



**OFFICE OF THE PRINCIPAL
COMMISSIONER OF CUSTOMS MUNDRA
COMMISSIONERATE
Custom House, Mundra (Kachchh)
MUNDRA PORT & SPL ECONOMIC ZONE,
MUNDRA-370421
PHONE No: 02838-271165/66/67/68,
FAX No.02838-271169/62**



| | | |
|----------|---------------------------------------|---|
| A | FILE NO. | GEN/ADJ/ADC/1077/2023-ADJN. |
| B | ORDER-IN- ORIGINAL NO | MCH/ADC/MK/97/2023-24 |
| C | PASSED BY | MUKESH KUMARI, ADDITIONAL COMMISSIONER OF CUSTOMS, CUSTOMS HOUSE, MUNDRA. |
| D | DATE OF ORDER | 30-06-2023 |
| E | DATE OF ISSUE | 30-06-2023 |
| F | SCN NO & DATE | GEN/ADJ/ADC/1077/2023-ADJN. DATED 23.06.2023 |
| G | NOTICEE / PARTY / IMPORTER | 1) M/s. JMD International, (IEC No 0509043704) Plot No. 132, Pocket 16, Sector 24, Rohini, Delhi -110085, 2) M/s. Unique Speditorer Pvt Ltd., (AABCU3257BCH001) Unique House, Plot No. 126, Sector 1/A, Gandhidham. |
| H | DIN NUMBER | 20230671MO0000555C90 |

1. The Order – in – Original is granted to concern free of charge.
2. Any person aggrieved by this Order – in – Original may file an appeal under Section 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. 1 to

**The Commissioner of Customs (Appeal), MUNDRA
4th floor, HUDCO Building, IshwarBhuvan Road,
Navrangpura, Ahmedabad– 380009.**

3. Appeal shall be filed within Sixty days from the date of Communication of this Order.
4. Appeal should be accompanied by a Fee of Rs. 5/- (Rupees Five Only) under Court Fees Act it must accompanied by (i) copy of the Appeal, (ii) this copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five Only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.
5. Proof of payment of duty / interest / fine / penalty / deposit should be attached with the appeal memo.
6. While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respect.
7. An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty or Penalty are in dispute, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE :

During the course of the Analysis of Import data for the period **26.04.2021 to 27.07.2022** in the Jurisdiction of Custom Gujarat Zone for “*PTFE products*” in light of

I/1267836/2023

Notification No. 25/2021 -Customs (ADD) dated 26.04.2021 was undertaken by the Data Analytics Cell of CCO, Customs Gujarat Zone, wherein it was found that ADD was not paid in respect of Import of Goods by M/s. JMD International, Plot No. 132, Pocket 16, Sector 24, Rohini, Delhi -110085, IEC No 0509043704 (hereinafter referred as the Noticee) had in respect of following Bills of Entry filed through Customs Broker M/s. Unique Speditiorer Pvt Ltd., (AABCU3257BCH001) for import of “Plastic Teflon Tape” as detailed below under CTH 39199090 having Republic of China as Country of Origin :

| BE Date | BE Number | ITEM NO. | Full Item Description | Assessable Value Amount | BCD Amt. Rs. | QTY in Kgs | weight in MTS | ADD AMT PAID | ADD leviable @ 2637/- USD / PMT |
|----------|-----------|----------|-----------------------|-------------------------|--------------|------------|---------------|--------------|---------------------------------|
| 12-04-22 | 8243436 | 3 | PLASTIC TEFLON TAPE | 61859.38 | 6185.9 | 590 | 0.590 | 0 | 121354.74 |
| 11-07-22 | 9505957 | 3 | PLASTIC TEFLON TAPE | 81270.74 | 8127.1 | 762 | 0.762 | 0 | 156732.73 |
| 17-05-22 | 8709535 | 2 | PLASTIC TEFLON TAPE | 90383.5 | 13557.5 | 580 | 0.580 | 0 | 119297.88 |
| 09-08-21 | 4987564 | 4 | PLASTIC TEFLON TAPE | 104803.93 | 10480.4 | 1150 | 1.150 | 0 | 236538.9 |
| 09-08-21 | 4987564 | 5 | PLASTIC TPU TAPE | 226467.62 | 22646.8 | 2840 | 2.840 | 0 | 0 |
| 03-11-21 | 6121069 | 5 | PLASTIC TEFLON TAPE | 91983.3 | 9198.3 | 800 | 0.800 | 0 | 164548.8 |
| 11-09-21 | 5395230 | 4 | PLASTIC TEFLON TAPE | 25238.9 | 2523.9 | 250 | 0.250 | 0 | 51421.5 |
| 02-09-21 | 5286062 | 5 | PLASTIC TEFLON TAPE | 41749.25 | 4174.9 | 450 | 0.450 | 0 | 92558.7 |
| 03-02-22 | 7343262 | 2 | PLASTIC TEFLON TAPE | 97658.69 | 9765.9 | 950 | 0.950 | 0 | 195401.7 |

2. As per Notification No. 25/2021-Customs (ADD) Dated 26.04.2021, Anti-Dumping Duty (ADD) is leviable on the subject goods, the description of which is specified in column (3) of the Table below, specification of which is specified in column (4), falling under tariff heading of the First Schedule to the Customs Tariff Act, specified in the corresponding entry in column (2), originating in the countries specified in the corresponding entry in column (5), exported from the countries specified in the corresponding entry in column (6), produced by the producers specified in the corresponding entry in column (7), exported by the exporters specified in the corresponding entry in column (8) and imported into India, an anti-dumping duty at the rate equal to the amount specified in the corresponding entry in column (9), in the currency specified in the corresponding entry in column (11) and as per unit of measurement specified in the corresponding entry in column (10) of the said Table 1:

| S.No. | Tariff heading | Description of goods | Specification | Country of origin | Country of export | Producer | Exporter | Amount | Unit | Currency |
|-------|--|---|---------------|-------------------|-------------------|----------|----------|--------|------|-----------|
| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) | (9) | (10) | (11) |
| 1. | 3904, 3907, 3910, 3916, 3917, 3918, 3919, 3920, 3921, 3922, | Polytetrafluoroethylene (PTFE) Products * | Any | China PR | China PR | Any | Any | 2637 | MT | US Dollar |

| | | | | | | | | | | |
|----|---|---|-----|-----------------------------------|-----------------------------------|-----|-----|------|----|-----------|
| | 3923, 3924, 3925, 3926 | | | | | | | | | |
| 2. | 3904, 3907, 3910, 3916, 3917, 3918, 3919, 3920, 3921, 3922, 3923, 3924, 3925, 3926 | Polytetrafluoroethylene (PTFE) Products * | Any | China PR | Any other than Russia or China PR | Any | Any | 2637 | MT | US Dollar |
| 3. | 3904, 3907, 3910, 3916, 3917, 3918, 3919, 3920, 3921, 3922, 3923, 3924, 3925, 3926 | Polytetrafluoroethylene (PTFE) Products * | Any | Any other than Russia or China PR | China PR | Any | Any | 2637 | MT | US Dollar |

* includes PTFE Products or Processed PTFE Components, including and not limited to bush, rod, sheet, tape, tube and thread seal tape.

Table 1

CTH:3904, 3907, 3910, 3916, 3917, 3918, 3919, 3920, 3921, 3922, 3923, 3924, 3925, 3926 of Customs Tariff incorporates goods as listed below:

| Tariff Item | Description of goods |
|-------------|--|
| 3904 | POLYMERS OF VINYL CHLORIDE OR OF OTHER HALOGENATED OLEFINS, IN PRIMARY FORMS |
| 3907 | POLYACETALS, OTHER POLYETHERS AND EPOXIDE RESINS, IN PRIMARY FORMS; POLYCARBONATES, ALKYD RESINS, POLYALLYLESTERS AND OTHER POLYESTERS, IN PRIMARY FORMS |
| 3910 | SILICONES IN PRIMARY FORMS |
| 3916 | MONOFILAMENT OF WHICH ANY CROSSSECTIONAL DIMENSION EXCEEDS 1MM, RODS, STICKS AND PROFILE SHAPES, WHETHER OR NOT SURFACE-WORKED BUT NOT OTHERWISE WORKED, OF PLASTICS |

| | |
|------|--|
| 3917 | TUBES, PIPES AND HOSES, AND FITTINGS THEREFOR (FOR EXAMPLE, JOINTS, ELBOWS, FLANGES), OF PLASTICS |
| 3918 | FLOOR COVERINGS OF PLASTICS, WHETHER OR NOT SELF-ADHESIVE, IN ROLLS OR IN THE FORM OF TILES; WALL OR CEILING COVERINGS OF PLASTICS, AS DEFINED IN NOTE 9 TO THIS CHAPTER |
| 3919 | SELF-ADHESIVE PLATES, SHEETS, FILM, FOIL, TAPE, STRIP AND OTHER FLAT SHAPES, OF PLASTICS, WHETHER OR NOT IN ROLLS |
| 3920 | OTHER PLATES, SHEETS, FILM, FOIL AND STRIP, OF PLASTICS, NON-CELLULAR AND NOT REINFORCED, LAMINATED, SUPPORTED OR SIMILARLY COMBINED WITH OTHER MATERIALS |
| 3921 | OTHER PLATES, SHEETS, FILM, FOIL AND STRIP, OF PLASTICS |
| 3922 | BATHS, SHOWER-BATHS, SINKS, WASH-BASINS, BIDETS, LAVATORY PANS, SEATS AND COVERS, FLUSHING CISTERNS AND SIMILAR SANITARY WARE, OF PLASTICS |
| 3923 | ARTICLES FOR THE CONVEYANCE OR PACKING OF GOODS, OF PLASTICS; STOPPERS, LIDS, CAPS AND OTHER CLOSURES, OF PLASTICS |
| 3924 | TABLEWARE, KITCHENWARE, OTHER HOUSEHOLD ARTICLES AND HYGIENIC OR TOILET ARTICLES, OF PLASTICS |
| 3925 | BUILDERS' WARE OF PLASTICS, NOT ELSEWHERE SPECIFIED OR INCLUDED |
| 3926 | OTHER ARTICLES OF PLASTICS AND ARTICLES OF OTHER MATERIALS OF HEADINGS 3901 TO 3914 |

3. Whereas, it appears that the goods imported by Noticee vide above said eight (08) Bills of Entry under description "PLASTIC TEFLON Tape" a PTFE Products classified under Customs Tariff Heading 39269099 / 39219099 are imported after 26th April 2021 (effected date of Notification No. 25/2021 -Customs (ADD) dated 26.04.2021) and thus, ADD was leviable in light of Notification No. 25/2021 -Customs (ADD) dated 26.04.2021. Whereas, it appears that ADD was not paid in respect of the above-mentioned imported items (except item 05 of BE 4987564 dated 09.08.2021) in aforesaid eight (08) Bills of Entry.

4. Further, it appears that on the aforesaid goods imported vide aforesaid Bills of Entry (Except BE No. 8709535 dated 17.05.2022), noticee had availed benefit of duty exemption of Sr. No. 9 of Notification 057/2017 Cus. Dated 30.06.2017 as amended by Notification 22/2018-Cus dated 02.02.2018.

4.2 The Notification No. 57/2017- Customs dated 30-06-2017, which prescribe Basic Customs Duty rates on certain electronic goods, as amended vide Notification No. 22/ 2018- Customs dated 02-02-2018, and further amend Notification No. 57/ 2017- Custom dated 30-06-2017 so as to provide effective rates of Basic Customs Duty on specified parts of cellular mobile phones and other electronic goods, reads as under:

TABLE

| S.No. | Chapter or Heading or Sub-heading or tariff item | Description of goods | Standard rate | Condition No. |
|--------------|---|-----------------------------|--------------------------|--------------------------|
| (1)(2) | (3) | (4) | (5) | |
| 1.4016 99 90 | The following goods for use in manufacture of cellular mobile phones, namely :- (i)Microphone Rubber Case (ii)Sensor Rubber Case / Sealing Gasket including sealing gaskets / cases from Rubbers like SBR, EPDM, CR, CS, Silicone and all other individual rubbers or combination / combination of rubbers | | 10% | 1 |
| 2.7318 15 00 | Screw for use in manufacture of cellular mobile phone | | 10% | 1 |
| 3.7326 90 99 | SIM socket / Other Mechanical items (Metal) for use in manufacture of cellular mobile phones | | 10% | 1 |
| 4.8517 12 | Telephones for other wireless networks, other than | Nil | | - |

| | | | |
|---------------|--|-----|---|
| 5.8517 70 90 | (a) All goods other than the parts of cellular mobile phones (b) Inputs or sub-parts for use in manufacture of parts mentioned at (a) above | Nil | - |
| 6.Any Chapter | (a) The following goods for use in manufacture of cellular mobile phones, namely :- | Nil | 1 |
| | (i)Printed Circuit Board Assembly (PCBA) (ii)Camera Module (iii)Connectors (iv)Display Assembly (v)Touch Panel / Cover Glass Assembly (vi)Vibrator Motor / Ringer | | |
| | (b) Inputs or parts for use in manufacture of items mentioned at (a) above | Nil | 1 |
| | (c) Inputs or sub-parts for use in manufacture of parts mentioned at (b) above | Nil | 1 |
| 7.Any Chapter | Inputs or raw material for use in manufacture of following parts of Cellular mobile phones; | Nil | 1 |
| | (i)Charger or adapter (ii)Battery pack | | |

(iii)Wired Headset
 (iv)Battery cover
 (v)Front cover
 (vi)Front cover (with Zinc Casting)
 (vii)Middle cover
 (viii)GSM Antenna / Antenna of any
 technology
 (ix)Side Key
 (x)Main Lens
 (xi)Camera Lens
 (xii)Screw
 (xiii)Microphone Rubber Case
 (xiv)Sensor Rubber Case / Sealing Gasket
 including sealing gaskets / cases from
 Rubbers like SBR, EPDM, CR, CS,
 Silicone and all other individual rubbers
 or combination / combination of rubbers
 (xv)PU case / Sealing Gasket – Other articles
 of Polyurethane foam like sealing
 gaskets / case
 (xvi)Sealing Gaskets / Cases from PE, PP,
 EPS, PC and all other individual
 polymers or combination / combination
 of polymers
 (xvii)SIM socket / Other Mechanical items
 (Metal)
 (xviii)SIM Socket / Other Mechanical items
 (Plastic)
 (xix)Back Cover
 (xx)Conductive Cloth
 (xxi)Heat Dissipation Sticker Battery Cover
 (xxii)Sticker-Battery Slot
 (xxiii)Protective Film for main Lens
 (xxiv)Mylar for LCD FPC

 (xxv)LCD Conductive Foam
 (xxvi)Film-Front Flash
 (xxvii)LCD Foam
 (xxviii)BT Foam
 (xxix)Microphone and Receiver
 (xxx)Key Pad
 (xxxi)USB Cable

8. Any Chapter Inputs or raw material for use manufacture of NIL 1
 Following goods namely:-

i. Other machines capable of connecting to an automatic data processing machine or to

| | | |
|--|---|----|
| a network(8443 32 90) | | |
| ii. Ink cartridges, with print head assembly(8443 99 51) | | |
| iii. Ink Cartridges, without print head assembly(8443 99 52) | | |
| iv. Ink Spray Nozzle (8443 99 53) | | |
| v. Base Stations(8517 61 00) | | |
| vi. All goods falling under tariff item 8517 62 90 | | |
| vii. All goods falling under tariff item 8517 69 90 | | |
| 9. 3919 90 90 | All goods other than the following Parts or sub-parts of accessories of cellular mobile phones, namely:- | 10 |
| i. Heat Dissipation Sticker Battery Cover | | |
| ii. Sticker Battery Slot | | |
| iii. Protective Films for main Lens | | |
| iv. Mylar for LCD FPC | | |
| v. Film-Front Flash | | |

4.3 The Notification No. 57/ 2017-Custom dated 30-06-2017, as amended vide Notification No. 22/ 2018-Custom dated 02-02-2018, was predominantly issued to extend the benefit of concessional rate of basic customs duty to the manufacturers of the cellular mobile phones. It also further appears from the each and every entry of the said notification that it is intended for manufacturers of the cellular mobile phones. It also appears that Notification No. 57/ 2017- Customs dated 30-06-2017, intends to prescribe Basic Customs Duty rates on certain electronic goods, was amended vide Notification No. 22/2018- Customs dated 02-02-2018, further amend Notification No. 57/ 2017-Custom dated 30-06-2017 so as to prescribe effective rates of Basic Customs Duty on specified parts of cellular mobile phones and other electronic goods. Thus, it appears that the benefit of concessional rate of duty as envisaged under SI. No. 9 of Notification No. 57/ 2017-Custom dated 30-06-2017, as amended vide Notification No. 22/ 20 18-Custom dated 02-02-2018 is not admissible to the importer, not being related to any activity of mobile phone manufacturing.

4.4 Whereas, aforesaid goods imported vide aforesaid Bills of Entry classified under CTH 39199090 are having applicable rate of Duty @ 15% + SWS + ADD + IGST at applicable rate thereon. On going through aforesaid Bills of Entry (except BE No. 8709535 dated 17.05.2022), it is observed that, the noticee had availed benefit of duty exemption of Sr. No. 9 of Notification 057/2017 Cus. Dated 30.06.2017 as amended by Notification 22/2018-Cus dated 02.02.2018 and had paid duty @ 10% of BCD + SWS + IGST at applicable rate thereon, thereby short paid Duty by 5% + SWS + ADD + IGST thereon as shown in Table II below.

4.5 Therefore, it appears that total duty (BCD, SWS, ADD & IGST) amounting to Rs.13,59,794/- (**Detailed as per Table-II below**) have been short paid by the noticee in respect of the above-mentioned imported 09 items in above said eight (08) Bills of Entry, which are required to be recovered under Section 28(4) of Customs Act, 1962 read with

Section 5 of the Integrated Goods and Service Tax Act, 2017 along with interest as applicable rate under Section 28AA of the Customs Act, 1962.

Table- II

| BE Date | BE Number | ITEM NO. | QTY IN MTS | Assessable Value Amount | Rate of per MT Anti Dumping Duty Per MT | Exchange Rate 1 USD = INR | Benefit of Notf 057/2017 Sr.No.09 availed | Duty paid | | | | |
|---------------|-----------|----------|------------|-------------------------|---|---------------------------|---|--------------|----------|-----|-----------|---------------|
| | | | | | | | | BCD @10/ 15% | SWS @10% | ADD | IGST @18% | Total paid |
| 12-04-22 | 8243436 | 3 | 0.590 | 61859 | USD 2637/- | 77 | Yes | 6186 | 619 | 0 | 12360 | 19164 |
| 11-07-22 | 9505957 | 3 | 0.762 | 81271 | USD 2637/- | 80 | Yes | 8127 | 813 | 0 | 16238 | 25178 |
| 17-05-22 | 8709535 | 2 | 0.580 | 90384 | USD 2637/- | 77 | Not availed | 13558 | 1356 | 0 | 18953 | 33867 |
| 09-08-21 | 4987564 | 4 | 1.150 | 104804 | USD 2637/- | 75 | Yes | 10480 | 1048 | 0 | 20940 | 32468 |
| 09-08-21 | 4987564 | 5 | 2.840 | 226468 | 0 | 75 | Yes | 22647 | 2265 | 0 | 45248 | 70160 |
| 03-11-21 | 6121069 | 5 | 0.800 | 91983 | USD 2637/- | 76 | Yes | 9198 | 920 | 0 | 18378 | 28496 |
| 11-09-21 | 5395230 | 4 | 0.250 | 25239 | USD 2637/- | 74 | Yes | 2524 | 252 | 0 | 5043 | 7819 |
| 02-09-21 | 5286062 | 5 | 0.450 | 41749 | USD 2637/- | 75 | Yes | 4175 | 417 | 0 | 8342 | 12934 |
| 03-02-22 | 7343262 | 2 | 0.950 | 97659 | USD 2637/- | 75 | Yes | 9766 | 977 | 0 | 19512 | 30255 |
| 821415 | | | | | | | | | | | | 260340 |

| Duty payable | | | | | Duty difference | | | | |
|--------------|-----------|----------------------|-----------|----------------|-----------------|---------|--------|--------------|------------------|
| BCD @ 15% | SWS @ 10% | ADD Rs.2637/- Per MT | IGST @18% | Total payable | BCD @15 | SWS@10% | ADD | IGST @18% | Total difference |
| 9279 | 928 | 119488 | 34480 | 164174 | 3093 | 309 | 119488 | 22120 | 145010 |
| 12191 | 1219 | 160551 | 45942 | 219902 | 4064 | 406 | 160551 | 29704 | 194724 |
| 13558 | 1356 | 117845 | 40166 | 172924 | 0 | 0 | 117845 | 21212 | 139057 |
| 15721 | 1572 | 227745 | 62971 | 308009 | 5240 | 524 | 227745 | 42032 | 275540 |
| 33970 | 3397 | 0 | 47490 | 84857 | 11323 | 1132 | 0 | 2242 | 14698 |
| 13797 | 1380 | 159908 | 48072 | 223157 | 4599 | 460 | 159908 | 29694 | 194661 |
| 3786 | 379 | 48752 | 14068 | 66984 | 1262 | 126 | 48752 | 9025 | 59165 |
| 6262 | 626 | 89236 | 24817 | 120942 | 2087 | 209 | 89236 | 16476 | 108008 |
| 14649 | 1465 | 188638 | 54434 | 259185 | 4883 | 488 | 188638 | 34922 | 228931 |
| TOTAL | | | | 1620134 | | | | TOTAL | 1359794 |

5. Letter to the Noticee vide letter F. No. CUS/APR/BE/2446/2022-Gr2-O/o Pr Commr-CUS-Mundra dated 05.11.2022 (DIN No 20221171MO00009429BC) has been issued to make payment of differential duty along with interest i.r.o the aforesaid Bs/E, however no reply has been received yet. As no response is received from the Noticee, this office proceeds to issue the notice to the Noticee without any further communication.

6. Now therefore, M/s. JMD International, Plot No. 132, Pocket 16, Sector 24, Rohini, Delhi -110085, (IEC No 0509043704) is hereby called upon to show cause within 30 days from the date of Issue of this Notice or Date of Receipt of this Notice, in writing to

the Additional Commissioner of Customs, Custom House, Mundra having office at 1st Floor, Custom House, 5B, Port User Building, Mundra port, Mundra (Kuchchh), as to why:

- i. The benefit of duty exemption of Sr. No. 9 of Notification 057/2017 Cus. Dated 30.06.2017 as amended by Notification 22/2018-Cus dated 02.02.2018 in the aforesaid Bills of Entry (except BE No. 8709535 dated 17.05.2022) should not be rejected and accordingly, Bills of Entry should not be re-assessed.
- ii. The differential amount of duty (BCD alongwith applicable SWS, ADD & IGST thereon) total amounting to Rs.13,59,794/- (Rupees Thirteen Lakh Fifty Nine Thousand Seven Hundred & Ninty Four only), as detailed in the table-II of para-5 above, leviable on the impugned goods and short / not paid by them should not be demanded and recovered from them in terms of Section 28(4) of the Customs Act, 1962 read with Section 5 of Integrated Goods and Service Tax Act, 2017 along with applicable interest under Section 28AA of the Customs Act, 1962 read with Section 50 of the Central Goods and Service Tax Act, 2017.
- iii. Goods imported vide Bills of Entry mentioned in (as detailed in the table-II of para-5 above), which were self-assessed and have already been cleared, having assessable value of Rs.8,21,415/- (Rupees Eight Lakhs Twenty One Thousand Four Hundred Fifteen only) should not be confiscated under Section 111 (m) read with Section 46(4) and 46(4A) of the Customs Act, 1962. However, the said goods are already cleared and are not available for confiscation.
- iv. Penalty under Section 112(a) and/or Section 114 A and 114 AA of the Customs Act, 1962 should not be imposed on M/s. JMD International, in respect of each of Bill of Entry.
- v. Customs Broker namely M/s. Unique Speditorer Pvt Ltd., (AABCU3257BCH001) as to why Penalty under Section 117 of the Customs Act, 1962, should not be imposed on them who have failed to discharge his duties in terms of Sub-clause (d), (e), (m) & (n) of Regulation 10 of Customs Brokers Licensing Regulations Act 2018.

7. WRITTEN SUBMISSION

7.1 M/s JMD International, vide their letter Dated 13.06.2023, interalia, submitted that, they were in receipt of Consultative Letter / Demand Notice, wherein it was stated that they have not paid the Anti Dumping Duty which is otherwise applicable on Imports of Teflon Tapes; the demand has been raised as per the Bills of Entry annexed to the Notice and they have paid the amount of Anti-Dumping Duty of Rs.11,37,849/- as demanded by the Department vide above notice alongwith applicable Interest of Rs.245300/- vide Challan Dated 12.06.2023.

7.1.2 Further, vide letter Dated 22.06.2023, interalia, mentioned that, they were in receipt of Notice to pay Differential Duty of Rs. 1359794/- alongwith Interest and Penalty on account of Non Payment of Anti-Dumping Duty and denial of Benefit of Notification No. 57/2018-Customs.

7.1.2.2 Further, stated that, demand was raised by Department to pay Anti-Dumping

Duty of Rs.11,37,849/- alongwith applicable Interest; against which they paid they have paid the amount of Anti-Dumping Duty of Rs.11,37,849/- as demanded by the Department vide above notice alongwith applicable Interest of Rs.245300/- vide Challan Dated 12.06.2023. No penalty was to be paid in the said Notice.

7.1.2.3 Raised demand on Dated 13.06.2023 an amount of Rs. 13,59,794/- inclusive of the above amount of Rs.11,37,849/-, therefore difference amount of Rs.2,21,945/- the same is paid with Interest of Rs.48,486/- and reduced penalty of Rs.33,292/- vide Challan Dated 21.06.2023 and requested to close the matter.

7.2 M/s Unique Speditorer Pvt. Ltd., vide their letter Dated 27.06.2023, reuttered the submission by the Importer and also requested to drop the proceeding against them as Co-Noticee.

8. DISCUSSION & FINDING

8.1 I gone through the Consultative Letter, Show Cause Notice, and submission made by the Importer as well as Customs Broker (Co-Noticee) wherein alleged that,

M/s. JMD International, Plot No. 132, Pocket 16, Sector 24, Rohini, Delhi - 110085, (IEC No 0509043704) is hereby called upon to show cause within 30 days from the date of Issue of this Notice or Date of Receipt of this Notice, in writing to the Additional Commissioner of Customs, Custom House, Mundra having office at 1st Floor, Custom House, 5B, Port User Building, Mundra port, Mundra (Kuchchh), as to why:

- i. The benefit of duty exemption of Sr. No. 9 of Notification 057/2017 Cus. Dated 30.06.2017 as amended by Notification 22/2018-Cus dated 02.02.2018 in the aforesaid Bills of Entry (except BE No. 8709535 dated 17.05.2022) should not be rejected and accordingly, Bills of Entry should not be re-assessed.
- ii. The differential amount of duty (BCD alongwith applicable SWS, ADD & IGST thereon) total amounting to Rs.13,59,794/- (Rupees Thirteen Lakh Fifty Nine Thousand Seven Hundred & Ninty Four only), as detailed in the table-II of para-5 above, leviable on the impugned goods and short / not paid by them should not be demanded and recovered from them in terms of Section 28(4) of the Customs Act, 1962 read with Section 5 of Integrated Goods and Service Tax Act, 2017 along with applicable interest under Section 28AA of the Customs Act, 1962 read with Section 50 of the Central Goods and Service Tax Act, 2017.
- iii. Goods imported vide Bills of Entry mentioned in (as detailed in the table-II of para-5 above), which were self-assessed and have already been cleared, having assessable value of Rs.8,21,415/- (Rupees Eight Lakhs Twenty One Thousand Four Hundred Fifteen only) should not be confiscated under Section 111 (m) read with Section 46(4) and 46(4A) of the Customs Act, 1962. However, the said goods are already cleared and are not available for confiscation.
- iv. Penalty under Section 112(a) and/or Section 114 A and 114 AA of the Customs Act, 1962 should not be imposed on M/s. JMD International, in respect of each of Bill of Entry.

v. Customs Broker namely M/s. Unique Speditorer Pvt Ltd., (AABCU3257BCH001) as to why Penalty under Section 117 of the Customs Act, 1962, should not be imposed on them who have failed to discharge his duties in terms of Sub-clause (d), (e), (m) & (n) of Regulation 10 of Customs Brokers Licensing Regulations Act 2018.

8.2 The case booked based on Analysis of Import data for the period **26.04.2021 to 27.07.2022** in the Jurisdiction of Custom Gujarat Zone for “*PTFE products*” in light of Notification No. 25/2021 -Customs (ADD) dated 26.04.2021 was undertaken by the Data Analytics Cell of CCO, Customs Gujarat Zone, wherein it was found that ADD was not paid in respect of Import of Goods by the Importer including M/s JMD International.

8.3 Accordingly, consultative letter was issued by the Department Demanding Differential Duty alongwith Interest, which the Importer had paid and inform vide their letter Dated 13.06.2023

8 . 4 Show Cause Notice was issued Demanding non payment of Anti-Dumping Duty, Differential Amount of Customs Duty alongwith applicable SWS and IGST, wherein the amount demanded in the Consultative Letter was added, therefore, there is duplication of Demand.

8.5 Further, on going through the submission by the Noticee, it is observed that, they paid Duty and Interest as demanded in the Consultative Letter and also Paid the Differential Amount (between Show Cause Notice and Consultative Letter) alongwith Interest and Reduced Penalty through Challan. Hence, there is no amount of Duty and Interest is payable; further reduced Penalty (as demanded) is also paid. Therefore, I find that, to continue with the litigation is not sustainable as well economically viable under the circumstances, taking lenient view in the matter, I propose to conclude the proceeding initiated vide impugned Show Cause Notice.

9. After going through all the facts mentioned above. I pass the following order.

ORDER

(1) I order to confirm the differential amount of duty (BCD alongwith applicable SWS, ADD & IGST thereon) total amounting to Rs.13,59,794/- (Rupees Thirteen Lakh Fifty Nine Thousand Seven Hundred & Ninty Four only), as detailed in the table-II of para-5 of the Notice, short / not paid by them in terms of Section 28(4) of the Customs Act, 1962 read with Section 5 of Integrated Goods and Service Tax Act, 2017.

Further, I order to appropriate the amount so paid by the Importer vide Challan Dated 12.06.2023 and 21.06.2023.

(2) I order to recover applicable Interest on differential amount of duty (BCD alongwith applicable SWS, ADD & IGST thereon) total amounting to Rs.13,59,794/- (Rupees Thirteen Lakh Fifty Nine Thousand Seven Hundred & Ninty Four only), in terms of Section 28AA of the Customs Act, 1962 read with Section 50 of the Central Goods and Service Tax Act, 2017.

Further, I order to appropriate the amount so paid by the Importer towards

I/1267836/2023

Interest vide Challan Dated 12.06.2023 and 21.06.2023.

(3) Further I order to appropriate the amount so paid as reduced Penalty vide Challan Dated 21.06.2023.

(4) I refrain from imposing any further Penalty on M/s. JMD International, Plot No. 132, Pocket 16, Sector 24, Rohini, Delhi -110085, IEC No 0509043704 as Noticee as well as to Customs Broker namely M/s. Unique Speditorer Pvt Ltd., (AABCU3257BCH001) as Co-Noticee, (AABCU3257BCH001).

10. This order is issued without prejudice to any other action which may be required to be taken against any person as per the provision of the Customs Act, 1962 or any other law for the time being in force.

**ADDITIONAL COMMISSIONER
CUSTOMS, MUNDRA**
30-06-2023

To,

1) M/s. JMD International, (IEC No 0509043704)
Plot No. 132, Pocket 16, Sector 24, Rohini, Delhi -110085,

2) M/s. Unique Speditorer Pvt Ltd., (AABCU3257BCH001)
Unique House, Plot No. 126,
Sector 1/A, Gandhidham.

Copy to:

1. The Dy. Commissioner (CCO), Customs Gujarat Zone, Ahmedabad, 2nf Floor, Custom House, Near All India Radio, Navrangpura, Ahmedabad i.r.o. DAC Analytics Note.2 dated 02.1.2022 issued vide F.No. CCCO/DICP/63/2022-Analytics, for information please.
2. The Dy. Commissioner (PCA), Customs House, Mundra with reference to DAC Analytics Note.2 dated 02.1.2022 for information please.
3. The Dy. Commissioner (Gr. II), Custom House, Mundra for information and necessary action for Adjudication of the said matter.
4. The Deputy Commissioner of Customs (RRA), Custom House, Mundra
5. The Deputy Commissioner of Customs (TRC), Custom House, Mundra
6. Guard File.



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