b>	SEZ B/E No.1015305 Dated- 27.10.2022 and SEZ to DTA B/E No.2017048 Dated- 03.11.2022	Felt Woven Coated Fabric	Woven Coated Fabric coated with compounded Polyurethane
2	21/JMV/1015305 Dated-18.11.2022	RCL/AH/DRI/3031/01. 12.2022 Dtd-26.12.2022 <b>(RUD No.3)</b>			Woven Coated Fabric coated with compounded Polyurethane
3	22/JMV/1015305 Dated-18.11.2022	RCL/AH/DRI/3032/01. 12.2022 Dtd-26.12.2022 <b>(RUD No.4)</b>			Knitted Fabric having raised fibers, coated with compounded polyurethane
4	23/JMV/1015305 Dated-18.11.2022	RCL/AH/DRI/3033/01. 12.2022 Dtd-26.12.2022 <b>(RUD No.5)</b>			Knitted Fabric having raised fibers, coated with compounded polyurethane

5	24/JMV/1015305 Dated-18.11.2022	RCL/AH/DRI/3034/01. 12.2022 Dtd-26.12.2022 (RUD No.6)			Dyed Woven Fabric, Coated with compounded Polyurethane on one side
6	25/JMV/1015832 Dated-18.11.2022	RCL/AH/DRI/3035/01. 12.2022 Dtd-26.12.2022 (RUD No.7)	SEZ B/E No.1015832 Dated- 04.11.2022 and SEZ to DTA B/E No.2017572 Dated- 10.11.2022	Felt Woven Coated Fabric	Dyed Woven Fabric, Coated with compounded Polyurethane on one side
7	52/KISHOR/54 dated 19.12.2022	RCL/AZU/DRI/3351/22. 12.2022 dtd 04.01.2023 (RUD No.13)	Sample of goods drawn from the premises of M/s. Kishor Traders, Mumbai under Panchnama dt. 16.12.2022	Textile Coated Fabric Sold to M/s. Kishor Trader by M/s. Jai Maa Enterprises under Invoice No. 2022- 23/1045 dt. 12.11.2022	Dyed Knitted Fabric having raised fibers on one surface, coated with compounded polyurethane on one side.

After perusing the above documents, he stated to be in agreement with the facts/reports mentioned & expressed in the above documents and in token of the same he appends his signature on each page of the above documents; that on being asked, he stated that the goods imported by M/s. JMV Enterprises were actually owned and ordered by the Domestic Traders (beneficiary owners) as mentioned at Annexure-A of the statement of Shri Kapil Kotiya dated 16.07.2024 and these goods after customs clearance were forwarded directly to these domestic traders except those mentioned in Annexure-A at Sr. No. 1, 4 & 6 which though were owned by M/s. Jai Maa Enterprise, but the same were sold domestically to GST Non-register person; that Shri Kapil Kotiya had dealt with the said Sale transactions; that Shri Kapil Kotiya was looking after the work of filing of import documents and taking customs clearances of the goods; that after perusing the copy of Customs Tariff-under Chapter 57 & 59, he stated that the goods were tested and found to be PU Coated Fabrics and Non-Woven Fabrics and therefore should be classified under appropriate classification under Customs Tariff.

**8.12** Statement of Shri Kapil Kotiya, S/o Shri Ratan Lal, Proprietor of M/s. Ocean Logistics was recorded on 19.09.2024 under section 108 of the Customs Act, 1962 (RUD-31) wherein he was perused with his earlier recorded statement dated 27.11.2022, 03.03.2023 & 16.07.2024 in the case and after perusing the same he stated to be in agreement with all the facts mentioned by him in the said statements and in token of the same he appends his signature on each page of the said statement; that he was inter-alia perused with copy of SEZ Bills of Entry, its subsequent SEZ to DTA Bills of Entry and relevant Invoices in respect of imports made by M/s. JMV Enterprises as mentioned here-in-under –



**Details of import of Textile Coated Fabric & Felt Woven Coated Fabric**

Sr. No.	SEZ Bill of Entry No.	SEZ Bill of Entry Date	SEZ to DTA Bill of Entry No	SEZ to DTA Bill of Entry Date	Commercial Invoice No	Commercial Invoice Date	RUD No.
1	1012139	07.09.2022	2013802	13.09.2022	LS22-4038	11.08.2022	32
2	1012138	07.09.2022	2013797	13.09.2022	LS22-4035	04.08.2022	33
3	1012469	14.09.2022	2013994	16.09.2022	HH22347	23.08.2022	34
4	1013951	06.10.2022	2015523	11.10.2022	LS22-4040	27.08.2022	35
5	1013947	06.10.2022	2015500	10.10.2022	22BMB30	27.08.2022	36
6	1014922	19.10.2022	2016703	28.10.2022	LS22-4045	25.09.2022	37
7	1015305	27.10.2022	2017048	03.11.2022	LS22-4046	26.09.2022	38
8	1015832	04.11.2022	2017572	10.11.2022	22JH043	30.09.2022	39

After perusing the above documents, he stated that the above Bills of Entry were filed by M/s. JMV Enterprises and his firm M/s. Ocean Logistics have carried out the forwarding work; that the Customs clearance work was also allotted to them by M/s. JMV Enterprises which was sublated by him to Shri Sabu George, Proprietor of M/s. Rainbow Shipping Services, Gandhidham; that he was inter-alia also perused with Test Memo and their Test Reports issued by Central Excise & Customs Laboratory, Vadodara in respect of sample of goods drawn from the goods imported by M/s. JMV Enterprises vide Bills of Entry as mentioned here-in-under –

Sr. No	Test Memo No. and Date	Test Report No. and Date	Bill of Entry No. (SEZ and SEZ to DTA) & Date	Declared Description declared in BE	Appropriate description of goods as per Test Reports
1	20/JMV/1015305 Dated-18.11.2022	RCL/AH/DRI/3030/01. 12.2022 Dt.-26.12.2022 (RUD No.2)	SEZ B/E No.1015305 Dated- 27.10.2022 and SEZ to DTA B/E No.2017048 Dated- 03.11.2022	Felt Woven Coated Fabric	Woven Coated Fabric coated with compounded Polyurethane
2	21/JMV/1015305 Dated-18.11.2022	RCL/AH/DRI/3031/01. 12.2022 Dt.26.12.2022 (RUD No.3)			Woven Coated Fabric coated with compounded Polyurethane
3	22/JMV/1015305 Dated-18.11.2022	RCL/AH/DRI/3032/01. 12.2022 Dt.26.12.2022 (RUD No.4)			Knitted Fabric having raised fibers, coated with compounded polyurethane
4	23/JMV/1015305 Dated-18.11.2022	RCL/AH/DRI/3033/01. 12.2022 Dt.26.12.2022 (RUD No.5)			Knitted Fabric having raised fibers, coated with compounded polyurethane
5	24/JMV/1015305 Dated-18.11.2022	RCL/AH/DRI/3034/01. 12.2022 Dt.26.12.2022 (RUD No.6)			Dyed Woven Fabric, Coated with compounded Polyurethane on one side
6	25/JMV/1015832 Dated-18.11.2022	RCL/AH/DRI/3035/01. 12.2022 Dt. 26.12.2022 (RUD No.7)	SEZ B/E No.1015832 Dated- 04.11.2022 and SEZ to DTA B/E No.2017572 Dated- 10.11.2022	Felt Woven Coated Fabric	Dyed Woven Fabric, Coated with compounded Polyurethane on one side

7	52/KISHOR/54 dated 19.12.2022	RCL/AZU/DRI/3351/22. 12.2022 dt. 04.01.2023 <b>(RUD No.13)</b>	Sample of goods drawn from the premises of M/s. Kishor Traders, Mumbai under Panchnama dt. 16.12.2022	Textile Coated Fabric Sold to M/s. Kishor Trader by M/s. Jai Maa Enterprises under Invoice No. 2022- 23/1045 dt. 12.11.2022	Dyed Knitted Fabric having raised fibers on one surface, coated with compounded polyurethane on one side.
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That he was inter-alia also perused documents in relation with the import of Fabrics made by M/s. JMV Enterprises as mentioned here-in-under –

S. No.	Particulars	RUD No.
1	Panchnama dated 12.11.2022 drawn at M/s. OWS Warehouse Services LLP, Survey No.169, Sector-8, Village Dhruve, Mitap Road, APSEZ Mundra	1
2	Seizure Memo dated 11.01.2023 issued by DRI, Ahmedabad vide F.No. DRI/AZU/CI/ENQ-02(INT-21)/2023 om respect of seizure of goods covered under Bill of Entry No.1015305 dt. 27.10.202 & B/E No. 1015832 dt. 04.11.2022.	8
3	Statement of Shri Sanjeev Shekhar Malhotra recorded u/s.108 of the Customs Act, 1962 on 27.11.2022 & 09.09.2024.	15 & 30
4	Statement of Shri Arun Jyoti Mahajan recorded u/s.108 of the Customs Act, 1962 on 17.05.2023 & 19.09.2024.	20 & 40
5	Statement of Shri Ankur Mahajan recorded u/s.108 of the Customs Act, 1962 on 28.12.2022.	19
6	Panchnama dated 16.12.2022 drawn at the premises of Kishore Traders & Ritika Traders, Mumbai.	22
7	Statement of Shri Narendrachand Ramniwas Moriya recorded u/s.108 of the Customs Act, 1962 on 10.02.2023.	21
8	Statement of Shri Lakshya Lamba, Partner of M/s. Skytex, recorded u/s.108 of the Customs Act, 1962 on 14.02.2024.	23
9	Statement of Shri Kunal Joshi, authorized representative of M/s. A.K. Fashions, recorded u/s.108 of the Customs Act, 1962 on 27.06.2024.	28
10	Statement of Shri Ashok Kumar, Accountant of M/s. JRN Fabrics, recorded u/s.108 of the Customs Act, 1962 on 07.06.2024.	26

After perusing the above documents, he stated to be in agreement with the facts/reports mentioned & expressed in the above documents and in token of the same he appends his signature of each page of the said documents; on being asked, he stated that M/s.JMV Enterprises had given the work related to forwarding and customs clearance to his firm and he had raised invoices to M/s. JMV Enterprises in respect of these services provided by them including Customs Duty Payment on the Import and Warehousing Charges of the imported goods; that he had further hired Transporters for transportation services of these goods from Port to Delhi and they used to directly raise bills in respect of the services rendered by them to M/s. JMV Enterprises; that the classification of the goods by M/s. JMV Enterprises during filing of their of Bills of Entry for import were made in the same CTH as has been mentioned in the Commercial Invoices of the goods; that the goods imported by M/s. JMV

Enterprises were directly ordered from the overseas suppliers by the domestic traders (actual owners of the goods) as mentioned in Annexure-A submitted by him in his earlier statement and he had not seen these goods physically; that though he have no technical knowledge of Customs Tariff but after perusing the copy of Tariff and Test reports of the samples of goods imported by M/s. JMV Enterprises, he states that the goods imported are PU Coated Fabric and merits classification rightly under CTH 59032090.

**8.13** Statement of Shri Arun Jyoti Mahajan, S/o Shri Hansraj Mahajan, Partner of M/s. Jai Maa Enterprises was recorded on 19.09.2024 under section 108 of the Customs Act, 1962 **(RUD-40)** wherein he was perused with his earlier recorded statement dated 17.05.2023 in the case and after perusing the same he agreed with all the facts mentioned by him in the said statement and in token of the same he appended his signature of each page of the said statement; that he was inter-alia perused copy of SEZ Bills of Entry, its subsequent SEZ to DTA Bills of Entry and relevant Invoices in respect of imports made by M/s. JMV Enterprises as mentioned here-in-under –

**Details of import of Textile Coated Fabric & Felt Woven Coated Fabric**

Sr. No.	SEZ Bill of Entry No.	SEZ Bill of Entry Date	SEZ to DTA Bill of Entry No.	SEZ to DTA Bill of Entry Date	Commercial Invoice No.	Commercial Invoice Date	RUD No.
1	1012139	07-09-2022	2013802	13-09-2022	LS22-4038	11-08-2022	<b>32</b>
2	1012138	07-09-2022	2013797	13-09-2022	LS22-4035	04-08-2022	<b>33</b>
3	1012469	14-09-2022	2013994	16-09-2022	HH22347	23-08-2022	<b>34</b>
4	1013951	06-10-2022	2015523	11-10-2022	LS22-4040	27-08-2022	<b>35</b>
5	1014922	19-10-2022	2016703	28-10-2022	LS22-4045	25-09-2022	<b>37</b>
6	1015305	27-10-2022	2017048	03-11-2022	LS22-4046	26-09-2022	<b>38</b>
7	1015832	04-11-2022	2017572	10-11-2022	22JH043	30-09-2022	<b>39</b>

He was also shown with the Statement of Shri Kapil Kotiya recorded on 16.07.2024 **(RUD-18)** along with Annexure-A and after perusing the same, he stated that the imports of goods made by M/s. JMV Enterprises in the Annexure-A at Sr. No.01 to 04 and 06 to 08 were ordered from the Overseas Suppliers by them; that the imported goods as mentioned at Sr. No.02, 03, 07 & 08 were transferred to them by M/s. JMV after import through domestic sale under GST and the imported goods under Sr. No.01, 04 & 06 were directly sold by M/s. JMV Enterprises to multiple non registered buyers under GST, on his instructions.

He was inter-alia also perused with Test Memo and their Test Reports issued by Central Excise & Customs Laboratory, Vadodara in respect of sample of goods drawn from the goods imported by M/s. JMV Enterprises vide Bills of Entry as mentioned here-in-under –

Sr. No	Test Memo No. and Date	Test Report No. and Date	Bill of Entry No. (SEZ and SEZ to DTA) & Date	Declared Description declared in BE	Appropriate description of goods as per Test Reports
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1	20/JMV/1015305 Dated-18.11.2022	RCL/AH/DRI/3030/01. 12.2022 Dtd-26.12.2022 (RUD No.2)	SEZ B/E No.1015305 Dated- 27.10.2022 and SEZ to DTA B/E No.2017048 Dated- 03.11.2022	Felt Woven Coated Fabric	Woven.Coated Fabric coated with compounded Polyurethane
2	21/JMV/1015305 Dated-18.11.2022	RCL/AH/DRI/3031/01. 12.2022 Dtd-26.12.2022 (RUD No.3)			Woven Coated Fabric coated with compounded Polyurethane
3	22/JMV/1015305 Dated-18.11.2022	RCL/AH/DRI/3032/01. 12.2022 Dtd-26.12.2022 (RUD No.4)			Knitted Fabric having raised fibers, coated with compounded polyurethane
4	23/JMV/1015305 Dated-18.11.2022	RCL/AH/DRI/3033/01. 12.2022 Dtd-26.12.2022 (RUD No.5)			Knitted Fabric having raised fibers, coated with compounded polyurethane
5	24/JMV/1015305 Dated-18.11.2022	RCL/AH/DRI/3034/01. 12.2022 Dtd-26.12.2022 (RUD No.6)			Dyed Woven Fabric, Coated with compounded Polyurethane on one side
6	25/JMV/1015832 Dated-18.11.2022	RCL/AH/DRI/3035/01. 12.2022 Dtd-26.12.2022 (RUD No.7)	SEZ B/E No.1015832 Dated- 04.11.2022 and SEZ to DTA B/E No.2017572 Dated- 10.11.2022	Felt Woven Coated Fabric	Dyed Woven Fabric, Coated with compounded Polyurethane on one side

After perusing the above documents, he stated that he is in agreement with the facts/reports mentioned & expressed in the above documents and in token of the same he appended his signature on each page of the said documents; that on being asked, he stated he agrees with all the reports given on the samples after testing by Central Excise & Customs Laboratory, Vadodara.

He was inter-alia also perused documents in relation with the import of Fabrics made by M/s. JMV Enterprises as mentioned here-in-under –

S. No.	Particulars	RUD No.
1	Panchnama dated 12.11.2022 drawn at M/s. OWS Warehouse Services LLP, Survey No.169, Sector-8, Village Dhruve, Mitap Road, APSEZ Mundra	1
2	Seizure Memo dated 11.01.2023 issued by DRI, Ahmedabad vide F.No. DRI/AZU/CI/ENQ-02(INT-21)/2023 om respect of seizure of goods covered under Bill of Entry No.1015305 dt. 27.10.202 & B/E No. 1015832 dt. 0411.2022.	8
3	Statement of Shri Sanjeev Shekhar Malhotra recorded u/s.108 of the Customs Act, 1962 on 27.11.2022 & 09.09.2024.	15 & 30
4	Statement of Shri Kapil Kotiya recorded u/s.108 of the Customs Act, 1962 on 16.07.2024.	18
5	Statement of Shri Ankur Mahajan recorded u/s.108 of the Customs Act, 1962 on 28.12.2022.	19

After perusing the above documents, he stated to be in agreement with the facts/reports mentioned & expressed in the above documents and in token of the same he appended his signature of each page of the said documents; on being asked, he stated and agreed that they have placed order for goods from overseas suppliers which were later imported and cleared by M/s. JMV Enterprises; that he further agreed that the Textile Coated

Fabric & Felt Woven Coated Fabric ordered by their firm from the overseas supplier were actually PU Coated Fabrics and he has sold these goods to various firms in domestic market; that he has furnished Bond & Bank Guarantee for provisional release of the seized goods of M/s. JMV Enterprises for securing and safeguarding his ownership of the goods; that he stated and agreed that these provisionally released goods which were declared as Textile Coated Fabrics & Felt Woven Coated Fabrics were actually PU Coated Fabric and were mis-declared and mis-classified and Anti-dumping duty was not paid on the same; that his son Shri Ankur Mahajan received the Invoice, Packing List & Bill of Lading from the overseas supplier and these were later handed over to Shri Kapil Kotiya for import and clearance of goods; on being asked about the actual quantity of goods in meters per Invoice/Packing List, he stated that he will submit the actual Packing List containing the details of the goods in meters to this office within two days' time.

**8.14** Statement of Shri Sabu George, S/o Shri Kottackal Chacko George, Partner of M/s. Rainbow Shipping Services, was recorded on 03.10.2024 under section 108 of the Customs Act, 1962 (**RUD-41**) wherein he stated that M/s. Rainbow Shipping Services is a clearing & forwarding firm and he is a G Card Holder; that he is also a signing authority in M/s. Lara Exim Pvt. Ltd., a Customs Broker firm; that the customs clearance work related to import & export received in M/s. Rainbow Shipping Services is transferred to their sister concern company M/s. Lara Exim Pvt. Ltd. who does the customs clearance work of goods to be imported or exported; that they have received forwarding and Customs Clearance work of M/s. JMV Enterprises, M/s. Om Enterprises & M/s. J. Bridge Worldwide; that the Customs clearance work was transferred to M/s. Lara Exim Pvt. Ltd.; that this work was provided by Shri Kapil Kotiya, Proprietor of M/s. Ocean Logistics, New Delhi; that they have received the Commercial Invoice, Bill of Lading, Packing List & Country of Origin Certificate on email from Kapil Kotiya for filing of Bill of Entry; that they are taking KYC of the importer before preparing the checklist for filing of Bill of Entry; that they have not taken the approval of the Importer for the checklist prepared by them as it not the trader practice followed by other forwarders; that they have not contacted or communicated with anyone else except Shri Kapil Kotiya for the import of goods made by M/s. JMV Enterprises, M/s. Om Enterprises & M/s. J. Bridge Worldwide; that Shri Kapil Kotiya has forwarded the Original Bank Guarantee to him through Courier for submission to Customs for securing the provisional release of goods seized in respect of above firms.

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

The investigation conducted in the case had revealed that Shri Arun Jyoti Mahajan, Partner of M/s. Jai Maa Enterprises, an IEC Holder and importer of various types of Fabrics including PU Coated Fabrics from China, having registered address at 5289, Hardhyan Singh Road, Karol Bagh, New Delhi-110005, Shri Rajinder Lamba, Partner of M/s. Skytex, a Local traders of various kind of Fabrics, having registered address at Plot No.191, Khasra No.155, Pooth Khurd, Delhi-110039 and Shri Kapil Kotiya, Proprietor of M/s. Ocean Logistics, a firm involved in freight forwarding and customs clearance work, in collusion devised a modus operandi to import PU Coated Fabrics falling under HS code 59032090 from China and Non-

Woven Fabrics falling under HS Code 56039490 by mis-declaring & mis-classifying it in order to evade payment of Customs duty at appropriate rate. PU Coated Fabrics which are correctly classified under HS Code 59032090, when imported from any Country including China and produced by entities other than by M/s. Anhui Anli Material Technology Limited at the relevant period under investigation, attracts Anti-dumping duty @USD 0.46 per Meters in terms of Notification No. 14/2022-Customs (ADD) dated 20.05.2022. Similarly, Non-Woven Fabrics which are correctly classified under 56039490 are leviable to Basic duty of 20%, SWS @ 10% and IGST @ 5% of the Assessable Value.

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

**CLASSIFICATION OF GOODS:**

- 10.** Chapter 59 of the Indian Customs Tariff deals with Textile Fabrics and Textile Articles of a kind suitable for industrial use.
- 10.1** The description of goods under HS CODE/ CTH 5911 as per prevailing Customs Tariff reads as under:

5911		TEXTILE PRODUCTS AND ARTICLES, FOR TECHNICAL USES, SPECIFIED IN NOTE 8 TO THIS CHAPTER	Effective rate of duty
5911 10 00	-	Textile fabrics, felt and felt-lined woven fabrics, coated, covered or laminated with rubber, leather or other material, of a kind used for card clothing, and similar fabrics of a kind used for other technical purposes, including narrow fabrics made of velvet impregnated with rubber, for covering weaving spindles (weaving beams)	
5911 20 00	-	Bolting cloth, whether or not made up	
	-	Textile fabrics and felts, endless or fitted with linking devices, of a kind used in papermaking or similar machines (for example, for pulp or asbestos-cement) :	
5911 31	--	Weighing less than 650 g/m²:	
5911 31 10	---	Felt for cotton textile industries, woven	10%
5911 31 20	---	Woven textiles felt, whether or not impregnated or coated, of a kind commonly used in other machines	10%
5911 31 30	---	Cotton fabrics and articles used in machinery and plant	10%
5911 31 40	---	Jute fabrics and articles used in machinery or plant	10%

5911 31 50	---	Textile fabrics of metalized yarn of a kind commonly used in paper making or other machinery	10%
5911 31 90	---	Other	10%
5911 32	--	Weighing 650 g/m <sup>2</sup> or more:	
5911 32 10	---	Felt for cotton textile industries, woven	10%
5911 32 20	---	Woven textiles felt, whether or not impregnated or coated, of a kind commonly used in other machines	10%
5911 32 30	---	Cotton fabrics and articles used in machinery and plant	10%
5911 32 40	---	Jute fabrics and articles used in machinery or plant	10%
5911 32 50	---	Textile fabrics of metalized yarn of a kind commonly used in paper making or other machinery	10%
5911 32 90	---	Other	10%
5911 40 00	-	Filtering or Straining cloth of a kind used in oil presses or the like, including that of human hair	
5911 90	-	Other	
5911 90 10	---	Paper maker's felt, woven	10%
5911 90 20	---	Gaskets, washers, polishing discs and other machinery parts of textile articles	10%
5911 90 90	---	Other	10%

**10.2** Further, the HS CODE/ CTH 5603 as per prevailing Customs Tariff covered goods as under:

<b>5603</b>		<b>NONWOVEN, WHETHER OR NOT IMPREGNATED, COATED, COVERED OR LAMINATED</b>	<b>Effective Rate of Duty</b>
	-	Of man-made filaments:	
*560311	--	Weighing not more than 25 g/m <sup>2</sup>	20%
*56031110	--	Crop covers, conforming to IS 16366	20%
*56031190	---	Others	20%
56031200		Weighing more than 25 g/m <sup>2</sup> but not more than 70 g/m <sup>2</sup>	*20%
56031300	--	Weighing more than 70 g/m <sup>2</sup> but not more than 150 g/m <sup>2</sup>	*10%
56031400	-	Weighing more than 150 g/m <sup>2</sup>	*20%
		Other :	
56039100	--	Weighing not more than 25 g/m <sup>2</sup>	*10%
56039200	--	Weighing more than 25 g/m <sup>2</sup> but not more than 70 g/m <sup>2</sup>	*20%
*560393	--	Weighing more than 70 g/m <sup>2</sup> but not more than 150 g/m <sup>2</sup>	
*56039310	---	Mulch Mats, conforming to IS 17355	10%
*56039390	---	Other	10%
*560394	---	Weighing more than 150 g/m <sup>2</sup> :	
*56039410	---	Non-woven Geotextile and articles thereof, conforming to IS 16391, IS 16392	20%
*56039420	---	Mulch Mats, conforming to IS 17355	20%
*56039490	---	Other	20%

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

<b>5903</b>		<b>Textile Fabrics, Impregnated, Coated, Covered or Laminated with Plastics, Other Than Those of Heading 5902</b>	<b>Effective Rate of Duty</b>
5903 10	-	With Polyvinyl Chloride:	-
5903 10 10	---	Imitation leather fabrics of cotton	20%

5903 10 90	---	Other	20%
5903 20	-	With Polyurethane:	-
5903 20 10	---	Imitation leather fabrics, of cotton	20%
5903 20 90	---	Other	20%
5903 90	-	Other:	-
5903 90 10	---	Of cotton	20%
5903 90 20	---	Polyethylene laminated jute fabrics	20%
5903 90 90	---	Other	20%

11. The Classification of goods in the First Schedule – Import Tariff is governed by the General Rules for Interpretation Rules. These Rules are intended to be consulted and applied each the goods are to be classified under the Import Tariff. Rule 1 of the GIR i.e. General Interpretation Rules provides that classification of the goods shall be determined according to the terms of the Headings and any relative Section or Chapter Notes and, provided such Headings or Notes do not otherwise require, according to the provisions at Rule 2 to Rule 5. Rule 6 of the GIR further provides that the classification of goods in the sub-headings of a heading shall be determined according to the term of those sub-headings and any related sub-heading Notes and, mutatis mutandis, to the above rules.

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

S. No.	SEZ to DTA B/E No. & Date	HS CODE / CTH	Declared description of good	Quantity	Ass. Value (Rs.)
1	2013802 dt.13.09.2022	59119090	Textile Coated Fabric	19305 Kgs	18,63,704.70
		60063200	Polyester Bonded Fabric	5225 Kgs	4,62,386.38
2	2013797 dt.13.09.2022	59119090	Textile Coated Fabric	20222 Kgs	19,52,231.88
		59050090	Glitter Fabric	4410 Kgs	3,01,566.82
3	2013994 dt. 16.09.2022	59119090	Textile Coated Fabric	20852 Kgs	20,11,800.96
		59050090	Glitter Fabric	4047 Kgs	2,76,571.98
4	2015523 dt.11.10.2022	59119090	Textile Coated Fabric	22152 Kgs	21,91,718.88
5	2015500 dt. 10.10.2022	59119090	Textile Coated Fabric	25370 Kgs	25,38,346.51
6	2016703 dt.28.10.2022	59119090	Felt Woven Coated Fabric	25478 Kgs	26,72,005.25
7	2017048 dt.03.11.2022	59119090	Felt Woven Coated Fabric	25185 Kgs	26,41,276.88
8	2017572 dt. 10.11.2022	59119090	Felt Woven Coated Fabric	11622 Kgs	12,17,404.50

12.1 Out of the above 08 import consignments, 06 consignments mentioned at Sr. No.01 to 06 are past consignment which were already cleared by the M/s. JMV for Home consumption. In respect of Import consignments at Sr. No. 07 and 08, the “Out of Charge (OOC)” Order by Customs Authorities were not given and the goods were lying at M/s. OWS Warehouse Services LLP, APSEZ, Mundra. These goods were examined and samples thereof were drawn by the officer of DRI under Panchnama. These goods were subsequently Seized on the basis of the test report issued from the CRCL, Vadodara in respect of sample drawn, which revealed them to be PU Coated Fabric.



13. The investigation conducted in the case revealed that the goods imported by M/s JMV vide below mentioned 07 Bills of Entry from the Table mentioned at para 12 above were "PU Coated Fabric" which merited rightly to be classifiable under HS CODE/ CTH 59032090, whereas the same were imported by M/s. JMV by mis-declaring it as Textile Coated Fabric", "Felt Woven Coated Fabric" and "Glitter Fabric" and further mis-classifying it under HS CODE/ CTH 59119090 & 59050090. The above act of mis-declaring it as "Textile Coated Fabric" and "Felt Woven Coated Fabric" classifying it under HS CODE/ CTH 59119090 & 59050090 by M/s. JMV was made with the sole intention to evade payment of applicable Anti-dumping duty leviable on it in terms of Notification No.14/2022-Customs (ADD) dated 20.05.2022. The details in respect of these goods covered under 07 Domestic Clearance Bills of Entry which were filed at Adani Ports and Special Economic Zone (INAJM6), Mundra are as detailed below

S. No.	SEZ to DTA B/E No. & Date	HS CODE / CTH	Declared description of good	Quantity	Ass. Value (Rs.)
1	2013802 dt.13.09.2022	59119090	Textile Coated Fabric	19305 Kgs	18,63,704.70
2	2013797 dt.13.09.2022	59119090	Textile Coated Fabric	20222 Kgs	19,52,231.88
		59050090	Glitter Fabric	4410 Kgs	3,01,566.82
3	2013994 dt. 16.09.2022	59119090	Textile Coated Fabric	20852 Kgs	20,11,800.96
		59050090	Glitter Fabric	4047 Kgs	2,76,571.98
4	2015523 dt.11.10.2022	59119090	Textile Coated Fabric	22152 Kgs	21,91,718.88
5	2016703 dt.28.10.2022	59119090	Felt Woven Coated Fabric	25478 Kgs	26,72,005.25
6	2017048 dt.03.11.2022	59119090	Felt Woven Coated Fabric	25185 Kgs	26,41,276.88
7	2017572 dt. 10.11.2022	59119090	Felt Woven Coated Fabric	11622 Kgs	12,17,404.50

14. During the course of Investigation, examination of goods imported vide SEZ to DTA Bill of Entry No.2017048 dt. 03.11.2022 & B/E No.2017572 dt. 10.11.2022 was conducted under Panchnama dated 12.11.2022 and samples thereof were drawn. The Test Reports issued by Central Excise & Customs Laboratory, Vadodara in respect of these goods is as detailed below –

Sr. No	Test Memo No. and Date	Test Report No. and Date	Bill of Entry No. (SEZ and SEZ to DTA) & Date	Declared Description declared in BE	Appropriate description of goods as per Test Reports
1	20/JMV/1015305 Dated-18.11.2022	RCL/AH/DRI/3030/01. 12.2022 Dtd-26.12.2022 (RUD No.2)	SEZ B/E No.1015305 Dated- 27.10.2022 and	Felt Woven Coated Fabric	Woven Coated Fabric coated with compounded Polyurethane

2	21/JMV/1015305 Dated-18.11.2022	RCL/AH/DRI/3031/01. 12.2022 Dtd-26.12.2022 <b>(RUD No.3)</b>	SEZ to DTA B/E No.2017048 Dated- 03.11.2022		Woven Coated Fabric coated with compounded Polyurethane
3	22/JMV/1015305 Dated-18.11.2022	RCL/AH/DRI/3032/01. 12.2022 Dtd-26.12.2022 <b>(RUD No.4)</b>			Knitted Fabric having raised fibers, coated with compounded polyurethane
4	23/JMV/1015305 Dated-18.11.2022	RCL/AH/DRI/3033/01. 12.2022 Dtd-26.12.2022 <b>(RUD No.5)</b>			Knitted Fabric having raised fibers, coated with compounded polyurethane
5	24/JMV/1015305 Dated-18.11.2022	RCL/AH/DRI/3034/01. 12.2022 Dtd-26.12.2022 <b>(RUD No.6)</b>			Dyed Woven Fabric, Coated with compounded Polyurethane on one side
6	25/JMV/1015832 Dated-18.11.2022	RCL/AH/DRI/3035/01. 12.2022 Dtd-26.12.2022 <b>(RUD No.7)</b>	SEZ B/E No.1015832 Dated- 04.11.2022 and SEZ to DTA B/E No.2017572 Dated- 10.11.2022	Felt Woven Coated Fabric	Dyed Woven Fabric, Coated with compounded Polyurethane on one side

**14.1** Shri Arun Jyoti Mahajan, S/o Shri Hansraj Mahajan, Partner of M/s. Jai Maa Enterprises in his statement recorded on 19.09.2024 under section 108 of the Customs Act, 1962 **(RUD-40)** was perused with the above Test Memo and their Test Reports issued by Central Excise & Customs Laboratory, Vadodara in respect of sample of goods drawn from the goods imported vide DTA Bill of Entry No.2017048 dt. 03.11.2022 & DTA Bill of Entry No.2017572 dt. 10.11.2022 and after perusing the same, he agreed with the facts/reports mentioned & expressed in the Test Report and admitted that Felt Woven Coated Fabric ordered by their firm from the overseas supplier and imported by M/s. JMV vide Bill of Entry No.1015305 dt. 27.10.2022 (DTA Bill of Entry No.2017048 dt. 03.11.2022) & Bill of Entry No.1015832 dt. 04.11.2022 (DTA Bill of Entry No.2017572 dt. 10.11.2022) were actually PU Coated Fabrics and he has sold these goods various firms in domestic market. He further also agreed that they have placed order for PU Coated Fabrics from overseas suppliers which were later imported and cleared by M/s. JMV Enterprises. He was also perused with the details of the actual owners of the imported goods by M/s. JMV, which was submitted under Annexure-A by Shri Kapil Kotiya in his statement dated 16.07.2024 and after perusing it he admitted that goods mentioned at Sr. No. 1, 2, 3, 4 & 6, 7 & 8 of Annexure-A submitted by Shri Kapil Kotiya in his statement dated 16.07.2024 were directly ordered by him from the Overseas Supplier and were later imported through M/s. JMV. He stated that goods imported by M/s JMV Enterprises as mentioned at Sr. No. 2, 3, 7 & 8 in above Annexure-A were transferred to them by M/s. JMV through domestic sale under GST after Customs Clearance. Further the goods mentioned at Sr. No. 1, 4 & 6 of Annexure-A were also ordered by them from overseas suppliers but were sold directly by M/s JMV Enterprises to multiple non registered buyers under GST, on his directions. He further also agreed that all the "Textile Coated Fabric", "Felt Woven Coated Fabric" & "Glitter Fabric" ordered by them from overseas suppliers and later imported by M/s. JMV were PU Coated Fabric and they were mis-declared and mis-classified

and Anti-dumping duty on it was not paid during the import. He further also stated/admitted that he has furnished Bond & Bank Guarantee for provisional release of the above seized goods of M/s. JMV Enterprises for securing and safeguarding his ownership of the goods.

**14.2** Shri Sanjeev Shekhar Malhotra, S/o Shri B.N. Malhotra, Proprietor of M/s. JMV Enterprises in his Statement recorded on 09.09.2024 under section 108 of the Customs Act, 1962 **(RUD-30)** was also perused with the above Test Memo and their Test Reports issued by Central Excise & Customs Laboratory, Vadodara in respect of sample of goods drawn from the goods imported vide Bill of Entry No.1015305 dt. 27.10.2022 (DTA Bill of Entry No.2017048 dt. 03.11.2022) & Bill of Entry No.1015832 dt. 04.11.2022 (DTA Bill of Entry No.2017572 dt. 10.11.2022) and after perusing the same, he admitted and agreed with the facts/reports mentioned & expressed in the Test Report. He was also perused with a copy of Customs Tariff under Chapter 57 & 59 and after perusing he stated that the goods were tested and found to be PU Coated Fabrics therefore should be classified under appropriate classification under Customs Tariff. He was also perused with Annexure-A submitted by Shri Kapil Kotiya under his Statement dated 16.07.2024 and after perusing the same he had admitted that M/s. Jai Maa Enterprises is the actual owner of the goods imported vide Bill of Entry No.1015305 dt. 27.10.2022 & Bill of Entry No.1015832 dt. 04.11.2022 and the order of these goods were directly placed to Overseas Suppliers by M/s. Jai Maa Enterprise. He further stated that the goods imported by M/s. JMV Enterprises were actually owned and were ordered by the Domestic Traders (beneficiary owners) as mentioned at Annexure-A of the statement of Shri Kapil Kotiya dated 16.07.2024 and these goods after customs clearance were forwarded directly to these domestic traders except those mentioned in Annexure-A at Sr. No. 1, 4 & 6 which though were owned by M/s. Jai Maa Enterprise, but were sold to GST Non-register person by them; that Shri Kapil Kotiya had dealt with the said Sale transactions;

**14.3** Shri Kapil Kotiya, S/o Shri Ratan Lal, Proprietor of M/s. Ocean Logistics in his statement recorded on 16.07.2024 & 19.09.2024 under section 108 of the Customs Act, 1962 **(RUD-18 & 31)** was also perused with the above Test Memo and their Test Reports issued by Central Excise & Customs Laboratory, Vadodara in & respect of sample of goods drawn from the goods imported vide Bill of Entry No.1015305 dt. 27.10.2022 (DTA Bill of Entry No.2017048 dt. 03.11.2022) & Bill of Entry No.1015832 dt. 04.11.2022 (DTA Bill of Entry No.2017572 dt. 10.11.2022) and after perusing the same, he admitted and agreed with the facts/reports mentioned & expressed in the Test Report. He was further perused with copy of Customs Tariff under Chapter 57 & 59 and after perusing the Tariff and Test Reports he admitted that goods imported are PU Coated Fabrics therefore should be classified under CTH 59032090. He further also submitted Annexure-A under his Statement wherein he has given the details of the Actual owner of the goods i.e. the trading firm & actual beneficiary of the goods against the imports made by M/s. JMV Enterprises.

**14.4** Shri Narendrachand Ramniwas Moriya S/o Shri Ramniwas Moriya, Authorized person of M/s.Kishor Traders & M/s.Ritika Traders, Mumbai in his statement dated 10.02.2023 **(RUD-21)** was perused with Panchnama dated 16.12.2023 **(RUD-22)** drawn at the premises of Kishor Traders, Mumbai wherein samples of goods from the lot having Product Mark(PM)

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

**14.5** The evidences and facts divulged in the form of above Statements recorded during the course and Test reports clearly establishes that the goods in the case which were declared as Textile Coated Fabric, Felt Woven Coated Fabric and Glitter Fabric and imported by M/s. JMV Enterprise vide 07 Bills of Entry as mentioned above under para 13 were "Textile Fabrics Coated with Polyurethane on one side". Therefore, these goods appear to be rightly classified under CTH 59032090.

**14.6** Further, the above goods imported by M/s. JMV by mis-declaring them as "Felt Woven Coated Fabric" or "Textile Coated Fabric" or "Glitter Fabric" and by mis-classifying it under CTI 59119090 & 59050090 were actually found to be "PU (Polyurethane) coated fabrics" falling under CTI 59032090. These goods when imported under correct CTI i.e. 59032090 are leviable to Basic duty @ 20%, SWS @ 10%, IGST @ 12%, Anti-Dumping Duty @ 0.46 USD per meters in terms of Notification No. 14/2022-Customs (ADD) dated 20.05.2022 and IGST on ADD @ 12%. By way of mis-declaration and mis-classification, M/s. JMV appears to have

evaded payment of Basic Customs duty at appropriate rate and payment of Anti-dumping duty in their import against 07 Bills of Entry. The calculation of the differential duty evaded in respect of each Bill of Entry is tabulated below –

TABLE-5.1

SEZ to DTA Bill of Entry No.2013797 dt. 13.09.2022 (Total A.V. Rs.22,53,798/-)

Exchange Rate- 80.45									
Qty (in Meter)	Proportionate Ass. Value (Rs.)	Declared Description of goods	CTH Declared	Basic Duty @ 10% (Rs.)	SWS @ 10% (Rs.)	IGST @ 12% (Rs.)	ADD @ 0.46 per meter	IGST @ 12% of ADD	Total duty (Rs.)
47,940	19,52,232/-	Textile Coated Fabric	59119090	1,95,223.19	19,522.32	2,60,037.29	00	00	4,74,782.79
12,600	3,01,567/-	Glitter Fabric	59050090	30,156.70	3,015.67	40,168.72	00	00	73,341.09
		Correct Description of goods	Correct CTH	Basic Duty @ 20% (Rs.)	SWS @ 10% (Rs.)	IGST @ 12% (Rs.)	ADD @ 0.46 per meter	IGST @ 12% of ADD	Total duty (Rs.)
60,540	22,53,799/-	PU Coated Fabric	59032090	4,50,759.80	45,075.98	3,29,956.17	22,40,403.78	2,68,848.45	33,35,044
DIFFERENTIAL DUTY EVADED Rs. (33,35,044 – 5,48,123.88)									27,86,920

TABLE-5.2

SEZ to DTA Bill of Entry No.2013802 dt. 13.09.2022 (Total A.V. Rs.23,26,091/-)

Exchange Rate- 80.45									
Qty (in Meter)	Proportionate Ass. Value (Rs.)	Declared Description of goods	CTH Declared	Basic Duty (Rs.)	SWS @ 10% (Rs.)	IGST @ 12% (Rs.)	ADD @ 0.46 per meter	IGST @ 12% of ADD	Total duty (Rs.)
37,100	18,63,704/-	Textile Coated Fabric	59119090	1,86,370.47 @ 10%	18,637.05	2,48,245.47	00	00	4,53,252.98
8,100	4,62,386/-	Polyester Bonded Fabrics	60063200	92,477.28 @ 20%	9,247.73	28,205.57	00	00	1,29,930.57
		Correct Description of goods	Correct CTH	Basic Duty @ 20% (Rs.)	SWS @ 10% (Rs.)	IGST @ 12% (Rs.)	ADD @ 0.46 per meter	IGST @ 12% of ADD	Total duty (Rs.)
37,100	18,63,704/-	PU Coated Fabric	59032090	3,72,740.80	37,274.08	2,72,846.26	13,72,959.70	1,64,755.16	23,50,506.58
8,100	4,62,386/-	Polyester Bonded Fabrics	60063200	92,477.28	9,247.73	28,205.57	00	00	
DIFFERENTIAL DUTY EVADED Rs. (23,50,506 – 5,83,183)									17,67,323

TABLE-5.3

SEZ to DTA Bill of Entry No.2013994 dt. 16.09.2022 (Total A.V. Rs.22,88,373/-)

Exchange Rate- 80.40									
Qty (in Meter)	Proportionate Ass. Value (Rs.)	Declared Description of goods	CTH Declared	Basic Duty @ 10% (Rs.)	SWS @ 10% (Rs.)	IGST @ 12% (Rs.)	ADD @ 0.46 per meter	IGST @ 12% of ADD	Total duty (Rs.)
44,820	20,11,800.98	Textile Coated Fabric	59119090	2,01,180.10	20,118.01	2,67,971.89	00	00	4,89,269.99
11,500	2,76,571.98	Glitter Fabric	59050090	27,657.20	2,765.72	36,839.39	00	00	67,262.31

		Correct Description of goods	Correct CTH	Basic Duty @ 20% (Rs.)	SWS @ 10% (Rs.)	IGST @ 12% (Rs.)	ADD @ 0.46 per meter	IGST @ 12% of ADD	Total duty (Rs.)
56,320	22,88,373/-	PU Coated Fabric	59032090	4,57,674.60	45,767.46	3,35,017.80	20,82,938.88	2,49,952.66	31,71,351.40
DIFFERENTIAL DUTY EVADED Rs. (31,71,351 – 5,56,532)									26,14,819

TABLE-5.4

SEZ to DTA Bill of Entry No.2015523 dt. 11.10.2022 (Total A.V. Rs.21,91,719/-)

Exchange Rate- 82.45

Qty (in Meter)	Ass. Value (Rs.)	Declared Description of goods	CTH Declared	Basic Duty @ 10% (Rs.)	SWS @ 10% (Rs.)	IGST @ 12% (Rs.)	ADD @ 0.46 per meter	IGST @ 12% of ADD	Total duty (Rs.)
62,450	21,91,719/-	Textile Coated Fabric	59119090	2,19,171.89	21,917.19	2,91,936.95	00	00	5,33,026.03
		Correct Description of goods	Correct CTH	Basic Duty @ 20% (Rs.)	SWS @ 10% (Rs.)	IGST @ 12% (Rs.)	ADD @ 0.46 per meter	IGST @ 12% of ADD	Total duty (Rs.)
62,450	21,91,719/-	PU Coated Fabric	59032090	4,38,343.80	43,834.38	3,20,867.66	23,68,541.15	2,84,224.93	34,55,811.92
DIFFERENTIAL DUTY EVADED Rs. (34,55,812 – 5,33,026)									29,22,786

TABLE-5.5

SEZ to DTA Bill of Entry No.2016703 dt. 28.10.2022 (Total A.V. Rs.26,72,005/-)

Exchange Rate- 83.90

Qty (in Meter)	Ass. Value (Rs.)	Declared Description of goods	CTH Declared	Basic Duty @ 10% (Rs.)	SWS @ 10% (Rs.)	IGST @ 12% (Rs.)	ADD @ 0.46 per meter	IGST @ 12% of ADD	Total duty (Rs.)
46,070	26,72,005.25	Felt Woven Coated Fabric	59119090	2,67,200.52	26,720.05	3,55,911.10	00	00	6,49,831.68
		Correct Description of goods	Correct CTH	Basic Duty @ 20% (Rs.)	SWS @ 10% (Rs.)	IGST @ 12% (Rs.)	ADD @ 0.46 per meter	IGST @ 12% of ADD	Total duty (Rs.)
46,070	26,72,005.25	PU Coated Fabric	59032090	5,34,401.05	53,440.10	3,91,181.56	17,78,025.58	2,13,363.06	29,70,411.35
DIFFERENTIAL DUTY EVADED Rs. (29,70,412 – 6,49,831)									23,20,580

TABLE-5.6

SEZ to DTA Bill of Entry No.2017048 dt. 03.11.2022 (Total A.V. Rs.26,41,277/-)

Exchange Rate- 83.90

Qty (in Meter)	Proportionate Ass. Value (Rs.)	Declared Description of goods	CTH Declared	Basic Duty @ 10% (Rs.)	SWS @ 10% (Rs.)	IGST @ 12% (Rs.)	ADD @ 0.46 per meter	IGST @ 12% of ADD	Total duty (Rs.)
53,570	26,41,276.88	Felt Woven Coated Fabric	59119090	2,64,127.69	26,412.77	3,51,818.08	00	00	6,42,358.54

		Correct Description of goods	Correct CTH	Basic Duty @ 20% (Rs.)	SWS @ 10% (Rs.)	IGST @ 12% (Rs.)	ADD @ 0.46 per meter	IGST @ 12% of ADD	Total duty (Rs.)
53,570	26,41,276.88	PU Coated Fabric	59032090	5,28,255.37	52,825.53	3,86,682.93	20,67,480.58	2,48,097.66	32,83,342.07
DIFFERENTIAL DUTY EVADED Rs. (32,83,342 – 6,42,359)									26,40,983

TABLE-5.7

SEZ to DTA Bill of Entry No.2017572 dt. 10.11.2022 (Total A.V. Rs.12,17,405/-)

Exchange Rate- 83.80

Qty (in Meter)	Proportionate Ass. Value (Rs.)	Declared Description of goods	CTH Declared	Basic Duty @ 10% (Rs.)	SWS @ 10% (Rs.)	IGST @ 12% (Rs.)	ADD @ 0.46 per meter	IGST @ 12% of ADD	Total duty (Rs.)
39,600	12,17,404.50	Felt Woven Coated Coated Fabric	59119090	1,21,740.45	12,174.04	1,62,158.28	00	00	2,96,072
		Correct Description of goods	Correct CTH	Basic Duty @ 20% (Rs.)	SWS @ 10% (Rs.)	IGST @ 12% (Rs.)	ADD @ 0.46 per meter	IGST @ 12% of ADD	Total duty (Rs.)
39,600	12,17,404.50	PU Coated Fabric	59032090	2,43,480.90	24,348.09	1,78,228.01	15,26,500.80	1,83,180.09	21,55,737.89
DIFFERENTIAL DUTY EVADED Rs. (21,55,738 – 2,96,072)									18,59,666

15. The investigation in the case further also reveals M/s. JMV Enterprise had in their import made vide SEZ to DTA Bill of Entry No. 2015500 dt. 10.10.2022 indulged themselves in mis-declaring their imported goods as "Textile Coated Fabric" and mis-classifying the same under CTH 59119090 whereas these goods were actually "Non-Woven Fabric" and thereby rightly classifiable under CTH 56039490. M/s. JMV by way of above mis-declaration and mis-classification is found to have short paid the Basic Customs Duty.

15.1 Shri Lakshy Lamba, S/o. Late Shri Rajinder Lamba and Partner of M/s. Skytex, in his statement recorded u/s. 108 of Customs Act, 1962 on 14.02.2024 (RUD-23) has stated that they did not have IEC and do not indulge in direct import of any goods, but sometimes they order the goods directly from overseas suppliers and take the services of freight forwarders for import and supply of these imported goods to them. He further stated that they had purchased 50,735 Kgs of Non-Woven Polyester Bonded Fabric manufactured by M/s. Anhui Tianyi New Fiber Technology Co. Ltd., China and the import of the goods were made through M/s. JMV Enterprises. He also produced copy of SEZ to DTA Bill of Entry No.2015500 dt. 10.10.2022 towards imports made in the case. He also confirmed that the goods after their import were supplied to them by M/s. JMV Enterprises under their Invoice No.JE94 & JE95 both dated 12.11.2022(RUD-24 & 25), however M/s. JMV Enterprises had mentioned the goods description in both these Invoices as "Textile Coated Fabric". He also stated that these goods were later sold to various firms viz. M/s. Gee EN Enterprises, M/s. JRN Fabrics, M/s. A.K.Fashions & M/s. ANC Manufacturers.

**15.2** Shri Ashok Kumar, S/o. Shri Mahendra Kumar and Accountant of M/s. JRN Fabrics in his statement recorded u/s. 108 of Customs Act, 1962 on 07.06.2024 **(RUD-26)** was perused with under mentioned Invoices issued by M/s. Skytex in respect of sale of Fabrics, as mentioned below –

Sr. No.	Invoice No.	Invoice Dt.	Qty (Kgs)	Description of Goods
1	2022-23/204	20.11.2022	800	Textile Coated Fabric
2	2022-23/206	21.11.2022	810	Textile Coated Fabric
3	2022-23/207	22.11.2022	815	Textile Coated Fabric
4	2022-23/210	23.11.2022	816	Textile Coated Fabric
5	2022-23/215	26.11.2022	1480	Textile Coated Fabric
6	2022-23/216	26.11.2022	840	Textile Coated Fabric
7	2022-23/217	27.11.2022	1050	Textile Coated Fabric
8	2022-23/218	27.11.2022	1620	Textile Coated Fabric
9	2022-23/219	27.11.2022	1605	Textile Coated Fabric
10	2022-23/221	27.11.2022	1650	Textile Coated Fabric
11	2022-23/223	27.11.2022	4875	Textile Coated Fabric
12	2022-23/232	30.11.2022	1610	Textile Coated Fabric
13	2022-23/233	30.11.2022	1575	Textile Coated Fabric
14	2022-23/235	30.11.2022	865	Textile Coated Fabric
15	2022-23/236	30.11.2022	1581	Textile Coated Fabric

After perusing these Invoices, he stated that they have purchased & received Non-Woven Fabrics under above Invoices from M/s. Skytex. He further stated that M/s. Skytex had however, mentioned the description of the goods as "Textile Coated Fabric" instead of "Non-Woven Fabric" in these Invoices. They had also not raised any concern in the matter with M/s. Skytex as the GST rate on both Textile Coated Fabric & Non-Woven Fabric is same.

**15.3** Shri Kunal Joshi, S/o. Shri Praful Joshi, M/s. A.K. Fashions, in his statement recorded u/s. 108 of Customs Act, 1962 on 27.06.2024 **(RUD-28)** was perused with under mentioned Invoices issued by M/s. Skytex in respect of sale of Fabrics, as mentioned below –

Sr. No.	Invoice No.	Invoice Dt.	Qty (Kgs)	Description of Goods
1	2022-23/226	29.11.2022	6450	Textile Coated Fabric
2	2022-23/227	29.11.2022	6730	Textile Coated Fabric
3	2022-23/228	29.11.2022	1675	Textile Coated Fabric
4	2022-23/229	29.11.2022	1050	Textile Coated Fabric



5	2022-23/230	29.11.2022	1035	Textile Coated Fabric
6	2022-23/234	30.11.2022	1575	Textile Coated Fabric

After perusing these Invoices, he stated that they have purchased & received Non-Woven Fabrics under above Invoices from M/s. Skytex. He further stated that M/s. Skytex had however, mentioned the description of the goods as "Textile Coated Fabric" instead of "Non-Woven Fabric" in these Invoices. They had not raised any concern in the matter with M/s. Skytex and they have informed that the Overseas Supplier had mentioned these goods as "Textile Coated Fabric" for supply of "Non-Woven Fabric" and hence they too have mentioned the same to keep proper accounting. Further, M/s. Skytex also informed that the GST rate on both Textile Coated Fabric & Non-Woven Fabric is same and therefore they have not pursued the matter further.

**15.4** As per the prevailing Customs Tariff, the effective Basic Customs duty on import of goods falling under CTH 56039490 is 20%, whereas effective Basic Customs duty on goods falling CTH 59119090 is 10%. Since the BCD in the case is short paid, the applicable IGST and SW on the import are also found to be short paid and the same is required to be recovered in respect of import made by SEZ to DTA Bill of Entry No. 2015500 dt. 10.10.2022 in the case.

**15.5** The above goods were mis-declared as Textile Coated Fabric and mis-classified under CTH 59119090 whereas the same were actually found to be "Non-Woven Fabric. These goods when imported under correct classification i.e. CTH 56039490 are leviable to Basic duty of 20%, SWS @ 10% and IGST @ 5% of the Assessable Value. The calculation of the differential duty evaded in respect of above goods is tabulated below –

<b>TABLE-6</b>								
<b>SEZ to DTA Bill of Entry No.2015500 dt. 10.10.2022 (Total A.V. Rs.25,38,347/-)</b>								
<b>Exchange Rate- 82.45</b>								
Proportionate Ass. Value (Rs.)	Declared Description of goods	CTH Declared	Basic Duty @ 10% (Rs.)	SWS @ 10% (Rs.)	IGST @ 12% (Rs.)	ADD @ 0.46 per meter	IGST @ 12% of ADD	Total duty (Rs.)
25,38,347/-	Textile Coated Fabric	59119090	2,53,834.65	25,383.47	3,38,107.76	00	00	6,17,325.87
	Correct Description of goods	Correct CTH	Basic Duty @ 20% (Rs.)	SWS @ 10% (Rs.)	IGST @ 12% (Rs.)	ADD @ 0.46 per meter	IGST @ 12% of ADD	Total duty (Rs.)
25,38,347/-	Non-Woven Fabric	56039490	5,07,669.40	50,766.94	3,71,614	00	00	9,30,050.34
<b>DIFFERENTIAL DUTY EVADED Rs. (9,30,050 – 6,17,326)</b>								<b>3,12,724</b>

**16.** In view of the above facts, it appears that M/s. JMV Enterprise has indulged themselves in the evasion of Customs Duty by way of misdeclaration and mis-classification of

import goods. It is noticed that total Assessable value of the goods imported under above Bills of Entry is Rs. 1,81,29,015/- and the total evasion of duty in the case is Rs.1,72,25,801/- as mentioned at TABLE-5.1 to 5.7 mentioned at Para 14 and Table 6 mentioned at Para 15 above.

**17.** Vide CBIC Notification No.25/2022-Customs (N.T.) dated 31.03.2022, the Board has invested all the powers of the officers of Customs to the officers of DRI with jurisdiction exercisable to the whole of India. Further, Vide CBIC Notification No.26/2022-Customs (N.T.) dated 31.03.2022, the Board has assigned the Officers of DRI to be proper officer to perform various functions as specified in the Customs Act, 1962 including Section 28 read with Section 17, subject to Section 110AA of the Customs Act, 1962. The above provisions of the Act mandate that after inquiry/investigation of the offence, the relevant documents of the case along-with a report in writing is required to be transferred to the proper officer having jurisdiction, in respect of the assessment of such duty in the case or to an officer to whom proper officer is subordinate (i.e. the Jurisdictional Customs formation).

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

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

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

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

**19.2** Further, in terms of Section 17 of the Customs Act, 1962, relating to Assessment of duty, it is mandatory for the importer, save as otherwise provided in Section 85 of the Act, to self-assess the duty, and in case it is found on verification, examination or testing of the goods or otherwise that the self- assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under the Act, re-assess the duty leviable on such goods.

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

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

**19.4** In terms of Section 28(4) of the Customs Act, 1962 - Where any duty has not been levied or has been short-levied or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of, - (a) collusion; or (b) any willful mis-statement; or (c) suppression of facts, by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

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

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



**19.7** Section 114AA of the Customs Act provides penalty for use of false and incorrect material. If a person knowingly or unknowingly makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purpose of this Act, shall be liable to a penalty not exceeding five times the value of the goods.

**19.8** Further, Section 111(m) of the Customs Act, 1962, specifies that, any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under Section 77, are liable to confiscation.

**19.9** As per Section 112 of the Customs Act, 1962 - Any person, -(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under Section 111, or abets the doing or omission of such an act, or (b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harboring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under Section 111, shall be liable, to penalty.

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

### **20.1 Role and culpability of Shri Kapil Kotiya :**

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

**20.1.2** Shri Sanjeev Shekhar Malhotra, Proprietor of M/s. JMV Enterprises, in his Statement recorded u/s. 108 of the Customs Act, 1962 on 27.11.2022 (**RUD-15**) had categorically stated that his wife and Shri Kapil Kotiya's wife were friends and that way he came to know Shri Kapil Kotiya, who later gave him an offer to open a firm. He further also stated that Shri Kapil Kotiya used to pay Rs.15000/- per month for using the credentials of the said firm and deposited the amount in his wife's bank account. He further also stated that he does not know about any of the activity of the firm and all the work of the firm is being looked after by Shri Kapil Kotiya.

**20.1.3** Shri Kapil Kotiya, Proprietor of M/s. Ocean Logistics, in his statement recorded u/s.108 of the Customs Act, 1962 on 27.11.2022 (**RUD-16**) has admitted to the above facts stated by Shri Sanjeev Shekhar Malhotra. He further has also admitted that he is handling all day-to-day affairs of the firm M/s. JMV Enterprise and he used to lend the IEC of the firm to

other local Traders/Firms for importing their required goods. He also stated that in the whole process of import, the actual owner of the goods i.e. Domestic/Local Traders directly used to contact the Overseas Suppliers of the goods and their place order of their intended goods and also used to provide the Import credential details of the IEC lending firm to the Overseas Suppliers. The Overseas Suppliers provide the Import documents directly to these Domestic/Local Traders who are the actual Buyers/Owners of the goods. These documents are later forwarded to him by these Domestic/Local Traders, which is provided to Customs Brokers for filing Bill of entry and Customs Clearance and after Customs Clearance the imported goods are directly transported to the premises of the said Domestic Trader under Sale Invoices generated by IEC lending firm. All the finance related to the above transaction is being borne by the actual owner/Local Traders of the goods. He further stated that these Domestic/Local Traders are his regular clients and he used to attend their work related to customs clearance and freight forwarding in the past and as they required such IEC holding firms, he had provided it to them for making imports. He also stated that the Proprietor of the IEC holding firm didn't indulge in any work related to the firm except putting signatures on the Banking documents. He further also stated that his clients i.e. the Domestic/Local Traders or Actual Owner of the goods used to import PU Coated Fabric from China before imposition of Anti-Dumping duty on it but later on they stopped such import after imposition of Anti-Dumping duty.

**20.1.4** Shri Arun Jyoti Mahajan, Partner of M/s. Jai Maa Enterprises, in his statement recorded u/s.108 of the Customs Act, 1962 on 17.05.2023 (**RUD-20**) has admitted that they have purchased various type of Fabrics including PU coated fabrics from M/s. JMV Enterprises. He also admitted that they used to place order for such fabrics to Overseas Supplier and the same were imported through the IEC of M/s. JMV Enterprises. He further also stated that Shri Kapil Kotiya is the person who looks after all the work of M/s. JMV Enterprises and in the import of goods through M/s. JMV Enterprises, his role is placing order directly to the Overseas suppliers and rest of all the work is handled by Shri Kapil Kotiya. He further clarified the character and usage of various types of fabrics wherein he stated that PU coated fabric is a type of artificial leather which is used in footwear and as garment. He further also clarified that the fabric known by the term Textile Coated Fabrics is actually used for PU Coated Fabrics. He further stated that he had received PU Coated Fabrics but, in their Invoice, the goods were mentioned as Textile Coated Fabrics and these goods were further sold by him mentioning the same description of the goods i.e. Textile Coated Fabrics. He also stated that such above mentioned goods have been sold by them to M/s. Kishore Traders, Mumbai

**20.1.5** Shri Ankur Mahajan, Son of Shri Arun Jyoti Mahajan, Partner of M/s. Jai Maa Enterprises, in his statement recorded u/s.108 of the Customs Act, 1962 on 27.11.2022 (**RUD-19**) has stated that he and his father Shri Arun Jyoti Mahajan looks after the business of M/s. Jai Maa Enterprises. He stated that they have order PU Coated Fabrics from China and have received the same from M/s. JMV Enterprises through Invoices wherein the goods have been mentioned as Textile Coated Fabrics. He also stated that he does not know about the Proprietor of M/s. JMV Enterprises but they contact Kapil for purchase of goods. He stated that he takes samples of goods from the manufacturers in China and gives details of the

shortlisted samples and desired quantity to Shri Kapil Kotiya or himself places the order of goods directly to the Suppliers of goods in China through Phone. The Invoices, Packing list and Bill of Lading is received either by him or by Kapil Kotiya.

**20.1.6** Shri Lakshay Lamba, Partner of M/s. Skytex, in his statement recorded on 14.02.2024 u/s. 108 of Customs Act, 1962 (**RUD-23**) has stated that for import and order of goods from overseas suppliers they take services of freight forwarder; that they have purchased 50,735 Kgs of Non-Woven Polyester Bonded Fabric manufactured by M/s. Anhui Tianyi New Fiber Technology Co. Ltd. China through M/s. JMV Enterprises; that their firm had finalized the order for purchase of these goods with M/s. Anhui Tianyi New Fiber Technology Co. Ltd. China and afterwards had given the overseas supplier to the forwarder for import of these goods; that the overseas suppliers had issued the bill in the name of M/s. JMV Enterprises and these goods after import were forwarded to them under bills issued by them after adding all their subsidiary charges; that M/s. JMV Enterprises had forwarded these imported Non-Woven Polyester Bonded Fabric to them but they have mentioned the description of these goods in their Sale Invoice as Textile Coated Fabric; that they have raised their concern on this to Shri Kapil Kotiya and he clarified that due to some misunderstanding these goods were sent by the overseas supplier by wrongly mentioning it as Textile Coated Fabric instead of Non-Woven Polyester Bonded Fabric; that he agrees that they have ordered the purchase of these goods from M/s. Anhui Tianyi New Fiber Technology Co. Ltd. China and afterwards the goods were imported through M/s. JMV Enterprises.

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

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

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

**20.2.1** Shri Ankur Mahajan, Son of Shri Arun Jyoti Mahajan, Partner of M/s. Jai Maa Enterprises, in his statement recorded u/s.108 of the Customs Act, 1962 on 27.11.2022 (**RUD-19**) has stated that he and his father Shri Arun Jyoti Mahajan looks after the business of M/s. Jai Maa Enterprises. He stated that they have order PU Coated Fabrics from China and these goods were imported through by M/s. JMV Enterprises and later were received from them through Invoices wherein the goods have been mentioned as Textile Coated Fabrics. He had further elaborated about the process involved in these types of import and stated that he used to take samples of goods from the manufacturers in China and would then give the details of the shortlisted samples and desired quantity to Shri Kapil Kotiya to place the order or himself used to place the order of goods directly to the Suppliers of goods in China through Phone. He further also stated that they mostly mention the trading name of PU Coated Fabric viz.

Napa, Wrinkle Free, A-one, Jazz Napa Zarina, Check Zarina, TC Lycra, Eva BB etc., while placing order to overseas suppliers in China.

**20.2.2** Shri Arun Jyoti Mahajan, Partner of M/s. Jai Maa Enterprises, in his statement recorded u/s.108 of the Customs Act, 1962 on 17.05.2023 **(RUD-20)** has admitted that they have purchased various type of Fabrics including PU coated fabrics from M/s. JMV Enterprises. He also admitted that they used to place order for such fabrics to Overseas Supplier and the same were imported through the IEC of M/s. JMV Enterprises. He further also stated that Shri Kapil Kotiya is the person who looks after all the work of M/s. JMV Enterprises including the import of goods through M/s. JMV Enterprises and its local sale and his role in the entire import is limited to placing the order of the goods directly to the Overseas suppliers and rest of all the work is handled by Shri Kapil Kotiya. He further also admitted that he had received PU Coated Fabrics from M/s. JMV Enterprise but in its Invoice, the goods were mentioned by M/s. JMV Enterprise as Textile Coated Fabrics and he had further sold these goods to M/s. Kishore Traders, Mumbai by mentioning the same description of the goods i.e. Textile Coated Fabrics. He further also clarified the identity of the goods with description "Textile Coated Fabric" and "Felt Woven Coated Fabrics" and stated that both the fabrics are actually PU Coated Fabric. He further stated that he did not know the reason of using term Textile Coated Fabric or Felt Woven Coated Fabric for declaring PU Coated Fabric but admitted they have received invoices mentioning these descriptions instead of PU Coated Fabric.

**20.2.3** Shri Narendrachand Ramniwas Moriya S/o Shri Ramniwas Moriya, Authorized person of M/s.Kishor Traders, Mumbai, in statement recorded on 10.02.2023 **(RUD-21)** stated that the Textile Coated Fabric purchased by them from M/s. Jai Maa Enterprises was PU Coated Fabric. He also stated that the PU Coated fabric is mostly known as Napa, Firangi, Wrinkle Free Jelly etc. and they have ordered to supply goods viz. Napa, Firangi, Wrinkle Free Jelly etc. and have received it as ordered but M/s. Jai Maa Enterprise has mentioned the description of the same in invoices as Textile Coated Fabric. He was perused with the Panchnama dated 16.12.2023 (RUD-) drawn at Thakkar Bapa Nagar, CST Road, Chembur, Mumbai under which goods having Product Mark(PM) as "Kishor/54" purchased by them from M/s. Jai Maa Enterprises, New Delhi, through Invoice No.2022-23/1405 dated 12.11.2022 and transported vide E-way Bill Number 741297609478 dated 12.11.2022 and Transportation Bill/invoice No.274769 dated 15.11.2022 issued by M/s. Satkartar Roadlines. He was also perused with Test Memo No.52/KISHOR/54 dated 19.12.2022 and Test Report of CRCL Vadodara bearing Lab No.RCL/AZU/DRI/3351/22-12-2022 dated 04.01.2023 issued by CRCL Vadodara in respect of the Sample of the goods drawn under above Panchnama dated 16.12.2023 in respect of goods received under Invoice No.2022-23/1405 of M/s. Jai Maa Enterprises and after perusing the above documents, he agreed with the Test Report of CRCL Vadodara holding that the goods forwarded under the Test Memo No.52/KISHOR/54 dated 19.12.2022 are found to be coated with Compounded Polyurethane on one side.

**20.2.4** The facts emerged from the above Statements recorded during the course of investigation in the case clearly reveals that M/s. Jai Maa Enterprises represented through its



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

**20.2.5** From the investigation, it appears that M/s Jai Maa Enterprises is the beneficial owner for the corresponding goods mentioned in table in para 22 of this Show Cause Notice, as partner of M/s Jai Maa Enterprises, Shri Arun Jyoti Mahajan has accepted the same in his statement dated 19.09.2024. Hence, it appears that M/s Jai Maa Enterprises is liable to pay the differential Customs Duty (BCD+SWS+IGST+ADD+IGST on ADD) for the goods imported by them (as a beneficial owner). In the investigation it was found that M/s Jai Maa Enterprises acted in collusion with different persons for suppressing the facts and mis-declaring the goods to evade the Customs duty. Accordingly, it appears that they are liable for penalty under section 114 A of the Customs Act, 1962. Investigation clearly reveals that Shri Arun Jyoti Mahajan, Partner of M/s. Jai Maa Enterprise, has employed himself in receiving import documents from these firms (Beneficial owners of the goods) and further forwarding these documents to Shri Kapil Kotiya to facilitate import of the goods using the IEC of these name-sake/dummy firms created by him. By indulging himself in the above acts, Shri Arun Jyoti Mahajan, Partner of M/s. Jai Maa Enterprise, is found to have indulged himself in the act or omission, in relation of the goods, which would render such goods liable to confiscation under section 111 of the Customs Act, 1962. Further by indulging in the above act, Sh Arun Jyoti Mahajan has rendered himself liable for penalty under section 112(a) & (b) of the Customs Act, 1962. Shri Arun Jyoti Mahajan, Partner of M/s. Jai Maa Enterprise was well aware about the levy of Anti-dumping duty on the mis-declared goods imported through IEC of M/s. JMV but even though, he had intentionally/knowingly causes to be made (to make something happen or exist) declaration, documents which is false or incorrect in any material particular, in the transaction of any business for the purpose of this Act and thereby has also rendered himself liable for penalty u/s. 114AA of the Customs Act, 1962.

**20.3 Role and culpability of M/s. Skytex and Shri Lakshay Lamba, Partner of M/s. Skytex in the case :**

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**20.3.1** Shri Lakshay Lamba, Partner of M/s. Skytex, in his statement recorded on 14.02.2024 u/s. 108 of Customs Act, 1962 (**RUD-23**) has stated that they engage Freight forwarders for import and order of goods from Overseas Suppliers. He further also confirmed that they have purchased 50,735 Kgs of Non-Woven Polyester Bonded Fabric manufactured by M/s. Anhui Tianyi New Fiber Technology Co. Ltd. China through M/s. JMV Enterprises and M/s. Om Enterprise. He revealed that their firm had finalized the order for purchase of these goods with M/s. Anhui Tianyi New Fiber Technology Co. Ltd. China and afterwards had given the details of Overseas Supplier to the forwarder for import of these goods. He had further stated that the Overseas Suppliers had issued the bill in the name of M/s. JMV Enterprises and these goods after import were forwarded to them by M/s. JMV Enterprise under Bills/Invoices issued by them after adding all their subsidiary charges. He informed that M/s. JMV Enterprises also provided him copy of DTA Bills of Entry No. 2015500 dated 10.10.2022 & 2016144 dated 18.10.2022 through which they have imported the goods. He also further divulged that M/s. JMV Enterprises had forwarded these imported Non-Woven Polyester Bonded Fabric to them but they have mentioned the description of these goods in their Sale Invoice as Textile Coated Fabric and that they have raised their concern on this to Shri Kapil Kotiya, to which he clarified that due to some misunderstanding these goods were sent by the overseas supplier by wrongly mentioning it as Textile Coated Fabric instead of Non-Woven Polyester Bonded Fabric. He agreed that they have ordered the purchase of these goods from M/s. Anhui Tianyi New Fiber Technology Co. Ltd. China and afterwards the goods were imported through M/s. JMV Enterprises.

**20.3.2** Shri Ashok Kumar, Accountant of M/s. JRN Fabrics, a firm engaged in trading of Fabrics in his statement recorded u/s. 108 of Customs Act, 1962, on 07.06.2024 (**RUD-26**) that M/s JRN Fabrics is into trading of fabrics e.g. PVC Coated Fabric, Polyester Knitted Fabric, Woven Fabric, Non-Woven Fabric, PA Coated Fabric etc. which was used in manufacturing of jackets. After being perused with Invoice no. 2022-23/203 dated 19.11.2022 (**RUD-27**) issued by M/s Skytex to them for sale of 835 Kgs. Textile Coated Fabric, he stated that they had purchased and received Non-Woven Fabric under invoice no. 2022-23/203 dated 19.11.2022. He admitted that M/s Skytex had supplied Non-Woven Fabric under their Invoice no. 2022-23/203 dated 19.11.2022 but they had mentioned the description of the goods as Textile Coated Fabric in their invoice. He was further perused with various other Invoices issued to them by M/s Skytex and after their perusal he stated that they have ordered and received Non-Woven Fabric vide all the said invoices from M/s Skytex, but M/s. Skytex had mentioned the description of goods as Textile Coated Fabric.. He further also clarified that the fabric received by them vide said various invoices did not have any kind of coating on them. He further informed that they had also prepared invoices of further sale of these goods mentioning the same Goods Description and HSN/CTH which were mentioned in the purchase invoice of these goods.

**20.3.3** Shri Kunal Joshi, S/o Shri Praful Joshi from M/s A.K. Fashions, in his statement recorded u/s. 108 of the Customs Act, 1962 on 27.06.2024 (**RUD-28**) had admitted that they

had purchased 5675 Kgs. "Textile Coated Fabric" from M/s. Skytex under Invoice no. 2022-23/224 dated 29.11.2022 (**RUD-27**). He further stated that they had given order of "Non-Woven Fabric" to M/s Skytex and they have received the same but M/s. Skytex had issued Invoices in respect of the same goods to them mentioning these goods as "Textile Coated Fabric". They had raised their concern in respect of mentioning "Textile Coated Fabric" instead of correct goods description i.e. "Non-Woven Fabric" to M/s. Skytex and it was informed by M/s.Skytex that their supplier had mentioned "Textile Coated Fabric" for supply of "Non-Woven Fabric" hence they also had mentioned the same to keep proper accounting. He was also perused with further such Invoices issued to them by M/s Skytex and after perusal he stated that M/s A.K. Fashions had purchased and received "Non-Woven Fabric" vide all the said invoices from M/s Skytex however M/s. Skytex had mentioned the description of goods as "Textile Coated Fabric", however the fabric received by them vide above mentioned invoices did not have any kind of coating.

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

**20.3.5** From the investigation, it appears that M/s Skytex is the beneficial owner for the corresponding goods mentioned in table in para 22 of this Show Cause Notice, as the same has been accepted by Shri Lakshay Lamba, Partner of M/s. Skytex in his statement dated 14.02.2024. Hence, it appears that M/s Skytex is liable to pay the differential Customs Duty (BCD+SWS+IGST+ADD+IGST on ADD) for the goods imported by them (as a beneficial owner). In the investigation it was found that M/s Skytex acted in collusion with different persons for suppressing the facts and mis-declaring the goods to evade the Customs duty. Accordingly, it appears that they are also liable for penalty under section 114 A of the Customs Act, 1962. The above facts clearly reveal that Shri Lakshay Lamba, Partner of M/s. Skytex, has employed himself in receiving import documents from these firms (Beneficial owners of the goods) and further forwarding these documents to Shri Kapil Kotiya to facilitate import of the goods using the IEC of these name-sake/dummy firms created by him. By way of collusion

with different entities, in the above acts, Shri Lakshay Lamba, Partner of M/s. Skytex, is found to have indulged himself in the act or omission, in relation of the goods, which would render such goods liable to confiscation under section 111 of the Customs Act, 1962. Further by indulging in the above act through collusion, he has rendered himself liable for penalty under section 112(a) & (b) of the Customs Act, 1962. Further, Shri Lakshay Lamba, Partner of M/s. Skytex was well aware about the levy of Customs duty at higher rate on the mis-declared goods imported through IEC of M/s. JMV but even though, he had intentionally/knowingly causes to be made (to make something happen or exist) declaration, documents which is false or incorrect in any material particular, in the transaction of any business for the purpose of this Act and thereby has also rendered himself liable for penalty u/s. 114AA of the Customs Act, 1962.

#### **20.4 Role and culpability of Shri Sanjeev Shekhar Malhotra, Proprietor of M/s. JMV Enterprise in the case:**

**20.4.1** Shri Sanjeev Shekhar Malhotra, Proprietor of M/s. JMV Enterprises, in his Statement recorded u/s. 108 of the Customs Act, 1962 on 27.11.2022 **(RUD-15)** & 09.09.2024 **(RUD-30)** had admitted that the goods imported by his firm were actually owned by domestic traders M/s. Jai Maa Enterprise & M/s. Skytex and these imported goods after securing its customs clearance, were directly forwarded to the premises of these domestic traders. After perusing the Test Reports of CRCL, Vadodara, he agreed that the imported goods which were declared as Textile Coated Fabric and Felt Woven Coated Fabric were actually PU Coated Fabric and Non-Woven Fabric. He also agreed to the fact that he has provided his credentials to Shri Kapil Kotiya for creating the firm M/s. JMV Enterprise and the IEC of the firm was used to be lent to other domestic traders for facilitating their imports. He further also agreed that Shri Kapil Kotiya used to exercise over-all control on the activities of M/s. JMV Enterprise and he was working there as a Proprietor of the firm on a monthly salary provided by Shri Kapil Kotiya.

**20.4.2** Shri Kapil Kotiya, Proprietor of M/s Ocean Logistics in his statement recorded u/s. 108 of the Customs Act, 1962 on 03.03.2023 **(RUD-17)**, has admitted that he is looking after all the business activity of M/s. JMV Enterprises. He further stated that the Letter dated 19.01.2023 of M/s. JMV Enterprises addressed to the Deputy Commissioner, SEZ Mundra requesting for clearance of goods PU Fabrics covered under (DTA) Bill of Entry No.2019872 dt. 14.12.2022 and B/E No.2019670 dt. 12.12.2022 was issued and signed by Shri Sanjeev Shekhar Malhotra under his instructions. He also provided the details of those Domestic traders who had utilized the IEC of M/s. JMV Enterprises for importing their consignments.

**20.4.3** Shri Arun Jyoti Mahajan S/o Shri Hansraj Mahajan, Partner of M/s Jai Maa Enterprises in his statement recorded u/s. 108 of Customs Act, 1962 on 17.05.2023 **(RUD-20)**, has stated that they purchased Glitter Fabric, Polyester Bonded, PU Coated Fabric, Textile Coated Fabric etc. from M/s.JMV Enterprises. On,being asked about the Proprietor of M/s. JMV Enterprise, he further stated that Shri Kapil Kotiya is looking after all the work of M/s.JMV Enterprises and he does not know what was his designation in the firm.

**20.4.4** Shri Ankur Mahajan S/o Shri Arun Jyoti Mahajan Proprietor of M/s Bhagwati International in his statement recorded u/s. 108 of Customs Act, 1962 on 28.12.2022 (**RUD-19**), stated that they had purchased PU Coated Fabric, Textile Coated Fabric, Bonded Fabric etc. from M/s.JMV Enterprises. He further stated that he did not know Shri Sanjeev Shekhar Malhotra. He also stated that he did not know the Proprietor/Partner/Employee of M/s. JMV Enterprises and only contacts Shri Kapil Kotiya for purchase of goods from this firm.

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

**20.4.6** The above facts clearly establish that Shri Sanjeev Shekhar Malhotra, Proprietor of M/s. JMV Enterprise, has employed himself in importing goods on the basis of mis-declared and mis-classified document. By indulging himself in the above acts, Shri Sanjeev Shekhar Malhotra, Proprietor of M/s. JMV Enterprise, is found to have indulged himself in the act or omission, in relation of the goods, which would render such goods liable to confiscation under section 111 of the Customs Act, 1962. Further by indulging in the above act, he has rendered himself liable for penalty under section 117 of the Customs Act, 1962. It was also revealed that these goods were also mis-classified and were classified under CTH 59119090, whereas these goods, by virtue of being either PU Coated Fabric and Non-Woven Fabric merited to be rightly classified under 59039090 and 56039490.

**21.** It was also found during the course of investigation that Shri Sabu George has failed to exercise proper due diligence in discharging his obligations mandated under Customs Brokers Licensing Regulations, 2018. Shri Sabu George, S/o Shri Kottackal Chacko George, Partner of M/s. Rainbow Shipping Services, in his statement recorded on 03.10.2024 u/s.108 of the Customs Act, 1962 (**RUD-41**) has stated that he has taken KYC of the importer from Shri Kapil Kotiya before preparing the checklist for filing of Bill of Entry but they have not taken the approval of the Importer for the checklist prepared by them. He further stated that he has not contacted or communicated with anyone else except Shri Kapil Kotiya for the import of goods made by M/s. JMV Enterprises. The investigation has revealed that the evasion of duty

in the case was orchestrated by Shri Kapil Kotiya and other domestic traders of fabrics and in the above scheme the proper discharge of the responsibility entrusted on the Customs Brokers could have proven as a deterrent if Shri Sabu George, Customs Broker would have exercised due diligence in discharging his duties entrusted under CBLR, 2018. By indulging in the above act, Shri Sabu George, G Card bearing number CHM/G/18/2018 dated 29.05.2018 issued by Mundra Customs appears to have committed offence punishable under 117 of the Customs Act, 1962.

**22.** The investigation conducted in the case has revealed that the Actual Owner/Beneficial Owner of the goods imported by M/s. JMV Enterprise, covered under 08 Bills of Entry which were filed at Adani Ports and Special Economic Zone (INAJM6), Mundra are as detailed below –

Sr. No.	SEZ Bill of Entry No. & Dt.	SEZ to DTA Bill of Entry No.	CTH NO.	Item Description	Declared Qty (KGS)	Actual Ownership/ Beneficial Owner of the Goods
1	1012139 dt.07-09-2022	2013802 dt.13-09-2022	59119090	TEXTILE COATED FABRIC	19305	M/s Jai Maa Enterprises
2	1012138 dt.07-09-2022	2013797 dt.13-09-2022	59119090	TEXTILE COATED FABRIC	20222	M/s Jai Maa Enterprises
3	1012469 dt.14-09-2022	2013994 dt.16-09-2022	59119090	TEXTILE COATED FABRIC	20852	M/s Jai Maa Enterprises
4	1013951 dt.06-10-2022	2015523 dt.11-10-2022	59119090	TEXTILE COATED FABRIC	22152	M/s Jai Maa Enterprises
5	1013947 dt.06-10-2022	2015500 dt.10-10-2022	59119090	TEXTILE COATED FABRIC	25370	M/s.Skytex
6	1014922 dt.19-10-2022	2016703 dt.28-10-2022	59119090	FELT WOVEN COATED FABRIC	25478	M/s Jai Maa Enterprises
7	1015305 dt.27-10-2022	2017048 dt.03-11-2022	59119090	FELT WOVEN COATED FABRIC	25185	M/s Jai Maa Enterprises
8	1015832 dt.04-11-2022	2017572 dt.10-11-2022	59119090	FELT WOVEN COATED FABRIC	11622	M/s Jai Maa Enterprises

#### CONTRAVENTIONS AND CHARGES: -

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

**24.** It also appears from the foregoing paras that M/s. JMV have further also willfully and mis-stated & suppressed the correct description & classification of Non-Woven Fabric

during their import before the Customs Authorities at APSEZ Mundra with an intent to evade payment of appropriate duty thereon at the time of its domestic clearance.

25. Further, it also appears from the foregoing paras that M/s. JMV Enterprises has intentionally and willfully mis-stated, suppressed actual facts in collusion with different entities, in contravention to the provisions u/s. 46(4) & (4A) of the Customs Act, 1962 and thereby has evaded duty to the tune of Rs.1,72,25,801/- as discussed supra.

### CONFISCATION OF GOODS –

26. It is evident that JMV Enterprise has indulged themselves in mis-declaration and mis-classification of the goods covered under Bills of Entry filed during their imports before APSEZ, Mundra as mentioned below –

S. No.	SEZ to DTA B/E No. & Date	HS CODE / CTH	Declared description of good	Quantity	Ass. Value (Rs.)
1	2013802 dt.13.09.2022	59119090	Textile Coated Fabric	19305 Kgs	18,63,704.70
		60063200	Polyester Bonded Fabric	5225 Kgs	4,62,386.38
2	2013797 dt.13.09.2022	59119090	Textile Coated Fabric	20222 Kgs	19,52,231.88
		59050090	Glitter Fabric	4410 Kgs	3,01,566.82
3	2013994 dt. 16.09.2022	59119090	Textile Coated Fabric	20852 Kgs	20,11,800.96
		59050090	Glitter Fabric	4047 Kgs	2,76,571.98
4	2015523 dt.11.10.2022	59119090	Textile Coated Fabric	22152 Kgs	21,91,718.88
5	2015500 dt. 10.10.2022	59119090	Textile Coated Fabric	25370 Kgs	25,38,346.51
6	2016703 dt.28.10.2022	59119090	Felt Woven Coated Fabric	25478 Kgs	26,72,005.25
7	2017048 dt.03.11.2022	59119090	Felt Woven Coated Fabric	25185 Kgs	26,41,276.88
8	2017572 dt. 10.11.2022	59119090	Felt Woven Coated Fabric	11622 Kgs	12,17,404.50

The investigation conducted in the case has revealed that the goods imported vide above Bills of Entry were either PU Coated Fabric or Non-Woven Fabric, whereas they were declared by M/s. JMV as Textile Coated Fabric or Felt Woven Coated Fabric. It was also revealed that these goods were also mis-classified and were classified under CTH 59119090, whereas these goods, by virtue of being either PU Coated Fabric and Non-Woven Fabric merited to be rightly classified under 59039090 and 56039490. By indulging in the above act of mis-declaration and mis-classification, the goods imported vide above Bills of Entry by M/s: JMV Enterprise appears to be liable for confiscation under Section 111(m) of the Customs Act, 1962. The above act of mis-declaration and mis-classification of goods further also renders M/s. JMV liable for penalty under Section 112(a) & (b) of the Customs Act, 1962.

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

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

S. No.	DD No. & Date	Challan No. & Date	Amount	Remark	RUD No.
1	216473 dt.03.04.2023 issued by Indusind Bank	TR-6/GAR 7 Challan No._JMV/ENQ-2/03 dt. 05.04.2023	62,58,357/-	Voluntary Payment of Anti- dumping duty	42
2	023369 dt.03.05.2023 issued by IDBI Bank	TR-6/GAR 7 Challan No. JMV/ENQ-2/04 dt. 04.05.2023	38,58,670/-	Voluntary Payment of Anti- dumping duty	43
3	558604 dt. 14.02.2024 issued by Indusind Bank	TR-6/GAR 7 Challan No.CI/ENQ- 02/2024/JMV-IGST/2	7,51,003/-	Voluntary Payment of IGST on Anti-dumping duty	45
4	558605 dt. 14.02.2024 issued by Indusind Bank	TR-6/GAR 7 Challan No.CI/ENQ- 02/2024/JMV-IGST/1	4,63,040/-	Voluntary Payment of IGST on Anti-dumping duty	44
<b>Total</b>			<b>1,13,31,070/-</b>		

**28.** Now, therefore, in respect of goods imported and mentioned in TABLE-5.6 & TABLE-5.7 at Para 14.6 to this notice, which were seized and released provisionally on submission of Bond and Bank Guarantee, **M/s. JMV Enterprise (IEC-AUWPM9653R) situated at 216, Vishal Tower, Janakpuri, Delhi-110058 and M/s Jai Maa Enterprises 5289, Hardhiyan Singh Road, Karol Bagh, New Delhi** are hereby called upon to show cause to the Pr. Commissioner of Customs, Custom House Mundra having his office at 5B, Port User Building, Mundra Port, Mundra, Kutch, Gujarat-370421 within 30 (Thirty) days from the receipt of this notice, as to why

i) Goods imported vide SEZ Bill of Entry No. 1015305 dated 27.10.2022, Corresponding SEZ DTA Bill of Entry No.2017048 dated 03.11.2022 (as mentioned in Table-5.6 of para 14.6) having total assessable value of Rs. 26,41,277/- (Rupees Twenty-Six Lakh Forty One Thousand Two Hundred and Seventy Seven only) should not be held liable to confiscation as per the provisions of Section 111 (m) of the Customs Act, 1962.

(ii) Goods imported vide SEZ Bill of Entry No. 1015832 dated 04.11.2022, Corresponding SEZ DTA Bill of Entry No.2017572 dated 10.11.2022 (as mentioned in Table-5.7 of para 14.6) having total assessable value of Rs. 12,17,405/- (Rupees Twelve Lakh Seventeen Thousand Four Hundred and Five only) should not be held liable to confiscation as per the provisions of Section 111 (m) of the Customs Act, 1962.

(iii) The declared Classification i.e. 59119990 and description of good "Felt Woven Coated Fabric" imported vide SEZ Bill of Entry No. 1015305 dated 27.10.2022, Corresponding SEZ DTA Bill of Entry No.2017048 dated 03.11.2022 should not be rejected.

(iv) The declared Classification i.e. 59119990 and description of good "Felt Woven Coated Fabric" imported vide SEZ Bill of Entry No. 1015832 dated 04.11.2022, Corresponding SEZ DTA Bill of Entry No.2017572 dated 10.11.2022 should not be rejected.

(v) The goods imported vide above Bills of Entry should not be re-classified under HS CODE/CTI 59032090 and its description should not be considered as Polyurethane (PU) Coated Fabric as mentioned in TABLE-5.6 & TABLE-5.7 at Para 14.6 to this show cause notice.



(vi) The goods Imported vide above Bills of Entry should not be reassessed after considering the differential Customs Duty (BCD+SWS+IGST+ADD+IGST on ADD) of Rs. 45,00,649/- (Rupees Forty-Five Lakh Six Hundred and Forty Nine only) in respect of Bills of Entry as mentioned in TABLE-5.6 & TABLE-5.7 at Para 14.6 to this Show Cause Notice. The Bills of entry may accordingly be reassessed under section 17 of Customs Act, 1962.

(vi) The differential Customs Duty of Rs.45,00,649/- (Rupees Forty-Five Lakh Six Hundred and Forty Nine only) in respect of Bills of Entry as mentioned in TABLE-5.6 & TABLE-5.7 at Para 14.6 to this Show Cause Notice should not be recovered by enforcing the Bond and Bank Guarantee submitted by the Importer for securing the provisional release of goods.

**29)** Now, therefore, In respect of past consignments of M/s. JMV Enterprise which were already cleared and mentioned in TABLE-5.1 to TABLE-5.5 at Para 14.6 & TABLE-6 at Para 15.5 to this Show Cause Notice **M/s. JMV Enterprise (IEC-AUWPM9653R) situated at 216, Vishal Tower, Janakpuri, Delhi-110058, M/s Jai Maa Enterprises 5289, Hardhiyan Singh Road, Karol Bagh, New Delhi and M/s Skytex Plot No. 191, Khasra No. 155, Pooth Khurd, Delhi-110039** are hereby called upon to show cause to the Pr. Commissioner of Customs, Custom House Mundra having his office at 5B, Port User Building, Mundra Port, Mundra, Kutch, Gujarat-370421 within 30 (Thirty) days from the receipt of this notice, as to why

i) The declared Classification 59119990 against the description of goods "Textile Coated Fabric" and declared Classification 59050090 against the description of goods "Glitter Fabric" as mentioned in TABLE-5.1 to 5.4 of para 14.6 to this Show Cause Notice should not be rejected.

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

(iii) The declared Classification 59119990 against the description of goods "Felt Woven Coated Fabric" as mentioned in TABLE-5.5 of para 14.6 to this Show Cause Notice should not be rejected.

(iv) The goods imported vide Bills of Entry mentioned in para (iii) above should not be re-classified under HS CODE/ CTH 59032090 and its description should not be considered as Polyurethane (PU) Coated Fabric.

(v) The differential Customs Duty (BCD+SWS+IGST+ADD+IGST on ADD) of Rs. 1,24,12,428/- (Rupees One Crore Twenty Four Lakh Twelve Thousand Four Hundred and Twenty Eighty only) in respect of above Bills of Entry as also mentioned in TABLE-5.1 to TABLE-5.5 of Para 14.6 to this Show Cause Notice should not be demanded under the provision of Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28(AA) of the Customs Act, 1962 and the same should not be recovered from the Actual Owner/ Beneficial Owner of the imported goods as mentioned in the Table at Para 22 of the Notice.

- (vi) The declared Classification 59119990 against the description of goods "Textile Coated Fabric" as mentioned in TABLE-6 of para 15.5 to this Show Cause Notice should not be rejected.
- (vii) The goods imported vide Bills of Entry mentioned in para (vi) above should not be re-classified under HS CODE/ CTH 56039490 and its description should not be considered as Non Woven Fabric.
- (viii) The differential Customs Duty (BCD+SWS+IGST) of Rs. 3,12,724/- (Rupees Three Lakh Twelve Thousand Seven Hundred and Twenty Four only) in respect of Bill of Entry as mentioned in TABLE-6 of Para 15.5 to this Show Cause Notice should not be demanded under the provision of Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28(AA) of the Customs Act, 1962 and the same should not be recovered from the Actual Owner/ Beneficial Owner of the imported goods as mentioned in the Table at Para 22 of the Show Cause Notice.
- (ix) Goods imported vide Bills of Entry as mentioned at para (i), (iii) & (vi) above having assessable value of Rs. 1,38,07,948/- (Rupees One Crore Thirty Eight Lakh Seven Thousand Nine Hundred and Forty Eight only) should not be held liable to confiscation as per the provisions of Section 111 (m) of the Customs Act, 1962.
- (x) The differential Duty liability of Rs. 1,27,25,152/- (Rupees One Crore Twenty Seven Lakh Twenty Five Thousand One Hundred and Fifty Two only) i.e. demand of Rs. 1,24,12,428/- (as mentioned at para (v) above & Rs. 3,12,724/- (as mentioned at para (viii) above) should not be adjusted from the Voluntary Payment of Rs. 1,13,31,070/- (Rs. One Crore Thirteen Lakh Thirty One Thousand and Seventy only) deposited by them.

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

Sr No	Name(Sh/Ms/Smt/M/s)	Penal provisions under Customs Act, 1962				
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	<b>M/s. JMV Enterprises</b>	112(a)	112(b)			

2	<b>Shri Sanjeev Shekhar Malhotra</b> , Proprietor of M/s JMV Enterprises					117
3	<b>Shri Arun Jyoti</b> , Partner of M/s. Jai Maa Enterprise	112(a)	112(b)		114AA	
4	<b>Shri Lakshay Lamba</b> , Partner, M/s Skytex	112(a)	112(b)		114AA	
5	<b>Shri Kapil Kotiya</b> , proprietor of M/s Ocean Logistics	112(a)	112(b)		114AA	
6	<b>Shri Sabu George</b> , G Card Holder					117
7	<b>M/s. Jai Maa Enterprises</b>			114A		
8	<b>M/s Skytex</b>			114A		

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

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

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

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

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



**(K. ENGINEER)**

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

**Enclosures: RUDs**

**To:-**

- 1) M/s. JMV Enterprise (IEC-AUWPM9653R) situated at 216, Vishal Tower, Janakpuri, Delhi-110058 M/s. Pushpanjali Logistics, 205, 2nd Floor, Golden Arcade, Zero Point, Mundra, Kutch – 370421
- 2) M/s Jai Maa Enterprises 5289, Hardhiyan Singh Road, Karol Bagh, New Delhi
- 3) M/s Skytex Plot No. 191, Khasra No. 155, Pooth Khurd, Delhi-110039
- 4) Shri Kapil Kotiya, S/o Shri Ratan Lal, Proprietor of M/s Ocean Logistics, 212, Vishal Tower, District Center, Janakpuri, New Delhi -110058 residing at B-6, 215-216, Upper First Floor, Rohini Sector-3, New Delhi-110085
- 5) Shri Arun Jyoti, Partner of M/s. Jai Maa Enterprise situated at 5289, Hardhiyan Singh Road, Karol Bagh, New Delhi and residing at D-11, Upper Ground Floor, Kirti Nagar, New Delhi
- 6) Shri Lakshay Lamba, S/o Late Shri Rajinder Lamba, Parter, M/s Skytex situated at Plot No. 191, Khasra No. 155, Pooth Khurd, Delhi-110039, residing at 16-A, Ayodhya Enclave, Sec-13, Rohini, Sector-7, North West Delhi 110085
- 7) Shri Sabu George partner of M/s Rainbow Shipping Services, office No. 220, Gokul Park Building, 2<sup>nd</sup> Floor Gandhidham 370201 residing at C-17, NU-4, near Sector 7 Sapna Nagar, Gandhidham, Kuchchh-370201
- 8) Shri Sanjeev Shekhar Malhotra, Proprietor of M/s JMV Enterprises, 216, Vishal Tower, Janakpuri, Delhi-110058.

**Copy for necessary action to: -**

- 1) The Deputy Commissioner of Customs, EDI Section, Mundra Customs HouseMundra Port, 5B, Port User Building, Mundra Port, Mundra, Kutch, Gujarat-370421
- 2) The Additional Director, Directorate of Revenue Intelligence (DRI), Ahmedabad Zonal Unit Zonal Unit 15, Magnet Corporate Park, Off S.G. Highway, Near Sola Over Bridge, Thaltej, Ahmedabad-380054.
- 3) Notice Board
- 4) DC/Prosecution/Legal Cell