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|  | <p style="text-align: center;"> सीमा शुल्क के प्रधान आयुक्त का कार्यालय सीमा शुल्क सदन, मुंद्रा, कच्छ, गुजरात OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS CUSTOMS HOUSE, MUNDRA, KUTCH, GUJARAT <u>Phone No.02838-271165/66/67/68</u> <u>FAX.No.02838-271169/62,</u> <u>Email-adj-mundra@gov.in</u> </p> |  |
| A. File No. | : | GEN/ADJ/COMM/525/2024-Adjn-O/o Pr. Commr-Cus-Mundra |
| B. Order-in-Original No. | : | MUN-CUSTM-000-COM-32-25-26 |
| C. Passed by | : | Nitin Saini, Commissioner of Customs, Customs House, AP & SEZ, Mundra. |
| D. Date of order and Date of issue: | : | 04.11.2025. 04.11.2025 |
| E. SCN No. & Date | : | GEN/ADJ/COMM/525/2024 dated 07.11.2024. |
| F. Noticee(s) / Party / Importer | : | <ol style="list-style-type: none"> 1) M/s. JMV Enterprise (IEC-AUWPM9653R) 2) M/s Jai Maa Enterprises 3) M/s Skytex. 4) Shri Kapil Kotiya (Prop. of M/s Ocean Logistics) 5) Shri Arun Jyoti (Partner of M/s. Jai Maa Enterprise) 6) Shri Lakshay Lamba (Partner of M/s. Skytex) 7) Shri Sabu George 8) Shri Sanjeev Shekhar Malhotra (Prop. of M/s JMV Enterprises) |
| G. DIN | : | 20251171MO00008182E7 |

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

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

2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 129A(1) के अंतर्गत प्रपत्र सीए 3-में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

Any person aggrieved by this Order - in - Original may file an appeal under Section 129 A (1) (a) of Customs Act, 1962 read with Rule 6 (1) of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -3 to:

“केन्द्रीय उत्पाद एवं सीमा शुल्क और सेवाकर अपीलीय प्राधिकरण, पश्चिम जोनल पीठ, 2nd फ्लोर,

बहुमाली भवन, मंजुश्री मील कंपाउंड, गिर्धनगर ब्रिज के पास, गिर्धनगर पोस्ट ऑफिस, अहमदाबाद-380 004”

“Customs Excise & Service Tax Appellate Tribunal, West Zonal Bench, 2nd floor, Bahumali Bhavan, Manjushri Mill Compound, Near Girdharnagar Bridge, Girdharnagar PO, Ahmedabad 380 004.”

3. उक्त अपील यह आदेश भेजने की दिनांक से तीन माह के भीतर दाखिल की जानी चाहिए।

Appeal shall be filed within three months from the date of communication of this order.

4. उक्त अपील के साथ - / 1000 रूपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज, दंड या शास्ति रूपये पाँच लाख या कम माँगा हो 5000/- रूपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज, शास्ति या दंड पाँच लाख रूपये से अधिक किंतु पचास लाख रूपये से कम माँगा हो 10,000/- रूपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, दंड व्याज या शास्ति पचास लाख रूपये से अधिक माँगा हो। शुल्क का भुगतान खण्ड पीठ बैंचआहरितट्रिब्यूनल के सहायक रजिस्ट्रार के पक्ष में खण्डपीठ स्थित जगह पर स्थित किसी भी राष्ट्रीयकृत बैंक की एक शाखा पर बैंक ड्राफ्ट के माध्यम से भुगतान किया जाएगा।

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

5. उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत 5/- रूपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मदसं-6 के तहत निर्धारित 0.50 पैसे की एक न्यायालय शुल्क स्टाम्प वहन करना चाहिए।

The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paisa only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.

6. अपील ज्ञापन के साथ ऊटी/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये। Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.

7. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और CESTAT (प्रक्रिया) नियम, 1982 सभी मामलों में पालन किया जाना चाहिए।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and the CESTAT (Procedure) Rules 1982 should be adhered to in all respects.

8. इस आदेश के विरुद्ध अपील हेतु जहाँ शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहाँ केवल जुर्माना विवाद में हो, न्यायाधिकरण के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।

An appeal against this order shall lie before the Tribunal on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE:

M/s. JMV Enterprises (IEC No. AUWPM9653R) having address at 216, Vishal Tower, Janakpuri, Delhi-110058, (hereinafter referred to as "the Importer/M/s. JMV"), was 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 goods 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. 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 dated 12.11.2022, the goods in respect of B/E No. 1015305 dated 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 |
| Total | | | 791 | 792 | 50 | 39600 |

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/ 3030/01.12.2022 Dated-26.12.2022 | 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/ 3031/01.12.2022 Dated-26.12.2022 | | | | | White Woven Coated Fabric coated with compounded Polyurethane (PU) |
| 03 | RCL/AH/DRI/ 3032/01.12.2022 Dated-26.12.2022 | | | | | White Knitted Fabric having raised fibers, coated with compounded polyurethane (PU) |
| 04 | RCL/AH/DRI/ 3033/01.12.2022 Dated-26.12.2022 | | | | | White Knitted Fabric having raised fibers, coated with compounded polyurethane (PU) |
| 05 | RCL/AH/DRI/ 3034/01.12.2022 Dated-26.12.2022 | | | | | Dyed woven fabric coated with compounded polyurethane (PU) laminated with PVC film on one side. |
| 06 | RCL/AH/DRI/ 3035/01.12.2022 Dated-26.12.2022 | 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 attracts merit classification under CTI 59032090. The test reports 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.

6. In terms of Notification No. 14/2022-Customs (ADD) dated 20.05.2022, 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. 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 . 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. 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. 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. 12.11.2022 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 | 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 | 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: During the course of investigation, in order to collect the evidence/corroborative evidence statement of persons who were directly/indirectly involved in import of goods were recorded by the DRI under the provisions of Section 108 of Customs Act, 1962. The facts of statements of such persons have been mentioned in the Show Cause Notice and the records of statements thereof have been attached to Show Cause Notice as RUDs. For sake of brevity contents of statements of such persons are not produced hereunder. The details of the persons whose statements were recorded are as under: -

- Statement of Shri Sanjeev Shekhar Malhotra, Proprietor of M/s JMV Enterprises was recorded on 27.11.2022 under Section 108 of the Customs Act, 1962.
- Statement of Shri Kapil Kotiya, proprietor of M/s Ocean Logistics was recorded on 27.11.2022, 03.03.2023, 16.07.2024 under Section 108 of the Customs Act, 1962.
- Statement of Shri Ankur Mahajan Proprietor of M/s Bhagwati International was recorded on 28.12.2022 under Section 108 of the Customs Act, 1962.
- Statement of Shri Arun Jyoti Mahajan (Partner of M/s Jai Maa Enterprises) was recorded on 17.05.2023 under Section 108 of the Customs Act, 1962.
- Statement of Shri Narendrachand Ramniwas Moriya (Authorized person of Kishor Traders, Mumbai) was recorded on 10.02.2023 under Section 108 of the Customs Act, 1962.
- Statement of Shri Lakshay Lamba (Partner of M/s Skytex) was recorded on 14.02.2024 under Section 108 of the Customs Act, 1962.
- Statement of Shri Ashok Kumar (Accountant of M/s JRN Fabrics) was recorded on 07.06.2024 under Section 108 of the Customs Act, 1962.
- Statement of Shri Kunal Joshi (authorised person of M/s A.K. Fashions) was recorded on 27.06.2024 under Section 108 of the Customs Act, 1962.
- Statement of Sanjeev Shekhar Malhotra (Proprietor of M/s. JMV Enterprises) was recorded on 09.09.2024 under Section 108 of the Customs Act, 1962.

- Statement of Shri Kapil Kotiya (Proprietor of M/s. Ocean Logistics) was recorded on 19.09.2024 under section 108 of the Customs Act, 1962.
- Statement of Shri Arun Jyoti Mahajan (Partner of M/s. Jai Maa Enterprises) was recorded on 19.09.2024 under section 108 of the Customs Act, 1962.
- Statement of Shri Sabu George (Partner of M/s. Rainbow Shipping Services) was recorded on 03.10.2024 under section 108 of the Customs Act, 1962.

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 | - | <i>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)</i> | |
| 5911 20 00 | - | <i>Bolting cloth, whether or not made up</i> | |
| | - | <i>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) :</i> | |
| 5911 31 | -- | <i>Weighing less than 650 g/m²:</i> | |
| 5911 31 10 | --- | <i>Felt for cotton textile industries, woven</i> | 10% |
| 5911 31 20 | --- | <i>Woven textiles felt, whether or not impregnated or coated, of a kind commonly used in other machines</i> | 10% |
| 5911 31 30 | --- | <i>Cotton fabrics and articles used in machinery and plant</i> | 10% |
| 5911 31 40 | --- | <i>Jute fabrics and articles used in machinery or plant</i> | 10% |
| 5911 31 50 | --- | <i>Textile fabrics of metalized yarn of a kind commonly used in paper making or other machinery</i> | 10% |
| 5911 31 90 | --- | <i>Other</i> | 10% |
| 5911 32 | -- | <i>Weighing 650 g/m² or more:</i> | |
| 5911 32 10 | --- | <i>Felt for cotton textile industries, woven</i> | 10% |
| 5911 32 20 | --- | <i>Woven textiles felt, whether or not impregnated or coated, of a kind commonly used in other machines</i> | 10% |
| 5911 32 30 | --- | <i>Cotton fabrics and articles used in machinery and plant</i> | 10% |
| 5911 32 40 | --- | <i>Jute fabrics and articles used in machinery or plant</i> | 10% |
| 5911 32 50 | --- | <i>Textile fabrics of metalized yarn of a kind commonly used in paper making or other machinery</i> | 10% |

| | | | |
|------------|-----|---|-----|
| 5911 32 90 | --- | Other | 10% |
| 5911 40 00 | - | <i>Filtering or Straining cloth of a kind used in oil presses or the like, including that of human hair</i> | |
| 5911 90 | - | Other | |
| 5911 90 10 | --- | <i>Paper maker's felt, woven</i> | 10% |
| 5911 90 20 | --- | <i>Gaskets, washers, polishing discs and other machinery parts of textile articles</i> | 10% |
| 5911 90 90 | --- | Other | 10% |

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

| 5603 | | NONWOVEN, WHETHER OR NOT IMPREGNATED, COATED, COVERED OR LAMINATED | Effective Rate of Duty |
|-------------|-----|--|-------------------------------|
| | - | <i>Of man-made filaments:</i> | |
| *560311 | -- | <i>Weighing not more than 25 g/m²</i> | 20% |
| *56031110 | -- | <i>Crop covers, conforming to IS 16366</i> | 20% |
| *56031190 | --- | <i>Others</i> | 20% |
| 56031200 | | <i>Weighing more than 25 g/m² but not more than 70 g/m²</i> | *20% |
| 56031300 | -- | <i>Weighing more than 70 g/m² but not more than 150 g/m²</i> | *10% |
| 56031400 | - | <i>Weighing more than 150 g/m²</i> | *20% |
| | | <i>Other :</i> | |
| 56039100 | -- | <i>Weighing not more than 25 g/m²</i> | *10% |
| 56039200 | -- | <i>Weighing more than 25 g/m² but not more than 70 g/m²</i> | *20% |
| *560393 | -- | <i>Weighing more than 70 g/m² but not more than 150 g/m²</i> | |
| *56039310 | --- | <i>Mulch Mats, conforming to IS 17355</i> | 10% |
| *56039390 | --- | <i>Other</i> | 10% |
| *560394 | --- | <i>Weighing more than 150 g/m² :</i> | |
| *56039410 | --- | <i>Non-woven Geotextile and articles thereof, conforming to IS 16391, IS 16392</i> | 20% |
| *56039420 | --- | <i>Mulch Mats, conforming to IS 17355</i> | 20% |
| *56039490 | --- | <i>Other</i> | 20% |

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

| 5903 | | Textile Fabrics, Impregnated, Coated, Covered or Laminated with Plastics, Other Than Those of Heading 5902 | Effective Rate of Duty |
|-------------|---|---|-------------------------------|
| 5903 10 | - | <i>With Polyvinyl Chloride:</i> | - |

| | | | |
|------------|-----|---|-----|
| 5903 10 10 | --- | <i>Imitation leather fabrics of cotton</i> | 20% |
| 5903 10 90 | --- | <i>Other</i> | 20% |
| 5903 20 | - | <i>With Polyurethane:</i> | - |
| 5903 20 10 | --- | <i>Imitation leather fabrics, of cotton</i> | 20% |
| 5903 20 90 | --- | <i>Other</i> | 20% |
| 5903 90 | - | <i>Other:</i> | - |
| 5903 90 10 | --- | <i>Of cotton</i> | 20% |
| 5903 90 20 | --- | <i>Polyethylene laminated jute fabrics</i> | 20% |
| 5903 90 90 | --- | <i>Other</i> | 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 | | | 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 | 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 |
| 3 | 22/JMV/1015305 Dated-18.11.2022 | RCL/AH/DRI/3032/01. 12.2022 Dtd-26.12.2022 | | | 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 | | | 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 | | | 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 | 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 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 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 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 was perused with Panchnama dated 16.12.2023 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 liable 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 appeared 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 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, 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 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 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 SWS 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 –

TABLE-6

SEZ to DTA Bill of Entry No.2015500 dt. 10.10.2022 (Total A.V. Rs.25,38,347/-)

Exchange Rate- 82.45

| 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 |
| DIFFERENTIAL DUTY EVADED Rs. (9,30,050 – 6,17,326) | | | | | | | | 3,12,724 |

16. In view of the above facts, it appeared that M/s. JMV Enterprise had indulged themselves in the evasion of Customs Duty by way of mis-declaration 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. Role and culpability of the importer/person/firm involved -

17.1 Role and culpability of Shri Kapil Kotiya:

17.1.1 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.

17.1.2 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 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 wifes 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.

17.1.3 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 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.

17.1.4 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 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

17.1.5 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 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.

17.1.6 Shri Lakshay Lamba, Partner of M/s. Skytex, in his statement recorded on 14.02.2024 u/s. 108 of Customs Act, 1962 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.

17.1.7 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-reas 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.

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

17.2.1 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 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.

17.2.2 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 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.

17.2.3 Shri Narendrachand Ramniwas Moriya S/o Shri Ramniwas Moriya, Authorized person of M/s.Kishor Traders, Mumbai, in statement recorded on 10.02.2023 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 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.

17.2.4 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-reas 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.

17.2.5 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 caused 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.

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

17.3.1 Shri Lakshay Lamba, Partner of M/s. Skytex, in his statement recorded on 14.02.2024 u/s. 108 of Customs Act, 1962 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.

17.3.2 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 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 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.

17.3.3 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 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. 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.

17.3.4 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-reas in the whole act of defrauding the Govt Exchequer by evading the applicable payment of Customs Duty.

17.3.5 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 caused 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.

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

17.4.1 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 & 09.09.2024 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.

17.4.2 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, 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.

17.4.3 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, 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.

17.4.4 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, 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.

17.4.5 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-reas in the whole act of defrauding the Govt Exchequer by evading the applicable payment of Customs Duty.

17.4.6 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.

18. 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 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 an 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.

19. 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.07-09-202 | 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: -

20. From the evidences as elaborated in foregoing paras as well as confirmatory statements on record it appeared 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.

21. It also appeared 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.

22. Further, it also appeared 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.

23. 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 or 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.

24. PAYMENT OF ANTI-DUMPING DUTY AND INTEREST: - 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 as detailed below:

| S. No | DD No. & Date | Challan No. & Date | Amount | Remark |
|--------------|--------------------------|-------------------------------|---------------|---------------|
| . | | | | |

| | | | | |
|--------------|---|--|----------------------|--|
| 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 |
| 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 |
| 3 | 558604 dt. 14.02.2024 issued by Indusind Bank | TR-6/GAR 7 Challan No.CI/ENQ-02/2024/J MV-IGST/2 | 7,51,003/- | Voluntary Payment of IGST on Anti-dumping duty |
| 4 | 558605 dt. 14.02.2024 issued by Indusind Bank | TR-6/GAR 7 Challan No.CI/ENQ-02/2024/J MV-IGST/1 | 4,63,040/- | Voluntary Payment of IGST on Anti-dumping duty |
| Total | | | 1,13,31,070/- | |

25.1 Accordingly, in respect of goods imported and mentioned in TABLE-5.6 & TABLE-5.7 at Para 14.6 to the SCN, which were seized and released provisionally on submission of Bond and Bank Guarantee, **M/s. JMV Enterprise (IEC-AUWPM9653R)** and **M/s Jai Maa Enterprises** were called upon to show cause 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 the SCN.

(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 the 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 the 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.

25.2. Further, 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 the Show Cause Notice **M/s. JMV Enterprise (IEC-AUWPM9653R), M/s Jai Maa Enterprises and M/s Skytex** were called upon to show cause 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 the 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 the 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 Eight only) in respect of above Bills of Entry as also mentioned in TABLE-5.1 to TABLE-5.5 of Para 14.6 to the 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 the 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 the 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.

25.3. Further, 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 the Show Cause Notice, were also individually and separately called upon to show cause 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 | M/s. JMV Enterprises | 112(a) | 112(b) | | | |
| 2 | Shri Sanjeev Shekhar Malhotra , Proprietor of M/s JMV Enterprises | | | | | 117 |
| 3 | Shri Arun Jyoti , Partner of M/s. Jai Maa Enterprise | 112(a) | 112(b) | | 114AA | |
| 4 | Shri Lakshay Lamba , Partner, M/s Skytex | 112(a) | 112(b) | | 114AA | |
| 5 | Shri Kapil Kotiya , proprietor of M/s Ocean Logistics | 112(a) | 112(b) | | 114AA | |
| 6 | Shri Sabu George , G Card Holder | | | | | 117 |
| 7 | M/s. Jai Maa Enterprises | | | 114A | | |
| 8 | M/s Skytex | | | 114A | | |

26. WRITEEN SUBMISSIONS

26.1 M/s JMV Enterprises (Noticee No. 1) and Shri Sanjeev Malhotra (Noticee No. 8), Proprietor of M/s. JMV Enterprises, submitted their written submission dated 08.10.2025 submitted through their authorized representative Shri Sunil Kumar (Advocate), wherein they made the following submissions:

(i) Goods are correctly declared and classified and Test Report align with declaration: The Noticees have submitted that the SCN erroneously contends that the goods were mis-declared as "Felt Woven Coated Fabric" under CTH 59119090, asserting they merit classification under CTH 59032090 as PU-coated fabrics. This assertion is fundamentally flawed, as the CRCL test reports unequivocally corroborate his declaration. For instance: Numerous samples are identified as "white woven coated fabric coated with compounded polyurethane (PU)" (e.g., RUD Nos. 2-3) or "white knitted fabric having raised fibers, coated with compounded polyurethane (PU)" (RUD Nos. 4-5). The presence of "raised fibres" is characteristic of felt fabrics, and the coating with "compounded polyurethane" (a mixture, not pure PU) aligns with "coated fabric" in trade understanding.

Other reports describe "dyed woven fabric coated with compounded polyurethane (PU) laminated with PVC film on one side" (RUD No. 6) or "dyed woven

fabric coated with compounded polyurethane (PU)" (RUD No. 7), indicating specialized textiles rather than simplistic PU-coated materials.

Noticee declaration was made in good faith, predicated on supplier documents, chemical composition and physical inspection. The SCN fails to adduce any positive evidence of intentional mis-declaration, such as forged documents or concealed facts. Mere reliance on DRI intelligence, absent corroborative proof, cannot sustain allegations of evasion. It is a well settled principle that the burden to prove mis-declaration lies squarely on the department, requiring cogent evidence beyond suspicion.

(ii) ADD is applicable solely to Fabrics Coated with Pure Polyurethane; Compounded Polyurethane is Distinct and Excluded: The Noticee has submitted that the ADD Notification imposes duty on "Polyurethane Leather which includes any kind of textile coated one sided or both sided with Polyurethane" falling under HS code 59032090" imported from China (excluding those from M/s. Anhui Anli Material Technology Limited) at USD 0.46 per meter. However, this is inapplicable to Noticee goods for the following reasons: The Test Reports Confirm the Importer's Declaration, Not the Revenue's Allegation. The SCN relies on the very test reports to allege mis-classification. However, a careful perusal of these reports reveals that they confirm the Respondent's declaration rather than contradicting it. The test reports consistently state that the fabrics are "coated with compounded Polyurethane." The distinction between "Polyurethane (PU)" and "Compounded Polyurethane" is the crux of this matter. The ADD Notification No. 14/2022-Customs (ADD) (RUD No. 9) imposes duty solely on "PU-coated fabric falling under HS code 59032090," implying fabrics coated with pure polyurethane (PU) having leather like feel and characteristics. However, the CRCL reports uniformly specify "coated with compounded polyurethane"—a critical distinction. The Noticee has further submitted polyurethane is a base polymer formed by reacting polyols and isocyanates, resulting in a versatile material used in coatings. "Compounded," as used in textile contexts, refers to a formulated mixture where PU chemicals are mixed with other inorganic chemical(s) such as Poly Vinyl Chloride, Acrylics, fillers (e.g., calcium carbonate), stabilizers, pigments, cross-linkers, plasticizers, etc to modify properties like viscosity, adhesion, flexibility, cost, or environmental resistance. This compounding process alters the chemical and physical characteristics, making it a composite material rather than pure PU. In coatings, compounding of polymers such as PVC with Polyurethane and other chemicals and fillers enhances durability for various applications, giving more flexibility and strength but it is not equivalent to Polyurethane alone, which is typically a homogeneous polymer without such modifications. The Noticee has also mentioned that in the SCN, CRCL's use of "compounded" (e.g., "coated with compounded polyurethane on one side") deliberately distinguishes it from pure polyurethane, implying a mixed formulation. This places the goods under CTH 59039090 ("Other" plastic-coated textiles), not 59032090 ("With polyurethane"), as mixtures fall under residual categories per HSN Explanatory Notes to Chapter 59. The ADD notification

does not explicitly cover compounded polyurethane coated fabric; extending it would violate strict interpretation rules. As per settled principles of classification, tariff entries must be construed narrowly—coatings with compounds/mixtures are excluded from specific headings unless stated. Since there is reference to coated fabric under the CTH 5903.

The Noticee has further submitted that it is evident from the descriptive headings and subheadings that the classification of these textile fabrics is based exclusively on the specific polymer utilized for coating. Specifically, CTH 5903 10 is designated for textile fabrics coated with Polyvinyl Chloride (PVC), while CTH 5903 20 applies to those coated with Polyurethane. All other textile fabrics coated with polymers other than PVC or Polyurethane are to be classified under the residual heading, CTH 5903 90. Therefore the classification of the goods under CTH 5903 2090 by the department is without legal or factual foundation, as the product in question is compounded polyurethane, a substance distinct from pure polyurethane. The classification, which appears to have been applied solely to justify the demand for anti-dumping duty, is not substantiated by any merit, substance, or test results provided by the revenue laboratory. The department's attempt to equate compounded PU with pure PU is untenable, as it ignores scientific and factual realities. Tariff entries must be construed strictly—coatings with mixtures fall under residual categories if not expressly included in specific headings. Absent explicit inclusion of "compounded PU" in the ADD Notification, no duty can be levied. In this regard, reliance is placed on Commissioner of Central Excise v. Wood Craft Products Ltd. (Supreme Court, 1995), where the Apex Court held that unless there is a specific, clear intention in the Excise Tariff Act itself to deviate from the HSN, not expansive interpretations.

(iii) ADD Notification is Confined to "PU Leather"; Goods Possess Distinct Appearance, Placing Them outside Scope: The ADD Notification No. 14/2022-Customs (ADD) suggests that ADD is applicable on the products having the description as "Polyurethane Leather which includes any kind of textile coated one sided or both sided with Polyurethane". From the description given under the above ADD notification, it is clear that the ADD is applicable only on goods having following characteristics:

- a. Polyurethane Leather- Means fabric having leatherette characteristics visually and a leather substitute.
- b. there has to be coating.
- c. The coating should be of Chemical Polyurethane, only.

Any goods which does not fulfill all the above characteristics/criterion cannot be considered to be subject to the ADD in terms of the subject notification.

Noticee goods, as per CRCL reports, comprise knitted/woven fabrics featuring raised fibers or glossy surfaces, devoid of the homogeneous leather-mimicking

texture. For example, descriptions like "having raised fibres" or "laminated with PVC film" (e.g., RUD No. 6) evince a fabric-like appearance rather than leather substitute. Furthermore, none of the test report or panchnama or examination report relied upon by the SCN explicitly mentions that the goods are having leather like appearance, and the noticee has referred to the cases of Sneh Enterprises v. Commissioner of Customs, New Delhi (Supreme Court, 2006) and Hansraj Industrial Plastic Corporation Pvt. Ltd. v. Union of India (Bombay High Court, 1981).

(iv) That the laminated fabrics excluded from ADD Scope: A substantial portion of the goods involves lamination, as evidenced by CRCL reports:

"Dyed woven fabric coated with compounded polyurethane (PU) laminated with PVC film on one side" (RUD No. 6).

The Noticee has submitted that the lamination is completely different process from the coating process. The key difference is that lamination involves bonding multiple layers of material together to form a composite structure, whereas coating involves applying a liquid substance to a single substrate to form a protective or decorative surface layer. Lamination creates multi-layered material with enhanced strength and stability, while coating provides surface properties and protection to an existing material. The ADD notification clearly suggests that Anti-Dumping Duty is applicable only to the PU Coated Fabric (as per the description of the goods given under the product description column in the notification), not PU laminated fabric. In coating liquid is transferred to the fabric base whereas lamination is the hot transfer process of a film over the fabric base". Furthermore the lamination process doesn't give the product a leather appearance as substitute of leather, which is one of the essential characteristics to be considered for the levy of the Anti-dumping duty in terms of the subject notification. This non-inclusion of the process prevents broadening the ADD to unrelated products. Thus levying ADD on laminated goods would thus be ultra vires the notification. Considering the aforementioned submissions given under para 2,3, and 4, the imported goods fall outside the scope of the relevant notification because they do not match the specified description of 'PU Leather having coating of Polyurethane' to which the Anti-Dumping Duty (ADD) applies. The legislative decision to apply the ADD only to a specific subset of goods, rather than a universal levy across the entire Customs Tariff Item, confirms that the imported articles (which doesn't meet the above requirements) are exempt. When the demand of differential duty doesn't arises, the question of confiscation and penalty is also not sustainable under the law.

(v) Procedural irregularities and absence of Mens Rea; Full Cooperation Evidencing Good Faith: The Noticee has submitted that searches yielded no evidence of intent to evade; buyers' statements affirm bona fide trade. The

provisional release bespeaks lack of *prima facie* guilt. DRI officers, empowered under Notification S.O. 2666(E) dated 05.08.2016, have failed to establish willful misconduct, essential for penalties under Sections 112/114A or confiscation under Section 111. Penalties sans mens rea are unsustainable. Noticee compliance with all summons and provision of information demonstrate cooperation and lack of malafide. Buyer samples (from RUD No. 12 onwards, as per SCN) are extraneous, post-dating imports and reaffirming compounded PU. Regarding past shipments, it is pertinent to note that the samples drawn from the godowns of downstream buyers, such as M/s. Ritika Traders and M/s. Kishor Traders, lack any verifiable linkage to our imported goods. The SCN relies on these samples to infer evasion in prior consignments, yet no concrete evidence—such as matching batch numbers, direct invoices tracing back to specific Bills of Entry, or contemporaneous records—has been produced to establish that these samples originate from Noticee imports. In the absence of such probative material, any attempt to extend allegations to past shipments is speculative and unsustainable, as the burden of proof rests with the department to demonstrate a direct nexus beyond mere assumption.

(vi) That the SCN is Time-Barred under Section 28 of the Act: The Noticee has submitted that the imports transpired in October-November 2022, with relevant dates under Section 28 being the Bill of Entry filing dates. The SCN, issued on 07.11.2024, exceeds the normal 2-year limitation under Section 28(1). As all the goods have been assessed and examined by the Customs before clearance. Invocation of the 5-year extended period under Section 28(4) requires proof of fraud, collusion, or suppression—elements absent here, as declarations were transparent with no intention to evade duties.

(vii) That the payments made during investigation were under coercion and duress; entitled to refund with interest as mere deposits, not duty: The Noticee has submitted that during the course of the DRI investigation, including searches at noticee premises and summons under Section 108 of the Act, he were subjected to undue pressure and coercive measures by the officers. Under the threat of arrest, detention of goods, and other intimidatory tactics, he were compelled to make deposits towards alleged duty liabilities, even before the issuance of the SCN and without challenging the already assessed Bill of Entry under. These deposits were not voluntary admissions of liability but were extracted under duress, as is common in such investigations where officers pressurize taxpayers to deposit amounts equivalent to purported evasions. Judicially, such coerced payments have been recognized as invalid, and noticee deny any willful evasion or mens rea. The courts have consistently held that amounts deposited during investigation under pressure are mere "deposits" and not "duty" or "tax," entitling the assessee to refund with interest if no liability is ultimately established. These deposits do not partake the character of duty paid, as they were not pursuant to any assessed demand but extracted pre-adjudication. In the event the SCN is quashed and no liability confirmed, noticee are entitled to immediate refund of all such deposits from the

date of payment, along with interest at the applicable rate under Section 27A of the Act or analogous provisions. The delay in refund, if any, would attract interest, as amounts withheld without justifiable reasons warrant compensation. The SCN fails to acknowledge these coerced deposits, and any retention thereof would violate principles of natural justice and equity. Reliance is placed on precedents where similar coerced deposits during investigation were ordered to be refunded with interest upon setting aside of demands, emphasizing that such payments are not voluntary and do not bar refunds. Noticee demand that all deposits be treated as provisional and refunded forthwith once proceedings are dropped, with interest from the date of deposit to prevent unjust enrichment by the department.

26.2 M/s Jai Maa Enterprises (Noticee No. 2) and Shri Arun Jyoti (Noticee No. 5): Noticees have made their written submission dated 08.10.2025 through their authorized representative Shri Sunil Kumar (Advocate). I observe that the submissions made by the said noticees are substantially similar to those made by the other noticees in this case. Therefore, only the relevant portions of their submissions are reproduced here for the sake of brevity. The following submissions have been made by the Noticees:

(i) His role was limited and bonafide as downstream buyer; No Involvement in Imports or Knowledge of Goods' Composition; Absence of Malafide Intention Demonstrated by Legitimate Entities: The Noticee engagement was purely domestic and post-import, confined to purchasing cleared goods for resale. Noticee did not participate in Bills of Entry filing, declarations, or customs processes. The SCN fails to produce any evidence—such as communications, financial links beyond standard payments, or statements—demonstrating my knowledge of or participation in alleged mis-declarations. As a buyer, Noticee not required to independently verify import classifications or chemical compositions, relying on the suppliers' information and customs clearance. Crucially, all importer firms and related entities possess valid and existent IECs (e.g., M/s. JMV Enterprises' IEC AUWPM9653R is duly registered and acknowledged as legitimate in the SCN itself; similarly, other traders operate with verifiable registrations and addresses, as per search panchnamas). No bogus or fictitious firms were used, which unequivocally indicates the absence of any malafide intention to orchestrate evasion. Allegations of noticee being "aware" or "facilitating" are speculative and unsubstantiated; noticee intentions were purely commercial, without ulterior motive. In *Amritlakshmi Machine Works v. Commissioner of Customs (Import), Mumbai*: 2016 (335) E.L.T. 225 (Bom.), the Bombay High Court held that abetment requires mens rea, and mere facilitation without knowledge does not suffice. The burden to establish mens rea lies on the department, which is unmet here. Even if re-classification is attempted, the goods' compounded polyurethane coating (detailed below) renders ADD inapplicable, negating any evasion. Furthermore department has not provided any evidence suggesting that Noticee have influenced any decision making including the declarations given by the supplier at loading port or at the import port by the

persons involved.

(ii) That the goods are correctly declared based on suppliers' information; CRCL Test Reports Align with Declarations: The Noticee has submitted that the declarations as "Felt Woven Coated Fabric" under CTH 59119090 were made by the importer on the basis of the suppliers' information; Noticee had no role or knowledge thereof. The CRCL reports (RUD Nos. 2-7) corroborate this, describing goods with "raised fibres," "woven/knitted" structures, or "laminated with PVC film," coated with compounded polyurethane—features consistent with felt-like coated textiles, not pure PU leather. No evidence suggests Noticee was aware of any discrepancies or willfully participated. Noticee adopt the importer's submissions which was based on the suppliers' information / documentations that the declarations were honest, based on supplier descriptions, and the reports do not indicate pure PU, supporting non-liability for ADD. The use of legitimate IECs by all parties further negates malafide.

(iii) ADD Inapplicable as Goods are Coated with Compounded Polyurethane, Distinct from Pure Polyurethane; Elaborate Technical Distinction: The Noticee has submitted that the Test Reports Confirm the Importer's Declaration, Not the Revenue's Allegation. The SCN relies on the very test reports to allege misclassification. However, a careful perusal reveals they confirm the declarations rather than contradicting them. The reports consistently state "coated with compounded Polyurethane." The distinction between "Polyurethane (PU)" and "Compounded Polyurethane" is crucial. The ADD Notification No. 14/2022-Customs (ADD) (RUD No. 9) imposes duty solely on "PU Leather which includes any kind of textile coated one sided or both sided with Polyurethane falling under HS code 59032090," implying pure polyurethane (PU). However, the CRCL reports uniformly specify "compounded polyurethane"—a critical distinction. The Noticee has further submitted explaining technicality that Polyurethane is a base polymer formed by reacting polyols and isocyanates. "Compounded polyurethane" refers to a mixture where pure PU is blended with additives like fillers (e.g., calcium carbonate), stabilizers, pigments, cross-linkers, or plasticizers to modify properties. This alters the material's characteristics, making it a composite, not pure PU. In coatings, compounded PU enhances durability but is not equivalent to homogeneous PU. CRCL's use of "compounded" distinguishes it from pure PU, placing goods under CTH 59039090 ("Other"), not 59032090, per HSN Notes. The notification does not cover compounded PU; extending it violates strict interpretation, as per Union of India v. Garware Nylons Ltd. (1996 (10) SCC 413). Tariff entries must be construed narrowly—mixtures fall under residuals.

The Noticee has further submitted that It is evident from the descriptive headings and subheadings that the classification of these textile fabrics is based exclusively on the specific polymer utilized for coating. Specifically, CTH 5903 10 is designated for textile fabrics coated with Polyvinyl Chloride (PVC), while CTH 5903 20 applies to those coated with Polyurethane. All other textile fabrics coated with

polymers other than PVC or Polyurethane are to be classified under the residual heading, CTH 5903 90. The classification of the goods under CTH 5903 2090 is without legal or factual foundation, as the product in question is compounded polyurethane, a substance distinct from pure polyurethane. The classification, which appears to have been applied solely to justify the demand for anti-dumping duty, is not substantiated by any merit, substance, or test results provided by the revenue laboratory. Since no evasion occurred, no liability attaches to noticee as buyer. The legitimate IECs reinforce standard trade, not malafide.

The Noticee has further submitted that the classification is based on specific polymers; others go to residual. Since no evasion occurred, no liability attaches to noticee as buyers. The legitimate IECs reinforce standard trade, not malafide.

Here's a detailed comparison table highlighting the differences between PU (Polyurethane) coated fabrics and compounded polymer/PU coated fabrics.

PU Coated vs. Compounded PU Coated Fabrics

| Feature | PU Coated Fabric | Compounded PU Coated Fabric |
|--------------------------------|--|--|
| Base Material | Polyester or nylon with polyurethane coating | Polyester or nylon with PU, with PVC and/or other polymer blends |
| Flexibility | Highly flexible and soft | Stiffer and less flexible |
| Weight | Lightweight | Heavier due to thicker coating |
| Waterproofing | Good waterproofing with breathability | Excellent waterproofing but non-breathable |
| Breathability | Breathable (moisture can escape) | Non-breathable |
| Durability | Good abrasion resistance | Very high durability and abrasion resistance |
| Chemical Resistance | Resistant to oils, greases, and mild acids | Excellent resistance to chemicals |
| UV Resistance | Can be UV resistant depending on formulation | Generally good UV resistance |
| Applications | Apparel, Shoes, Bags, etc. | Tarpaulins, industrial covers, inflatable structures. |
| Cost | Typically higher due to advanced properties | Generally lower |
| Finish Options | Matte, glossy, textured; customizable | Glossy, matte; less customizable. |
| Temperature Performance | Performs well in extreme temperatures | May harden or crack in cold conditions. |

From the above also, it may be seen that both the type of fabrics are quite different in terms of its applications, even though the base is same. Therefore the goods imported by noticee doesn't deserve to be classified under the PU leather

Category.

(iv) ADD Notification is Confined to "PU Leather"; Goods Possess Distinct Appearance, Placing Them outside Scope.

(v) That the laminated fabrics excluded from ADD Scope: A substantial portion of the goods involves lamination, as evidenced by CRCL reports: The defence submissions on this point are similar to those made by the other noticees. Hence, the same are not repeated here for the sake of brevity.

(vi) There are procedural irregularities and absence of mens rea and cited full cooperation evidencing good faith: The defence submissions on this point are similar to those made by the other noticees. Hence, the same are not repeated here for the sake of brevity.

(vii) That the Payments Made during Investigation Were under Coercion and Duress; Entitled to Refund with Interest as Mere Deposits, Not Duty: The defence submissions on this point are similar to those made by the other noticees. Hence, the same are not repeated here for the sake of brevity.

26.3 M/s Skytex (Noticee No 3) and Shri Lakshya Lamba (Noticee No. 6), have submitted their written submission dated 08.10.2025 submitted through their authorized representative Shri Sunil Kumar (Advocate). I observe that the submissions made by the said noticees are substantially similar to those made by the other noticees in this case. Therefore, only the relevant portions of their submissions are reproduced here for the sake of brevity. The Noticees have made the following submissions:

(i) The Noticee has submitted that there engagement was purely domestic and post-import, confined to purchasing cleared goods for resale. Noticee did not participate in Bills of Entry filing, declarations, or customs processes. The SCN fails to produce any evidence demonstrating Noticee knowledge of or participation in alleged mis-declarations.

(ii) The goods were correctly declared based on suppliers' information; CRCL Test Reports Align with Declaration: The defence submissions on this point are similar to those made by the other noticees. Hence, the same are not repeated here for the sake of brevity.

(iii) ADD Inapplicable as Goods are Coated with Compounded Polyurethane, Distinct from Pure Polyurethane; Elaborate Technical Distinction: The defence submissions on this point are similar to those made by the other noticees. Hence, the same are not repeated here for the sake of brevity.

(iv) ADD Notification is Confined to "PU Leather"; Goods Possess Distinct Appearance, Placing Them outside Scope: The defence submissions on this point are similar to those made by the other noticees. Hence, the same are not repeated here for the sake of brevity.

(v) The laminated fabrics excluded from ADD Scope: The defence submissions on

this point are similar to those made by the other noticees. Hence, the same are not repeated here for the sake of brevity.

(vi) There are procedural irregularities and absence of Mens Rea; Full Cooperation Evidencing Good Faith: The defence submissions on this point are similar to those made by the other noticees. Hence, the same are not repeated here for the sake of brevity.

(vii) That the payment made during investigation were under coercion and duress; entitled to refund with interest as mere deposits, not duty: The defence submissions on this point are similar to those made by the other noticees. Hence, the same are not repeated here for the sake of brevity.

26.4. Shri Kapil Kotiya (Noticee No. 4) submitted their written submission dated 08.10.2025 through their authorized representative Shri Sunil Kumar (Advocate), wherein they made the following submissions. I observe that the submissions made by the said noticees are substantially similar to those made by the other noticees in this case. Therefore, only the relevant portions of their submissions are reproduced here for the sake of brevity.

(i) His role as service provider was limited and bona fide; No Direct Involvement in Declaration or Knowledge of Goods' Composition; Absence of Malafide Intention Demonstrated by Legitimate Entities: The Noticee engagement was purely professional and ancillary, confined to logistics coordination and subcontracting clearances. Noticee did not prepare, sign, or influence the Bills of Entry declarations, which were handled by licensed brokers based on importer-provided documents. The SCN fails to produce any evidence—such as emails, communications, or financial transactions—demonstrating noticee knowledge of or participation in alleged mis-declarations. As a freight forwarder, Noticee are not required to independently verify goods' chemical composition (e.g., coatings), relying instead on client assurances. Crucially, all importer firms and related entities involved possess valid and existent IECs (e.g., M/s. JMV Enterprises' IEC AUWPM9653R is duly registered and acknowledged as legitimate in the SCN itself; similarly, downstream traders like M/s. Jai Maa Enterprises, M/s. Ritika Traders, and M/s. Kishor Traders operate with verifiable registrations and addresses, as per search panchnamas). No bogus or fictitious firms were used, which unequivocally indicates the absence of any malafide intention to orchestrate evasion. The labeling of noticee as the "mastermind" is speculative and unsubstantiated; noticee intentions were purely to provide lawful services, without any ulterior motive. The word 'abetment' is required to be assigned the same meaning as under Section 3(1) of the General Clauses Act, 1897. The court further opined as under:

".....Mere facilitation without knowledge would not amount to abetting an offence. Parliament has specifically included abetment in Section 112(a) of the Act, to include acts done with knowledge, otherwise the first portion thereof "Any person - (a) who in relation to any goods does or omits to do any act" would cover acts done or omitted to be done on account of instigation and/or encouragement without

knowledge. However, the first portion of Section 112(a) of the Act is only to make person of first degree in relation to the act or omission strictly liable. Persons who are not directly involved in the act or omission to act, which has led the goods becoming liable for confiscation cannot be made liable unless some knowledge is attributed to them. Therefore, it is to cover such cases that Section 112(a) of the Act also includes a person who abets the act or omission to act which has rendered the goods liable to confiscation. Imposing penalty upon an abettor without any mens rea on his part would bring all business to a halt as even innocent facilitation provided by a person which has made possible the act or omission to act possible could result in imposing of penalty."

The Noticee has further submitted that the burden to establish mens rea lies on the department, which is unmet here. Even if re-classification is attempted, the goods' compounded polyurethane coating (detailed below) renders ADD inapplicable, negating any evasion.

The Noticee has further submitted that the Show Cause Notice (SCN) proposes the imposition of a penalty pursuant to Section 114AA of the Customs Act, 1962 without adequate application of mind and by disregarding the material evidence collected during the investigation. It is respectfully submitted that Section 114AA is strictly applicable only where an entity or person has knowingly used or produced any false or incorrect material or declaration in the transaction of any business. Crucially, the SCN fails to specify or identify any particular false information, document, or declaration that was used or submitted during the course of transacting business. In the absence of a clear and substantiated finding that false or incorrect material was utilized, the proposed imposition of a penalty under Section 114AA of the Customs Act, 1962, is legally untenable and devoid of foundation. Consequently, the proposal for penalty under this specific section must be dropped.

26.5. Shri Sabu George, Partner of M/s Rainbow Shipping Services (Noticee No. 7): The following submissions have been made on 08.10.2025 by the Noticee through their advocate Shri Sunil Kumar:

(i) Limited and Bona Fide Role as Customs Broker; Full Compliance with CBLR, 2018 Obligations; Absence of Malafide Intention Demonstrated by Legitimate Entities and Due Diligence: The Noticee has submitted that his client's engagement was purely professional under license, confined to facilitating clearances based on importer documents. Noticee did not prepare or influence the substantive declarations (e.g., description, classification), which were provided by the importer. As per Regulation 10(e) of CBLR, 2018, we exercised due diligence to ascertain the correctness of information imparted to the client regarding clearance. Under Regulation 10(d), we advised the importer to comply with the Act and regulations, and there was no non-compliance reported. Crucially, Noticee conducted KYC verification under Regulation 10(n), verifying IEC (AUWPM9653R),

GSTIN, identity, and address using authentic documents (e.g., PAN, Aadhaar, bank statements)—no physical verification is required, and we were reasonably satisfied. The SCN fails to produce any evidence—such as communications or statements—demonstrating our knowledge of or participation in alleged mis-declarations. All importer firms and related entities possess valid and existent IECs (e.g., M/s. JMV Enterprises' IEC AUWPM9653R is duly registered and acknowledged as legitimate in the SCN itself). No bogus or fictitious firms were used, which unequivocally indicates the absence of any malafide intention. Allegations of facilitation are speculative; our intentions were purely to provide lawful services under CBLR, 2018, without ulterior motive. In *Amritlakshmi Machine Works v. Commissioner of Customs (Import)*, Mumbai: 2016 (335) E.L.T. 225 (Bom.), the Bombay High Court held that abetment requires mens rea, and mere facilitation without knowledge does not suffice. The burden to establish mens rea or breach of obligations lies on the department, which is unmet here. While the SCN alleges a failure to exercise due diligence in discharging noticee duties under the CBLR, 2018, it omits any mention of the specific regulation that was purportedly violated. Consequently, the proposition of a penalty is illegal and baseless, as there is no proof of a lapse in duty and referred to the case laws of The Hon'ble Kerala High Court in the case *MBK Logistics Private Limited Vs Commissioner of Customs & Sea Queen Shipping Services (P) Ltd. v. Commr. of Customs*, 2019.

(ii) They had filed Bills of Entry on the basis of documents provided by the importer or Freight Forwarders: The Noticee has submitted that the declarations as "Felt Woven Coated Fabric" under CTH 59119090 were provided by the importer/Freight Forwarder based on supplier documents; Noticee had no role in determining them but verified their plausibility through due diligence under Regulation 10(e). No evidence suggests we were aware of any discrepancies or willfully participated. Furthermore, the department has not provided any evidence suggesting we influenced declarations at the loading or import port. All the goods were presented for assessments and examination by the officers of Customs and only after assessment and examination goods were cleared.

RECORDS OF PERSONAL HEARING

27. Following the principles of natural justice, opportunities of personal hearing were granted on 09.10.2025 to all Noticees. Shri Sunil Kumar [Advocate/the Statesman Solicitor & Associates] on behalf of all noticees submitted authorization letters and written submission vide mail dated 14.10.2025. They submitted that submissions made on behalf of all noticees may be taken on record as compliance to the said notice and the matter may be decided on the basis of the written reply and documents. They have not sought any further hearing in the subject case.

DISCUSSION AND FINDINGS

28. I have carefully gone through the facts of the case, Show Cause Notice and the noticee's submissions filed through mail dated 14.10.2025 during the course of personal hearing. The principles of natural justice, particularly *audi alteram partem*, have been duly complied with by granting adequate opportunity to the noticees to present their defence. Noticee's have not sought any further hearing in the subject case. Accordingly, I proceed to examine the issues involved in the present case in light of the available records, statutory provisions, and judicial precedents. On a careful perusal of the subject show Cause Notice and case records, I find that following main issues are involved in this case, which are required to be decided: -

- i. Whether the goods imported vide SEZ Bill of Entry No. 1015305 dated 27.10.2022 (DTA Bill of Entry No.2017048 dated 03.11.2022) and SEZ Bill of Entry No. 1015832 dated 04.11.2022 (DTA Bill of Entry No.2017572 dated 10.11.2022) are liable for confiscation as per the provisions of Section 111 (m) of the Customs Act, 1962 or otherwise.
- ii. Whether the declared Classification i.e. 59119990 and description of good "Felt Woven Coated Fabric" imported under SEZ Bill of Entry No. 1015305 dated 27.10.2022 and Bill of Entry No. 1015832 dated 04.11.2022, are liable to rejected and the same is required to be classified under HS CODE/CTI 59032090 as "Polyurethane (PU) Coated Fabric" or otherwise.
- iii. Whether the subject above 02 bills of entry are required to be re-assessed with the applicable duty or otherwise.
- iv. Whether the declared description (Textile Coated Fabric/Glitter Fabric) and classification (59119990/59050090) of the past cleared shipment (as mentioned in TABLE-5.1 to 5.4 of para 14.6 to the Show Cause Notice), is liable to rejected or otherwise.
- v. Whether the goods as mentioned in para (iv) above are required to be re-classified under HS CODE/ CTH 59032090 with description "Polyurethane (PU) Coated Fabric" or otherwise.
- vi. Whether the declared Classification 59119990 against the description of goods "Felt Woven Coated Fabric" as mentioned in TABLE-5.5 of para 14.6 is required to be rejected and the same is required to be re-classified under HS CODE/ CTH 59032090 with the correct description as "Polyurethane (PU) Coated Fabric" or otherwise.

- vii. Whether the differential Customs Duty of Rs. 1,24,12,428/- (Rupees One Crore Twenty Four Lakh Twelve Thousand Four Hundred and Twenty Eighty only) along with applicable interest is required to be recovered from the Actual Owner/ Beneficial Owner of the imported goods as mentioned in the Table at Para 22 of the Notice.
- viii. Whether the declared Classification 59119990 against the description of goods "Textile Coated Fabric" as mentioned in TABLE-6 of para 15.5 to the SCN is required to be rejected and the same is required to be re-classified under HS CODE/ CTH 56039490 with the description as "*Non-Woven Fabric*" or otherwise.
- ix. Whether the differential Customs Duty 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 the SCN along with applicable interest is liable to 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.
- x. Whether the goods cleared in the past shipments are liable for confiscation as per the provisions of Section 111 (m) of the Customs Act, 1962 or otherwise.
- xi. Whether 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) can be adjusted from the Voluntary Payment of Rs. 1,13,31,070/- (Rs. One Crore Thirteen Lakh Thirty One Thousand and Seventy only) or otherwise.
- xii. Whether the Noticees are liable for penalty or otherwise.

29. I find that the Importer, M/s. JMV Enterprises (IEC No. AUWPM9653R), was engaged in the import of PU-coated fabrics and other fabrics from China for home consumption. Investigation revealed a specific routing mechanism adopted for duty evasion by way of mis-declaration of description and classification of the goods at the time of importation. I noticed that the goods were first imported into Mundra SEZ Warehouse Unit of M/s. OWS Warehouse Services LLP, and thereafter, SEZ to DTA Bills of Entry were filed at the SEZ for removal into the Domestic Tariff Area (DTA). I observe that this practice, while legally permissible under the SEZ Act, 2005 and Customs Act, 1962, provided an opportunity for layered scrutiny avoidance, as SEZ imports are subject to relaxed documentation compared to regular port clearances.

30.1 I find that the investigation have been indicated method of evasion by the

way of mis-declaration of description as "Felt Woven Coated Fabric", "Glitter fabrics", "Textile Coated Fabrics" instead of PU-coated fabric and by way of mis-classification under Tariff Heading 5911 (textile products for technical use) instead of CTI 59032090 (textile fabrics coated with polyurethane) or CTI 56039490 (Non-Woven Fabric). The intelligence identified two live consignments imported from China in containers HLXU6433720 (BE No. 1015305 dated 27.10.2022) and ESDU1224964 (BE No. 1015832 dated 04.11.2022), lying at M/s. OWS Warehouse Services LLP, Mundra SEZ, under the said mis-declaration. I noticed that the Importer has declared description in both consignment as "Felt Woven Coated Fabric" classifying it under CTH 59119090. During the Panchnama examination on 12.11.2022, the goods under B/E No. 1015305 dated 27.10.2022 were found to be consist of five different types of fabrics, differentiated by color, texture, and design, as detailed in Table-2 of the SCN. I observe that the goods were not similar but visually identifiable as different variants, corresponding to different end-use specifications (e.g., footwear uppers, linings). Three samples from each of the five types (total 15 samples) were drawn in the presence of independent panchas, sealed, and forwarded to CRCL, Vadodara under different test memos.

30.2. I find that the goods under BE No. 1015832 dated 04.11.2022 were also examined under the same Panchnama dated 12.11.2022 and found to be uniform in nature, as detailed in Table-3 of the SCN. Three representative samples were drawn from this consignment due to its uniform appearance.

31. I find that all six samples (three from each B/E) sent to CRCL, Vadodara were tested and were found in the form of woven/knitted fabric coated with compounded polyurethane on one side. From the CRCL Test results, it has been revealed that the declared description "Felt Woven Coated Fabric", "Textile Coated Fabrics" etc. were incorrect; that the goods were not felt-based but woven or knitted fabrics with PU coating on one side; that the coating was not generic but specifically compounded polyurethane (PU). I find that these reports, issued by a statutory laboratory under Section 144, are reliable and conclusively establish that the goods merit classification under CTH 59032090 which attracts Anti-Dumping Duty as per Notification No. 14/2022-Customs (ADD) dated 20.05.2022. I find that consequent to the CRCL confirmation of PU coating, the entire quantity of 93,170 meters (68,500 m + 24,670 m) covered under B/E Nos. 1015305 and 1015832 were placed under seizure vide Seizure Memo dated 11.01.2023. The goods were provisionally released later on Bond and Bank Guarantee.

32. I find that the investigation extended beyond the SEZ warehouse through searches at importer and trader premises which cover searches at different

premises and the recovery of documents and physical samples into the domestic supply chain. The investigation revealed how the mis-declaration scheme was continued from the point of import all the way to the downstream traders, forming a clear pattern of deliberate concealment aimed at avoiding anti-dumping duty (ADD) and evading checks by the authorities at each stage. This evidence also provided the foundation for the later confessional statements.

33.1 During the investigation, a search was conducted at the registered premises of M/s. JMV Enterprises, located Janakpuri, New Delhi. The officers found Shri Kapil Kotiya at the location, who identified himself as the owner of M/s. Ocean Logistics (a freight forwarding company) and said he was acting as a representative for M/s. JMV Enterprises. He explained that he handled the clearance and transport of imports for the firm and voluntarily handed over related import documents. When asked about the source of these documents, Shri Kapil Kotiya stated that they were physically delivered by M/s. Dee Pee Leather, M/s. Jai Maa Enterprises, and M/s. A.N. Enterprises. Later, the proprietor of M/s. JMV Enterprises, Shri Sanjeev Shekhar Malhotra, joined the proceedings and explained that his company provided end-to-end import solutions, where clients placed orders with overseas suppliers under JMV's name, and once customs clearance was done, the goods were transported directly to the clients. This search at the importer's office was crucial, as it immediately revealed that Shri Kapil Kotiya was managing the operations of M/s. JMV Enterprises and the search linked the importer to the real beneficiaries through the handover of import documents. His presence during the search at the premise of M/s. JMV Enterprise, access to records related the firm M/s. JMV, and admission that he managed logistics clearly indicated that M/s. JMV Enterprises was a dummy firm and Shri Kotiya playing the central coordinating role in the import transactions done in the name of M/s. JMV.

33.2 Searches were also carried out at the premises and godown of M/s. Jai Maa Enterprises and at the home of its partner, Shri Arun Jyoti Mahajan. During these searches, the officers recovered purchase and sales documents related to the firm. Shri Arun Jyoti Mahajan stated that M/s. Jai Maa Enterprises mainly bought goods from M/s. JMV Enterprises, M/s. OM Enterprises, and M/s. Alfa Impex. He revealed that they imported PU-coated fabric, flock fabric, glitter fabric, and polyester bonded fabric. The invoices found from M/s. Jai Maa Enterprises found with the description mentioned as "Textile Coated Fabric," however, CRCL testing later confirmed that the goods were actually PU-coated fabric. This showed that the mis-declaration made at the import stage continued in domestic sales. The false description helped to maintain uniformity in records, avoid tax detection, and hide the true beneficiaries from direct involvement in the imports. Shri Arun Mahajan's

admission about the goods purchased matched the CRCL findings from SEZ samples, which proved that **M/s. Jai Maa Enterprises was one of the real users of IEC of M/s JMV and beneficiaries of the mis-declared imports.**

33.3 Later, a search was also conducted at the shops of M/s. Ritika Traders and M/s. Kishor Traders, located in Mumbai. Both firms traded in fabrics used in footwear and related products. The search focused on their purchase of imported goods. Shri Kishor Kumar Ramuram Naval (proprietor of M/s. Kishor Traders) stated that his firm bought PU-coated, flock, glitter, and similar fabrics mainly for women's footwear from M/s. Jai Maa Enterprises, M/s. Bhagwati International, and M/s. Tayesha International. The officers collected physical samples from these goods (imported under Invoice No. 2022-23/1405 dated 12.11.2022 (from Jai Maa Enterprises to Kishor Traders) and Invoice No. 2022-23/2022 dated 20.10.2022 (from Jai Maa Enterprises to Ritika Traders). This search at the retail level was important because it revealed that the same mis-declared goods imported under JMV's name were now in the domestic market under the same false description. Sampling of these goods were drawn and sent for testing for further detailed scrutiny by the investigating agency.

33.4 The samples taken from Ritika Traders and Kishor Traders on 16.12.2022 were sent to CRCL, Vadodara, for testing to confirm the actual nature/composition/description of the goods. The CRCL test reports confirmed that the fabrics were coated with compounded polyurethane, identical to the ones tested from the SEZ consignments. This downstream testing proved that the mis-declaration continued throughout the supply chain, with no correction at any stage. The CRCL results from these local level samples directly connected the seized SEZ consignments to the goods sold to end-users. These evidences provided the complete trail and supporting confiscation, duty demand, and penalties. This evidence also ruled out any defense that the mis-declaration was limited to import documentation or live shipments.

33.5 From the above, it is clear that the mis-declaration scheme was extended into the domestic market through a network of connected persons/firms. The searches at the importer's office, at the premises of the beneficiaries, and at the shops of downstream traders, and the recovery of false invoices and physical samples; constitute undisputable evidences of a planned duty evasion setup. These findings clearly show that Shri Kapil Kotiya acted as the main coordinator who created IEC of M/s. JMV Enterprises by using the documents of its proprietor and this import firm was used for importation of mis-declared goods at their name for the purpose of supply these imported goods to actual beneficiaries i.e. M/s. Jai Maa Enterprises and M/s. Skytex.

34. I observe that statements of several connected persons were recorded during the course of the investigation. While each of these statements carries its own legal significance, certain key facts have emerged from them that need to be discussed separately to better understand the method adopted by the persons involved for duty evasion. The specific roles and culpability of each individual will be examined in detail in the subsequent paragraphs. At this stage, I will discuss the key facts that have directly emerged from the statements of the connected persons. Some of these statements were recorded following searches conducted at their respective premises and serve as crucial downstream evidence confirming the actual receipt, invoicing, and use of the mis-declared imported goods. These facts establish a clear link between the SEZ warehouse consignments and the domestic supply chain, explaining how the same mis-declared goods entered and circulated in the domestic market. These statements are an important part of the evidence which support and confirm the content of the documents resumed during the searches and test results collected during the investigation.

34.1 Shri Sanjeev Shekhar Malhotra (Proprietor of M/s. JMV Enterprises) in his statement dated 27.11.2022 admitted that the firm was set up in 2020 on the directions/guidance of Shri Kapil Kotiya. He said that Shri Kapil Kotiya helped him open the firm, handled all formalities such as IEC registration and bank accounts. He claimed that he himself had no understanding of import procedures. He confirmed receiving Rs. 15,000 per month from Shri Kotiya for lending his IEC firm. He admitted signing papers, cheques, and RTGS forms at Shri Kapil Kotiya's direction, without knowing the firm's buyers, employees, or operations though Shri Kotiya once mentioned the name of M/s. Jai Maa Enterprises and M/s. Bhagwati Enterprises. He said that M/s. JMV Enterprises only acted as an intermediary for imports, while Shri Kapil Kotiya handled all its matters. In his further statement dated 09.09.2024, after reviewing CRCL reports, he acknowledged that the imported goods declared as "Textile Coated Fabric" or "Felt Woven Coated Fabric" were actually PU-coated or non-woven fabrics and admitted that Shri Kotiya had full control while he was just a name-lender earning a fixed salary. These admissions clearly prove that M/s. JMV Enterprises was a dummy IEC firm, fully controlled by Shri Kapil Kotiya.

34.2 Shri Kapil Kotiya (Proprietor of M/s. Ocean Logistics) in his statement dated 27.11.2022 admitted that he managed operations of M/s. JMV Enterprises, M/s. OM Enterprises, and M/s. J Bridge Worldwide. This acceptance clarify that he was using their IECs to import goods on behalf of domestic traders. He explain the process of importer: (i) domestic traders placed orders with overseas suppliers, (ii) forward the import documents to him, (iii) and took delivery as a local purchase once customs clearance was done under the dummy IEC firm's name. I find that Shri Kapil Kotiya approached friends

and relatives who were unemployed during COVID-19 to set up IEC firms for monetary compensation. He named M/s. Jai Maa Enterprises, M/s. Skytex, and M/s. Madhav Life as users of M/s. JMV's IEC and confirmed that the proprietor of M/s. JMV Enterprises was not involved in operations of import except signing documents in lieu of Rs. 15,000/- per month. He stated that domestic traders earlier imported PU-coated fabric before ADD was imposed but later stopped direct imports and started import using dummy IEC firms. Though he initially denied knowledge of mis-declaration, in his statement dated 03.03.2023, after reviewing documents, he accepted managing M/s. JMV and M/s. OM Enterprises and confirmed that domestic traders used to order goods directly from overseas suppliers and payment terms were also finalized by them. He admitted that later bills of entry No. 2019872 dt. 14.12.2022 & 2019670 dt. 12.12.2025 (file after seizure of earlier bills) mentioned the goods description as "PU Coated Fabric" under CTH 59032090 based on trader instructions, even though the bill of lading showed "Fabric" under CTH 59119090. In his statement dated 16.07.2024, he said that he handled customs clearance, sales, and banking for M/s. JMV Enterprise and M/s. OM Enterprises; and that M/s. Jai Maa Enterprises and M/s. Skytex were the real owners of the imported goods in the name of M/s. JMV Enterprises. I notice that Shri Kapil Kotiya provided Annexure-A wherein consignment wise details of actual beneficial owners were mentioned. He also revealed that bank guarantees for provisional release of the seized shipment were funded by the actual owners. In his statement dated 19.09.2024, he again admitted full operational control. These statements clearly show Shri Kotiya as the mastermind, coordinator between the actual importer and dummy IEC holder.

34.3 Shri Ankur Mahajan (Proprietor of M/s. Bhagwati International) in his statement dated 28.12.2022 stated that his family firms (M/s. Jai Maa Enterprises, M/s. Bhagwati International, M/s. Tayesha International) traded in PU-coated, PVC-coated, glitter, non-woven, and bonded fabrics. They stopped direct imports in 2018 and began buying from M/s. JMV Enterprises, M/s. OM Enterprises, and M/s. Alpha Impex. He did not know the IEC holder of M/s. JMV and dealt only with Shri Kapil Kotiya who arranged door-step delivery. He admitted ordering PU-coated fabric from Chinese suppliers like Volcano International and Cinorich, sometimes through Shri Kotiya, and that invoices from M/s. JMV declared the goods as "Textile Coated Fabric" though they were PU-coated. He acknowledged knowing about ADD on PU-coated fabric from China, and admitted using the same false description in resale invoices to maintain consistency and gain Rs. 30,000 to 90,000 per container when the goods purchased from local firms instead of purchasing directly from the overseas suppliers. This statement confirms that M/s. Jai Maa Enterprises was the real importer who were fully aware of levy of ADD by deliberately using false

descriptions and incorrect classification.

34.4 Shri Arun Jyoti Mahajan, Partner of M/s. Jai Maa Enterprises, in his statements dated 17.05.2023 and 19.09.2024 admitted purchasing glitter, polyester bonded, PU-coated, and textile coated fabric from M/s. JMV Enterprises. He said that Shri Kapil Kotiya handled all of JMV's operations, and that he himself did not know the proprietor's role. On perusal of his statement dated 17.05.2023, I find that at Q/A No. 8, he admitted that "*we have purchased Glitter Fabric, Polyester Bonded, PU Coated Fabric, Textile Coated Fabric etc. from Om Enterprises & M/s JMV Enterprises, however, such fabric if ordered by us to overseas supplier and imported the same in the name and IEC of OM Enterprises & JMV Enterprises*" He confirmed reselling the imported goods under the same false description to local buyers.

34.5 In his statement dated 10.02.2023, Shri Narendrachand Ramniwas Moriya (M/s. Kishore Traders, Mumbai) stated that M/s. Kishor Traders was engaged in trading various types of fabrics mainly used in ladies' footwear and related products. He confirmed that the main suppliers of these fabrics were M/s. Jai Maa Enterprises, M/s. Bhagwati International, and M/s. Tayesha International. He stated that goods purchased from M/s. Jai Maa Enterprises were invoiced as "Textile Coated Fabric," but the actual goods received were PU-coated fabric. He specifically referred to Invoice No. 2022-23/1405 dated 12.11.2022, issued by M/s. Jai Maa Enterprises vide which PU-coated fabric was supplied under a misleading description. He confirmed that the goods were imported from China, as told by his supplier, and that invoices from M/s. Jai Maa Enterprises used the description "Textile Coated Fabric" for all such transactions. He also admitted that he resold the goods to his buyers using the same description shown in the purchase invoices, to maintain consistency in his accounting and billing records.

I observe that the details in Shri Narendrachand Moriya's statement dated 10.02.2023 establish the physical movement of PU-coated fabric from the same supply chain that originated from M/s. JMV Enterprises' imports. The statement confirms the continuation of the false description "Textile Coated Fabric" in domestic invoices, the end-use of these goods in footwear, which aligns with the classification of PU-coated fabric under CTH 59032090, and the central role of Shri Kapil Kotiya as the key link in this evasion chain.

34.6 Shri Lakshay Lamba (Partner of M/s. Skytex) in his statement dated 14.02.2024, admitted ordering non-woven polyester bonded fabrics from China by using the IEC of M/s. JMV by declaring the goods as "Textile Coated Fabric". He accepted that M/s. Skytex was the beneficial owner for consignments

imported under BE No. 1013947 dated 06.10.2022 (DTA BE No. 2015500 dt. 10.10.2022) mentioned at sr. no. 5 of Table under para 22 of the SCN. Local buyers—Shri Ashok Kumar of M/s. JRN Fabrics (07.06.2024) and Shri Kunal Joshi of M/s. A.K. Fashions (27.06.2024) confirmed receiving non-woven fabrics. They admitted noticing the mismatch but accepted their supplier's explanation since there was no GST difference found between the fabrics ordered by them and the fabric mentioned in the Invoices. These statements confirm the deliberate mis-declaration of non-woven fabrics to evade legitimate Customs Duty at the time of import.

35. MODUS ADOPTED FOR DUTY EVASION:

35.1 I find that the approach taken in this case involved setting up and using dummy firms such as M/s. JMV Enterprises. These firms used as a means for import, however, the actual control, order placement were done by domestic traders like M/s. Jai Maa Enterprises and M/s. Skytex. I find that Shri Kapil Kotiya (Proprietor of M/s. Ocean Logistics) designed and managed this setup. During the COVID-19 period, he approached to unemployed relative and friends including Shri Sanjeev Shekhar Malhotra and offered them a fixed payment of Rs. 15,000/- per month to open firms in their names. In his statement dated 27.11.2022, Proprietor of M/s. JMV Enterprises admitted that he had no involvement in or knowledge of import activities. He only signed documents and received payment for his role, while Shri Kapil Kotiya managed all key operations, including handling bank accounts, preparing and submitting documents, and dealing with customs clearance. I find that this setup allowed the real beneficiaries to place orders directly with Chinese suppliers using the name of the dummy firm. This modus helped them avoid direct interaction with customs authorities and escape duty liability by way of mis-declaration and mis-classification.

35.2 I also find that domestic traders i.e. M/s. Jai Maa Enterprises and M/s. Skytex directly negotiated and placed orders for PU-coated or non-woven fabrics with Chinese suppliers. They received import documents (i.e. Bills of Lading, Invoices, and Packing Lists) from these suppliers and handed them over to Shri Kapil Kotiya for Customs Clearance. In his statement dated 16.07.2024, Shri Kapil Kotiya confirmed that the actual owners were responsible for ordering the goods, providing documents, and deciding delivery destinations. Similarly, Shri Ankur Mahajan stated on 28.12.2022 that he sometimes placed orders directly with Chinese companies like Volcano International and Cinorich, and sometimes through Shri Kapil Kotiya. Invoices issued in the name of M/s. JMV declared the goods description as "Textile Coated Fabric," even though they were PU-coated. This document-handling method ensured that the dummy importer appeared as

the consignee on record, while the real traders controlled the transactions from order to delivery.

35.3 The imports were deliberately mis-declared at the customs stage as "Felt Woven Coated Fabric" or "Textile Coated Fabric" under CTH 59119090, instead of correctly declaring them as PU-coated fabrics under CTH 59032090, to evade payment of applicable Customs Duty and Anti-Dumping Duty. CRCL test reports confirmed that the goods were polyurethane coated fabrics. Shri Kapil Kotiya admitted during his statement dated 03.03.2023 that later Bills of Entry (e.g., 2019872 dated 14.12.2022 and 2019670 dated 12.12.2022) were correctly declared as "PU Coated Fabric" under CTH 59032090 and this was done as per the traders' instructions. The mis-declaration in respect of description and classification shown in Bills of Lading clearly show that this was not a mistake but a deliberate act which was done with the sole intention to evade legitimate customs duty and ADD at the rate of USD 0.46 per meter. However, after interception of DRI, they have correctly declared the imported these imported goods.

35.4 I find that Customs clearance was handled by Shri Kapil Kotiya through commissioned licensed Customs Brokers, including M/s. Rainbow Shipping Services and M/s. Lara Exim Pvt. Ltd., using the false documents. The goods were cleared from the Mundra SEZ Warehouse and transported directly to the actual domestic/local owners (i.e. M/s. Jai Maa Enterprises and M/s. Skytex). Shri Kapil Kotiya confirmed on 16.07.2024 that the goods never reached M/s. JMV's premises but were sent straight to the premises of the actual owners of the goods as per their (beneficiaries) directions. This setup was used with the motive to erase any connection between the dummy importer and the actual goods by giving a false impression that the domestic sale was legitimate.

35.5 The same mis-declaration in respect of description and classification was continued in domestic sales. M/s. Jai Maa Enterprises issued invoices to local buyers mentioning the goods description as "Textile Coated Fabric." In his statement dated 17.05.2023, Shri Arun Jyoti Mahajan admitted that he procured PU-coated fabric from M/s. JMV and the same was sold to various firms mentioning the same description as Textile Coated Fabric in their sale invoices. Shri Narendrachand Ramniwas Moriya (M/s. Kishor Traders) confirmed on 10.02.2023 that they purchased PU-coated fabric from M/s. Jai Maa Enterprises against Invoice No. 2022-23/1405 dated 12.11.2022, though the invoice labeled it as "Textile Coated Fabric.". CRCL's report on a sample (*which was drawn from the goods found the premise visit of M/s. Kishor Traders*) from this invoice matched the goods from the SEZ warehouse which confirmed that the cleared goods which were supplied to M/s. Kishore Traders by M/s. Jai Maa were the same.

35.6 From the above, it is evident that Shri Kapil Kotiya charged a fix his amount per container to the actual beneficiaries and included this in the invoice value. Additionally, M/s. Ocean Logistics raised separate forwarding bills to M/s. JMV. According to Shri Ankur Mahajan's statement dated 28.12.2022, the beneficiaries gained between Rs. 30,000 and Rs. 90,000 per container by saving on duties. The funds for Bank Guarantees used for provisional release of goods were also provided by the actual traders or beneficiary owners of the imported goods and this fact has been disclosed by Shri Kapil Kotiya on 16.07.2024 during the investigation period. I also noticed that the SEZ route was chosen strategically to take advantage of the lighter scrutiny applied to SEZ warehousing.

35.7 From the above discussion, it is evident that the modus operandi involved the use of dummy IEC firms controlled by Shri Kapil Kotiya, while the actual traders or beneficiaries handled order placement and related documentation. The goods were deliberately mis-declared under CTH 5911 9090, cleared under false descriptions, and goods were directly delivered to the real buyers under the guise of domestic sales, followed by the continued circulation of false invoices in the supply chain. This entire duty evasions scheme was designed to evade customs duty by submitting incorrect and misleading documents as well as deliberate suppression and misstatement of facts before the Customs authorities at the time of importation.

36. Classification of the goods and applicability of Anti-Dumping Duty:

36.1 I find that the core allegation in the Show Cause Notice (SCN) pertains to the mis-declaration of description and mis-classification of the imported fabrics. In the present case, M/s. JMV Enterprises declared the imported goods as "Textile Coated fabric", "Felt Woven Coated Fabric" & "Glitter Fabric" under CTH 59119090/59050090. However, the subject goods, upon testing from the Central Revenue Control Laboratory (CRCL), Vadodara, found as "*woven or knitted fabrics coated with compounded polyurethane (PU)*" and found as "*dyed woven fabrics coated with compounded polyurethane (PU) laminated with PVC film on one side.*" The said test results were issued by a notified and accredited customs laboratory which is a credible and scientific evidence of the true nature of the goods. I find that no contrary test result or expert opinion has been produced by the importer and the test results were acknowledged by the Noticees during the investigation period at the time to tendering their voluntarily statements. I find that this mis-classification facilitated the evasion of anti-dumping duty (ADD) under Notification No. 14/2022-Customs (ADD) dated 20.05.2022 for PU-coated fabrics from China (at the rate of USD 0.46 per meter for non-exempt producers) and non-payment of basic customs duty (BCD), social welfare surcharge (SWS), and integrated goods and services tax (IGST).

36.2 I notice that the GIR, which are binding principles for uniform classification under the HS Nomenclature (as per the World Customs Organization - WCO), provide a step-by-step methodology to resolve such disputes, and their application here supports the re-classification proposed in the SCN. Under the General Rules for the Interpretation of the Import Tariff (GIR), classification of imported goods must be determined according to the terms of the headings, section and chapter notes, and, only when these are not decisive, by resorting to subsequent interpretative principles. Therefore, it is imperative to first examine whether the description and characteristics of the imported goods correspond to the heading under which they were declared.

As per GIR-1, "*The titles of Sections, Chapters and sub-Chapters are provided for ease of reference only; for legal purposes, classification 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 following provisions.*" I observe that GIR 1 mandates starting with the plain language of the headings and notes, without resorting to subsequent rules unless ambiguity arises. In this case, the imported goods were declared under specific Heading 5911: "*Textile products and articles, for technical uses, specified in Note 8 to this Chapter,*" with subheading 591190: "*Other.*" However, Note 8 to Chapter 59 explicitly limits Heading 5911 to specific technical products, such as: (a) Textile fabrics, felt and felt-lined woven fabrics, coated, impregnated or covered with rubber, 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); (b) Bolting cloth; (c) Straining cloth of a kind used in oil presses or the like, of textile material or of human hair; (d) Flat-woven textile fabrics with multiple warp or weft, whether or not felted, impregnated or not, of a kind used in machinery or for other technical purposes; (e) Textile fabrics reinforced with metal, of a kind used for technical purposes; (f) Cords, braids and the like, whether or not coated, impregnated or reinforced with metal, of a kind used in industry as packing or lubricating materials; (g) Textile articles (other than those of headings 5908 to 5910) suitable for use solely or principally for technical purposes, for example, textile articles for conveyor belts, sieves, etc. Chapter 59 of the Customs Tariff specifically covers "*Textile fabrics impregnated, coated, covered or laminated with plastics.*" The essential condition for inclusion under Heading 5903 is that the textile base is coated, covered or impregnated with plastic materials. Polyurethane being a form of plastic, a textile fabric coated with compounded polyurethane is squarely classifiable under Heading 5903.

36.3 I find that the CRCL test reports (Table-4 of the SCN) confirm the goods as fabrics coated with compounded polyurethane on one side. I noticed from the statement of Shri Arun Jyoti Mahajan (dated 17.05.2023) and others that the

imported fabric have been used primarily in footwear and garments. Thus, there is no doubt that the imported fabric do not align with the specialized technical uses enumerated in Note 8. These are not bolting cloths, straining cloths, or metal-reinforced fabrics for machinery; instead, they are general-purpose coated fabrics which excludes them from the ambit of Heading 5911. Tariff Heading 5911 covers only textile products for technical uses as specified and must meet the technical criterion. There is no doubt, as revealed from the test reports, that these goods are ordinary coated fabrics meant for general commercial use such as upholstery, footwear, and garments, and not specialized textile products for technical applications. Thus, under GIR 1, the classification under CTH 59119090 is untenable.

36.4.1 For the PU-coated fabrics, Heading 5903 reads: "*Textile fabrics impregnated, coated, covered or laminated with plastics, other than those of heading 5902.*" Subheading 590320 specifies: "*With polyurethane.*" The Explanatory Notes to Heading 5903 provide a comprehensive commentary: This heading covers textile fabrics which have been impregnated, coated, covered or laminated with plastics (e.g., poly(vinyl chloride)), whatever the nature of the plastic used and whatever the nature of the textile fabric (woven, knitted, nonwovens, felts, etc.). Further the said explanatory notes states that "*The fabrics of this heading are used for a variety of purposes including furnishing materials, the manufacture of handbags and travel goods, garments, slippers, toys, etc., in book binding, as adhesive tapes, in the manufacture of electrical equipment, etc.*" I observe that the CRCL reports clearly identify the samples as "woven fabric coated with compounded polyurethane on one side," matching this description precisely. I find that under GIR 1, the PU-coated goods squarely fall under 59032090, as the heading's terms and Explanatory Notes cover them without any ambiguity.

36.4.2 For the non-woven fabrics (e.g., those imported for M/s. Skytex, as detailed in Table-6 of the SCN), declared as "Textile Coated Fabric" under 59119090, I notice that classification under Chapter 56 covers: "*Wadding, felt and nonwovens; special yarns; twine, cordage, ropes and cables and articles thereof.*" Heading 5603: "*Nonwovens, whether or not impregnated, coated, covered or laminated,*" with subheading 560394: "*Weighing more than 150 g/m².*" The Explanatory Notes to Heading 5603 elaborate: Nonwovens are textile fabrics made directly from fibres or from yarns by processes not involving weaving or knitting, such as by bonding, felting or needling. They may be impregnated, coated, covered or laminated. This heading includes nonwovens in the piece, cut to length or simply cut to rectangular (including square) shape.

I find that M/s. Skytex had placed orders to Chinese suppliers for import of Non-Woven Polyester Bonded Fabric from overseas supplier M/s. Anhui Tianyi New Fiber Technology Co., Ltd, China. Fact that goods Imported by M/s.

JMV and supplied to M/s. Skytex were actually Non-Woven Fabric was also confirmed by Shri Lakshay Lamba (M/s Skytex) though his admission in the statement dated 14.02.2024. M/s. Skytex has supplied “*Non-Woven Fabric*” to their local buyers like M/s JRN Fabrics and M/s A.K. Fashions. These local buyers (viz. Shri Ashok Kumar of M/s. JRN Fabrics and Shri Kunal Joshi of M/s. A.K. Fashions) also confirmed that they ordered these goods for manufacturing of various kind of items viz. Ladies Footwear, Jackets, Lower (pants) etc. and the goods supplied to them were non-woven polyester bonded fabrics without coating.

I find that the declaration of the goods as “coated fabric” under Chapter 59 is incorrect and disregards Note 1 to Chapter 59, which limits the scope of “textile fabrics” to woven, knitted, or similar materials, and specifically excludes nonwoven fabrics covered under Chapter 56. As per General Interpretative Rule (GIR) 1, the classification must be determined according to the terms of the headings and the relevant Section or Chapter Notes. Accordingly, the provisions of Heading 5603 and the Notes to Chapter 56 take precedence. Therefore, these goods cannot be classified under Heading 5911 (which is meant only for technical or specialized textile fabrics) due to presence of specific tariff heading under Chapter 56 for nonwoven fabrics.

From the above, I hold that the goods which found “Non-Woven Fabrics” are rightly classifiable under CTH 56039490.

36.5 In examining the issue of classification, it is observed that the goods in question consist of a textile layer coated with polyurethane. Rule 2(b) of the General Rules for the Interpretation of the First Schedule to the Customs Tariff Act, 1975 extends the scope of headings to include mixtures and composite goods, thereby necessitating an assessment of which component imparts the essential character to the product. The polyurethane coating is not merely a surface treatment. On the contrary, it substantially alters the physical and functional nature of the textile base. The coating provides a smooth, leather-like appearance, enhances the strength and durability of the fabric, imparts water-resistant properties, and determines the commercial perception of the goods in the market as “PU Coated Fabric.” Thus, it is clear that the essential character of the product is derived predominantly from the polyurethane component rather than the underlying textile layer. Under GIR 3(b), which provides that composite goods shall be classified according to the material or component that gives them their essential character, the coating of polyurethane must be considered the decisive factor for classification. Therefore, the goods are appropriately classifiable under Heading 5903 as “Textile fabrics impregnated, coated, covered or laminated with plastics,” and not under Heading 5911.

36.6 If *prima facie* the goods appear to fall under more than one heading, i.e. 5903 (for coated fabrics) and 5911 (for technical fabrics), the rules of classification under the General Interpretative Rules (GIR) apply. According to GIR 3(a), the heading that gives the most specific description should be chosen over a general one. In this case, Heading 5903 specifically covers plastic-coated fabrics, while Heading 5911 is a broader category for technical textiles. Even under GIR 3(b), where classification depends on the material giving the product its essential character, the PU coating gives the goods their leather-like finish, again supporting classification under 5903. As a final fallback, GIR 3(c) provides that when goods could fall under multiple headings, the one that appears last in numerical order is chosen. However, I find that 5903 is more specific heading for the subject goods, hence, heading 5903 is still prevails over 5911. GIR 6 applies the same principle when deciding between subheadings. There is no need to apply GIR 2 (incomplete goods) or GIR 4 (similar goods), because the products are in finished/complete stage.

36.7 I find that classification of the imported goods is reinforced by the factual evidence gathered during the investigation. The statements of various persons directly concerned with the import and trade of these goods substantiate that the goods were in fact PU Coated Fabrics and Non-Woven Fabrics. Shri Kapil Kotiya, Proprietor of M/s. Ocean Logistics, who was handling the customs clearance of these consignments, admitted that the goods imported through the IEC of M/s. JMV Enterprises were polyurethane-coated fabrics. I find that M/s. Jai Maa Enterprises has ordered PU coated fabric from China for use of footwear and garments manufacturing and the terms/description used in the import documents Felt Woven Coated Fabric was actually PU Coated Fabrics. I also find that goods found at the premise of M/s. Kishore Traders were the same which were cleared by M/s. Jai Maa Enterprises using the IEC of M/s. JMV Enterprises. This fact was also confirmed by Shri Arun Jyoti Mahajan in his statement dated 17.05.2025. I find it an admittedly facts that goods procured by M/s Jai Maa Enterprise from M/s. Om Enterprises & M/s. JMV Enterprises were "*PU Coated Fabrics*" which were sold to various firms mentioning the false description as "*Textile Coated Fabric*" & etc. in their sales Invoices.

I also find that M/s. Skytex had placed orders for import of Non-Woven Polyester Bonded Fabric from overseas supplier M/s. Anhui Tianyi New Fiber Technology Co. Ltd, China. It was also confirmed by Shri Lakshay Lamba (M/s Skytex) though his admission in the statement dated 14.02.2024 that the goods which were imported by M/s. JMV and supplied to M/s. Skytex were actually Non-Woven Fabric. Investigation revealed that M/s. Skytex had supplied "*Non-Woven Fabric*" to their local buyers like M/s JRN Fabrics and M/s A.K. Fashions. These local buyers also confirmed that they ordered "*Non-Woven*

Fabric" for manufacturing of various kind of items viz. Ladies Footwear, Jackets, Lower (pants) etc.

Thus, it is evident that the Importer have imported only "PU Coated Fabric" and "Non-Woven Fabric" by mis-classifying them under incorrect Tariff Heading. The CRCL Test Results and supportive corroborative statements, reveal that the goods are ordinary coated fabrics of commercial use, not technical textiles. Accordingly, I hold that the classification declared by the importer was incorrect and the goods imported vide Bills of Entry No. 1015305 dated 27.10.2022 and BE No. 1015832 dated 04.11.2022 are correctly classifiable under CTH 59032090.

Further, the goods imported vide Bill of Entry No. 2015500 dt. 10.10.2022 which were upon testing (during the premises searches of downstream buyers) found to be non-woven polyester bonded fabric are appropriately classifiable under CTH 56039490, which covers "non-wovens, of man-made filaments, weighing more than 150 g/m²—other." Further, the goods cleared by the actual beneficiary M/s. Jai Maa Enterprises using the IEC of M/s. JMV were also "PU Coated Fabrics" which attracts merit classification under CTH 59032090. As a result of this reclassification, the goods become liable to payment of the applicable Basic Customs Duty, Social Welfare Surcharge, IGST, and the Anti-Dumping Duty as prescribed under Notification No. 14/2022-Customs (ADD) dated 20.05.2022. The detailed calculation and applicability of these duties will be discussed in the subsequent part of this order.

36.8 I notice that the importer and other noticees have, in their written replies, primarily challenged the classification proposed in the Show Cause Notice by contending that the CRCL test reports describe the goods as "*coated with compounded polyurethane*" and not "*polyurethane*", and that such compounded material represents a distinct product meriting classification under the residual heading 59039090 rather than under 59032090. They have further argued that a portion of the goods are laminated with PVC film and therefore excluded from the scope of the Anti-Dumping Duty notification on *Polyurethane Leather Fabric*.

From the said submissions, I find that Importer, in principal, agreed that the goods should be classified under Tariff Heading 5903 and thus, there is no doubt that the subject goods were mis-declared by them at the time of importation. I notice that claim to classify the goods under residual heading (59039090) is no correct and ignore the SCN's reliance on independent CRCL testing and corroborative statements (e.g., Shri Arun Jyoti Mahajan admitting goods as "PU Coated Fabric"). I noticed that PU formulated with additives (e.g., pigments, stabilizers, solvents, fillers like calcium carbonate, or cross-linkers) to

enhance applicability, durability, or performance in fabric coatings. This compounding does not change the base chemical identity; it remains polyurethane. The Explanatory Notes to Heading 5903 explicitly cover "textile fabrics impregnated, coated, covered or laminated with plastics (e.g., poly(vinyl chloride)), and polyurethane is listed as a type of plastic, without qualifiers for purity or compounding. Additives in chemical compounds do not alter classification if the essential character remains unchanged. Further, the laboratory reports do not, at any point, describe the coating as being of a different polymeric base. Each report consistently state that the fabric is "woven or knitted, coated with compounded polyurethane (PU)," which establishes polyurethane as coating material. The fact that the coating compound contains pigments or fillers does not alter its polymeric identity. Accordingly, applying GIR 1 and GIR 3(b), the goods must be classified according to the component giving them their essential character, which is the polyurethane coating. The proper heading, therefore, is 5903 20, which specifically covers "Textile fabrics impregnated, coated, covered or laminated with plastics—with polyurethane." The reliance placed by the Noticees on the residual heading 5903 9090 is incorrect. In the case of subject shipments, the coating is of polyurethane, thus, the goods cannot be placed in the "other" category under 5903 9090.

The contention that the goods are laminated and not coated is also not sustainable. The CRCL's terminology—"coated with compounded polyurethane, laminated with PVC film on one side"—describes sequential processes applied to the same article. The first process, coating with polyurethane, determines the essential character of the goods; the subsequent lamination with a thin PVC film is a surface enhancement which does not alter the fundamental classification. The test reports as well as the physical examination under panchnama confirmed that the textile backing, hence, the goods cannot not excluded from Heading 5903 merely because of an additional lamination layer.

Based on the above discussion, I find that the importer's arguments regarding classification are without merit.

36.9 APPLICABILITY OF ANTI-DUMPING DUTY:

- i. I now proceed to examine the applicability of the Anti-Dumping Duty (ADD) on the imported goods. The goods imported under Bills of Entry Nos. 1015305 dated 27.10.2022 and 1015832 dated 04.11.2022, along with earlier consignments listed in Tables 5.1 to 5.7 above, were declared as "Felt Woven Coated Fabric" or "Textile Coated Fabric" or "Glitter Fabrics" under Tariff Heading 5911. However, the CRCL test reports stated that these goods are fabrics coated with compounded polyurethane

(PU) on one side. Accordingly, as discussed earlier, they are correctly classifiable under CTH 5903 2090.

- ii. On the basis of this correct classification, I find that the goods clearly fall within the purview of Notification No. 14/2022-Customs (ADD) dated 20.05.2022, which imposes Anti-Dumping Duty on products classified under CTH 5903 2090 that originate in or are exported from China PR, at the rate of USD 0.46 per meter for all producers other than M/s. Anhui Anli Material Technology Limited, China.
- iii. I find that the total quantity covered under the two seized consignments is 93,170 meters (as detailed in Tables 2 and 3 of the SCN). These goods were exported from China by non-exempt producers. Accordingly, they attract Anti-Dumping Duty at the prescribed rate. The exchange rate used for converting USD to INR has been correctly applied as per Notification No. 90/2022-Customs (N.T.) dated 20.10.2022, which was in effect at the time the Bills of Entry were filed under Section 46 of the Customs Act, 1962, as clarified in paragraph 6.1 of the SCN and clause (c) of the ADD notification itself.
- iv. With respect to the past consignments as detailed in Tables 5.1 to 5.5 above, I find that the Anti-Dumping Duty (ADD) is equally applicable, as the reclassification of the goods under CTH 5903 2090 has been already been confirmed. The Chinese origin along with the fact that they were imported from non-exempt producers, is clearly supported by the available invoices, Bills of Lading, and recorded statements. The voluntary deposit of Rs. 1,13,31,070/- during the investigation period shall be adjusted against the total duty demand of Rs. 1,72,25,801/-. This total includes the Anti-Dumping Duty, IGST on ADD, and other applicable duties. Interest under Section 28AA of the Customs Act, 1962, is chargeable from the date on which the goods were cleared. Accordingly, I confirm the applicability of the Anti-Dumping Duty.

37. Discussion and Findings on Applicability of the Extended Period of Limitation under Section 28(4) of the Customs Act, 1962

37.1 I find that the Show Cause Notice proposes recovery of differential customs duty amounting to Rs. 1,27,25,152/- in respect of six consignments that had already been cleared for home consumption through the SEZ route under the IEC of M/s. JMV Enterprises, while the actual importers and beneficiaries were identified as M/s. Jai Maa Enterprises and M/s. Skytex. Before determining the recoverability of the said amount, it is essential to

examine whether the extended period of limitation under Section 28(4) of the Customs Act, 1962 has been correctly invoked.

37.2 I notice that Section 28(4) of the Customs Act provides that where any duty has not been levied, or has been short-levied, due to collusion, wilful mis-statement, or suppression of facts by the importer with intent to evade payment of duty, the proper officer may issue notice for recovery within five years from the relevant date. For invocation of this extended period, the following conditions must be satisfied:

- there must be wilful mis-statement or suppression of facts;
- the importer must have knowledge of the true nature of the goods or facts suppressed; and
- there must be a clear intent to evade payment of duty.

37.3 In the present case, the evidence on record clearly establishes the fulfilment of all these conditions. The goods were repeatedly imported and cleared under misleading descriptions as "Textile Coated Fabric," "Glitter Fabric," and "Felt Woven Coated Fabric", under CTH 5911 9090 and CTH 5905 0090. However, the CRCL test reports and statements of the concerned individuals revealed that the goods were in fact Polyurethane (PU) Coated Fabrics and Non-woven Polyester Bonded Fabrics. These incorrect descriptions and tariff headings were deliberately adopted to disguise the true character of the goods and evade legitimate higher rate of duty and Anti-Dumping Duty (ADD) applicable on PU-coated fabrics of Chinese origin under Notification No. 14/2022-Customs (ADD) dated 20.05.2022.

37.4 I find that the acts of willful misstatement are evident through the deliberate mis declaration of description and classification of the goods in the Bills of Entry, invoices, and domestic sales records, even though the importers knew the actual product type. Shri Kapil Kotiya admitted in his statement dated 03.03.2023 that he was looking after the activity related to clearance of the shipments related to M/s. Om Enterprises and M/s. JMV Enterprises. He admitted that the goods imported were actually PU-coated and should have been correctly declared in the invoice. I note that he claimed ignorance of the mis-declaration; however, no evidence or document has been produced before me to substantiate this claim. On the contrary, it is an undisputed fact that he was in full control and management of all affairs of the importing firm, M/s. JMV Enterprises, which makes his plea of unawareness untenable.

37.5 From the statement dated 28.12.2022 of Shri Ankur Mahajan and Shri Arun Jyoti Mahajan, I find that **M/s. Jai Maa Enterprises** has ordered PU coated fabric from China for use of footwear and garments manufacturing; that textile Coated Fabric imported by them is just another name given to PU Coated

Fabrics; that Felt Woven Coated Fabric is actually PU Coated Fabric; that they have continued to mention the false description in further local sale to local buyers (such as M/s. Kishore Traders) to cover up the mis declaration. I also find that goods found at the premise of M/s Kishore Traders were the same which were cleared by M/s. Jai Maa Enterprises using the IEC of M/s. JMV Enterprises. This fact was also confirmed by Shri Arun Jyoti Mahajan in his statement dated 17.05.2025 wherein he disclosed that Invoice No. 2022-23/1405 dated 12.11.2022 was signed by him and issued to Kishore Traders, Mumbai for sale of Textile Coated Fabric. I notice that on perusing the Panchanama dated 16.12.2022 and 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; he admitted that he sold PU Coated Fabric to Kishore Traders, Mumbai by mentioning the same as Textile Coated Fabric in the invoice. I find it an admittedly facts that goods procured by M/s Jai Maa Enterprise from M/s.Om Enterprises & M/s. JMV Enterprises were "*PU Coated Fabrics*" which were sold to various firms mentioning the false description as "*Textile Coated Fabric*" in their sale Invoices.

37.6 Similarly, I find that **M/s. Skytex** had placed orders to Chinese suppliers for import of Non-Woven Polyester Bonded Fabric from overseas supplier M/s. Anhui Tianyi New Fiber Technology Co., Ltd, China; that M/s. Skytex had managed to prepare the import documents under a different false description with the help of Chinese supplier in the name of M/s. JMV Enterprise. Although they have claimed that they raised concerned about the wrong description to Shri Kapil Kotiya but I find no force in the said contention as the order were placed by themselves. I find it nothing but just a gimmick to sift their responsibility. These findings are also confirmed by Shri Lakshay Lamba (M/s Skytex) though their admission in the statement dated 14.02.2024. M/s. Skytex has supplied "*Non-Woven Fabric*" to their local buyers like M/s JRN Fabrics and M/s A.K. Fashions. These local buyers confirmed that that they ordered these goods for manufacturing of various kind of items viz. Ladies Footwear, Jackets, Lower(pants) etc. due to similar GST rates, they have not raised any concern in respect of mentioning the description as "*Textile Coated Fabric*" instead of correct goods description i.e. "*Non-Woven Fabric*". These facts were also admitted by Shri Ashok Kumar (M/s JRN Fabrics) in his statement dated 07.06.2024 and Shri Kunal Joshi (M/s A.K. Fashions) in his statement dated 27.06.2024. This consistent use of false description and incorrect classification at time of importation and clearance of the imported goods, demonstrates willful misstatement under Section 28(4) of the Customs Act, 1962.

37.7 I find that none of the Noticee disclosed the actual description or classification of the imported goods at the time of their importation and clearance from Customs. The Importers had suppressed the goods' true nature, classification, and ownership. The dummy IEC of M/s. JMV Enterprises was used to disguise the real importers (M/s. Jai Maa Enterprises and M/s. Skytex). Proprietor of M/s. JMV Enterprise lent his IEC for monetary benefit of Rs. 15,000 per month while Shri Kapil Kotiya managed all operations of the firm. The goods were delivered directly to the actual owners and funds came from their accounts. The CRCL's testing of seized goods confirmed the nature of goods as PU coating. The voluntary deposit of Rs. 1,13,31,070/- after DRI action indicates acknowledgment of suppressed facts. The deliberate suppression of facts by doing act of non-disclosure of the true nature and identity of the goods led to an incorrect assessment of duty which resulted in the evasion and non-payment of legitimate Customs Duty.

37.8 I find that the modus operandi was systematic and calculated. The actual traders or beneficial owners (M/s. Jai Maa Enterprises and M/s. Skytex) used the IEC of M/s. JMV Enterprises for import of goods the SEZ warehouse of M/s. OWS Warehouse Services LLP to obscure the import trail. They have further mis-declared the product descriptions and adopted incorrect tariff headings to avoid ADD and applicable Customs Duty. The goods were sold in the domestic market under incorrect descriptions. These acts were deliberate, repeated, and coordinated with a clear intention to defraud the government exchequer.

37.9 Had there been any genuine doubt about classification or applicability of ADD, the importers could have opted for provisional assessment or first check. Instead, they chose to clear the goods with false descriptions and incorrect classification. It is further noticed that none of the parties voluntarily disclosed the true facts. The real nature of the goods and the ownership structure came to light only through the detailed DRI investigation and test results conducted by CRCL. These facts establishes that material information which was necessary for correct assessment was knowingly withheld from the Department. I find that "suppression of facts" means deliberate concealment of material particulars with intent to evade duty. The facts of the present case squarely satisfy this definition. The acts of the importers cannot be seen as mistakes or misunderstandings; it demonstrates mens rea and conscious concealment. These acts clearly show a deliberate intention to hide the true nature of the goods. These actions prove a planned and intentional method which was adopted with the intention to evade legitimate customs duty.

In view of the above, I find it appropriate to invoke the extended period under Section 28(4) of the Customs Act, 1962, for recovery of legitimate government duties. Accordingly, the differential duty amounting to Rs.

1,27,25,152/- (Rs. 1,24,12,428/- on PU-coated fabrics + Rs. 3,12,724/- on non-woven fabric) is hereby confirmed and the same is recoverable under the extended period prescribed in Section 28(4), along with interest under Section 28AA of the Customs Act, 1962.

In light of the above discussions and findings, the noticees claim that extended period of time cannot be applied to the present proceedings does not hold any merits.

38. CALCULATION OF DIFFERENTIAL DUTY/BENFICIAL OWNER/ACTUAL IMPORTER OF THE IMPORTED GOODS:

38.1. I find that following 08 Bill of Entry had been filed by M/s. JMV for domestic clearance of imported goods:

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

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 mentioned at Sr. No. 7 & 8, the goods were provisionally released upon furnishing Bond and BG (as discussed under foregoing paras).

38.2. I find that the Importer M/s. JMV Enterprises vide below mentioned 07

bills of entry have imported goods declaring description as "Textile Coated fabric", "Felt Woven Coated Fabric" & "Glitter Fabric" under CTH 59119090/59050090; however, the goods were found as "woven or knitted fabrics coated with compounded polyurethane (PU)" which are correctly classifiable under CTH 59032090. As discussed above, this mis-declaration and mis-classification method was adopted by the Importer with the intention to evade payment of applicable Anti-dumping duty leviable on the subject goods in terms of Notification No.14/2022-Customs (ADD) dated 20.05.2022. Details of these 07 Bills of Entry are as below:

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

(i) I find that the goods mentioned at sr. No. 7 & 8 of table at para 38.1 are live consignments which imported under SEZ Bills of Entry No. 1015305 dated 27.10.2022 and BE No. 1015832 dated 04.11.2022, corresponding to DTA Bills of Entry No. 2017048 dated 03.11.2022 and No. 2017572 dated 10.11.2022, covering goods of total assessable value of Rs. 38,58,682/-. The goods were seized under panchnama dated 12.11.2022 and were subsequently released provisionally to M/s. JMV Enterprises on execution of bond and bank guarantee. I find that total 06 samples were sent to CRCL, Vadodara against these 02 Bills of Entry. Upon receiving of test reports (vide Nos. RCL/AH/DRI/3030 to 3035 dated 26.12.2022), it is found that the imported goods were *woven or knitted fabrics coated with compounded polyurethane (PU)* and in certain samples, laminated with a PVC film. Thus, as discussed under foregoing paragraphs, the subject goods attracts merit classification under CTH 5903 2090.

(ii) I find that Shri Arun Jyoti Mahajan (Partner of M/s. Jai Maa Enterprises), after perusal of the test results 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, admitted in his statement dated 19.09.2024 that the subject goods were imported by their firm (M/s. Jai Maa Enterprises) by using the IEC of M/s. JMV Enterprises. He further admitted that the ordered goods were actually *PU-coated fabrics* and that the vague description were adopted and ADD was not paid during its import. On perusal of the Annexure-A submitted by Shri Kapil Kotiya in his statement dated 16.07.2024, Shri Arun Jyoti Mahajan admitted that goods mentioned at Sr. No. 1, 2, 3, 4 & 6, 7 & 8 of Annexure-A were directly ordered by him from the Overseas Supplier and were later imported under the IEC of M/s. JMV. I find from the goods imported vide bills of entry mentioned at Sr. No. 2, 3, 7 & 8 of Annexure-A were transferred to them by M/s. JMV through domestic sale under GST after Customs Clearance. Further, the goods imported vide bills of entry mentioned at Sr. No. 1, 4 & 6 of Annexure-A were also ordered by them (M/s. Jai Maa Enterprises) from overseas suppliers but these goods were sold directly by M/s JMV Enterprises to multiple non registered buyers under GST, on his directions. I find from the said statement that M/s. Jai Maa Enterprises admittedly imported past cleared shipment by mis-declaring and mis-classifying to evade legitimate Customs Duty which is required to be recovered from them being beneficial owner/actual Importer of these imported goods vide 07 Bills of Entry.

(iii) Shri Sanjeev Shekhar Malhotra (Proprietor of M/s. JMV Enterprises) in his statement dated 09.09.2024 had accepted that he had allowed the use of his IEC for these imports, that the CRCL results were correct, and that he had received commission for facilitating the import documents. He further corroborated and affirmed the fact that goods imported under these 07 bills of entry were actually imported by M/s. Jai Maa Enterprise and by M/s. Jai Maa Enterprise is the actual beneficiary owner of these imported goods. He further admitted that goods mentioned at Sr. No. 1, 4 & 6 of Annexure-A (submitted by Kapil Kotiya) were sold to GST Non-register person by them and Shri Kapil Kotiya had dealt with the said Sale transactions. I find that Shri Sanjeev Shekhar Malhotra (Proprietor of M/s. JMV Enterprises), upon showing the statements of Shri kapil Kotiya, agreed with the facts mentioned the said statement and have not countered the veracity of those statements. I find that Shri Kapil Kotiya (Proprietor of M/s. Ocean Logistics), on perusal of the test results, agreed with the test results and admitted that goods should be rightly classifiable under CTH 59032090.

(iv) Shri Narendra Ramniwas Moriya (Authorized person of M/s. Kishor Traders & M/s.Ritika Traders , Mumbai), in his statement dated 10.02.2023,

was shown the panchnama dated 16.12.2023 drawn at the premises of M/s. Kishor Traders, Mumbai. During that procedure, DRI officers had taken samples from lots bearing product marks "KISHOR/54" and "RITIKA/47." He was also shown the CRCL, Vadodara test reports Nos. RCL/AZU/DRI/3351/22-13-2022 and RCL/AZU/DRI/3352/22-12-2022, which concluded that the samples were "*made of dyed knitted fabric (having raised fibres on one surface) coated with compounded polyurethane on one side.*"

After examining these reports, Shri Narendra Moriya accepted their accuracy and confirmed that the goods purchased by M/s. Kishor Traders under Invoice No. 2022-23/1405 dated 12.11.2022 and by M/s. Ritika Traders under Invoice No. 2022-23/1312 dated 20.11.2022, both issued by M/s. Jai Maa Enterprises, New Delhi. Further he admitted that they have ordered the subject goods and received PU Coated Fabric, although the invoices were issued with the description as as "Textile Coated Fabric" and "Glitter Fabric." He further explained that these goods are commonly referred to in the local trade by names such as "Napa," "Firangi," "Wrinkle Free Jelly," etc., and categorically admitted that the items were ordered and received as PU-coated fabrics, despite the differing descriptions in the invoices issued by M/s. Jai Maa Enterprises.

(v) From the above, it is evident that that M/s. Jai Maa Enterprises imported total 07 consignments (as mentioned above) using the IEC of M/s. JMV Enterprises by deliberately mis-declaring the description and classification of the goods. This act was done with their full knowledge despite knowing the fact that the imported items were, in fact, PU Coated Fabric of Chinese origin which are subject to Anti-Dumping Duty under Notification No. 14/2022-Customs (ADD) dated 20.05.2022.

38.3 As discussed under foregoing paragraphs, the goods in the name of M/s. JMV were imported 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 "PU (Polyurethane) coated fabrics" correctly classifiable under CTI 59032090. Thus, the goods imported are liable for applicable Customs Duty under CTI 59032090 and Anti-Dumping Duty @ 0.46 USD per meters. I noticed that bill of entry wise detailed duty calculation have already been given under table 5.1 to 5.7, hence, there is no requirement to repeat those tables again for the sake of brevity.

(i) I find that Tables 5.1 to 5.5 of the SCN list the earlier consignments of M/s. JMV Enterprises that were cleared through the SEZ unit of M/s. OWS Warehouse Services LLP, Mundra, prior to October 2022. The investigation established that these consignments had already been cleared for home consumption and that the goods sold domestically were identical in appearance, texture, and composition to those seized in November 2022. The consistent

pattern of declaration and the identical characteristics of the materials confirm that the same product (i.e. Polyurethane (PU) Coated Fabric) was repeatedly imported under false descriptions to evade Anti-Dumping Duty. These facts were also admitted by the actual Importer M/s. Jai Maa Enterprises during the investigation as discussed under foregoing paras.

(ii) Tables 5.6 and 5.7 relate to the two live consignments imported under SEZ Bill of Entry No. 1015305 dated 27.10.2022 and SEZ Bill of Entry No. 1015832 dated 04.11.2022, corresponding to DTA Bills of Entry No. 2017048 dated 03.11.2022 and No. 2017572 dated 10.11.2022, respectively. The total assessable value of these consignments was Rs. 38,58,682/- (Rs. 26,41,277/- and Rs. 12,17,405/-). The goods were seized from the SEZ premises under panchnama dated 12.11.2022, and were provisionally released against bond and bank guarantee.

38.4 Differential Duty on Past Cleared Consignments (Tables 5.1 to 5.5): Based on the correct reclassification, I find that the differential customs duty (comprising BCD, SWS, IGST, ADD, and IGST on ADD), in respect of past cleared 05 Bill of Entry which were imported by M/s. Jai Maa Enterprises under the IEC of M/s. JMV Enterprises, has been calculated at **Rs. 1,24,12,428/-**. Since these consignments had already been cleared for home consumption, the above differential duty amount is recoverable under Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA, as the short payment arose due to a wilful misstatement and suppression of the true description and classification of the imported goods.

38.5 Differential Duty on Live Consignments: The two live consignments imported under SEZ Bill of Entry Nos. 1015305 dated 27.10.2022 and 1015832 dated 04.11.2022, corresponding to DTA Bills of Entry Nos. 2017048 dated 03.11.2022 and 2017572 dated 10.11.2022, were provisionally released against bond and bank guarantee. As discussed earlier, these goods are polyurethane-coated fabrics correctly classifiable under CTH 5903 2090. Therefore, based on the correct reclassification, the differential customs duty (comprising BCD, SWS, IGST, ADD, and IGST on ADD) has been calculated at **Rs. 45,00,649/-** for the goods imported under these 02 Bills of Entry. Since these consignments were provisionally released against bond and bank guarantee, this amount is recoverable by enforcing those securities under Section 17 of the Customs Act, 1962.

38.6 Differential Duty (Table-6): I also find that one consignment of non-woven fabric was imported vide DTA Bill of Entry No. 2015500 dt. 10.10.2022 by mis-declaring the goods as "Textile Coated Fabric" under CTH 59119090,

however, the goods were found as "Non-Woven Fabric" which is rightly classifiable under CTH 56039490.

I observe that Shri Lakshay Lamba (Partner of M/s. Skytex) in his statement dated 14.02.2024 admitted that M/s. Skytex placed the order directly with the Chinese supplier for non-woven polyester bonded fabrics and he produced copy of the 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, 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. **I find that M/s. Skytex is the actual beneficial owner/Importer** for this consignment and M/s. Skytex resold the goods to downstream buyers using the identical mis-description for accounting continuity.

I find that Shri Ashok Kumar (Proprietor of M/s. JRN Fabrics) in his statement dated 07.06.2024, confirmed purchasing non-woven fabric from M/s. Skytex under multiple invoices in the month of Nov. 2022, however, the invoice having mentioned goods description as "Textile Coated Fabric". I also find that Shri Kunal Joshi of M/s. A.K. Fashions, in his statement dated 27.06.2024, admitted buying goods under Invoices No. 2022-23/2246 to 230 all dated 29.11.2022 & 2022-23/234 dated 30.11.2022 and confirmed that the goods were non-woven fabric. I observe that these downstream buyers' statements prove the true nature of the goods and the deliberate continuation of the mis-invoicing chain to avoid detection.

As discussed above, the goods imported under Bill of Entry No. 2015500 dt. 10.10.2022 were "Non-Woven Fabric" correctly classifiable under CTH 56039490. Therefore, based on the correct reclassification, the differential customs duty (comprising BCD, SWS, IGST, ADD, and IGST on ADD) has been calculated at **Rs. 3,12,724/-** for the goods imported under the Bill of Entry. I find that M/s. Skytex was the actual beneficial owner of the subject goods and Shri Kapil Kotiya facilitated the clearance through M/s. JMV Enterprises' IEC. The said mis-declaration was done knowingly and willfully with the intention to evade higher duty rates. The differential duty amount is recoverable under Section 28(4) with interest under Section 28AA of the Customs Act, 1962.

39. Confiscation of goods under Section 111(m) of the Customs Act, 1962: I find that the Show Cause Notice proposes confiscation of the imported goods under the provisions of Section 111(m) of the Customs Act, 1962. In this regard, I find that as far as confiscation of goods are concerned, Section 111 of

the Customs Act, 1962, defines the Confiscation of improperly imported goods. The relevant legal provisions of Section 111 of the Customs Act, 1962 are reproduced below:-

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

The said section provides 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 respect of which any material particular has been mis-declared in the Bill of Entry or other document, shall be liable to confiscation.*" Thus, any incorrect or false declaration of material particulars such as description, classification, or value attracts confiscation of the goods imported under such declaration. This provision allows for confiscation of any goods that have been mis-declared in the Bill of Entry or other import documents in respect of description, classification, value, or any other detail relevant to duty assessment.

I find that the Show Cause Notice (SCN) proposed confiscation under these provisions for all consignments which includes 02 seized live consignments (B/E Nos. 1015305 dated 27.10.2022 and 1015832 dated 04.11.2022, shown in Tables 5.6 and 5.7) and 06 previously cleared consignments (five PU-coated listed in Tables 5.1 to 5.5, and one non-woven in Table 6). I have already discussed in details about the modus adopted to defraud the government exchequer by deliberately mis-declaring the description and classification of the goods at the time of their importation. Further, the concealment of ADD liability and actual ownership is another material misstatement. Dummy IECs were used to conceal the identities of M/s. Jai Maa Enterprises and M/s. Skytex. Shri Kapil Kotiya submitted Annexure-A wherein details of consignments and real beneficiaries were mentioned. These details further confirmed by the independent evidences including the statement of beneficiary. I find that these false declaration of description and classification were not a bonafide mistake but an intentional mis-declaration of material particulars within the meaning of Section 111(m) of the Customs Act, 1962 which was done to evade Customs Duties including anti-dumping duty by defrauding the government exchequer. Accordingly, I find that the subject goods were deliberately mis-declared in respect of description, classification, ADD liability, and ownership of the goods; therefore, the seized goods and past cleared goods are liable to confiscation under the provisions of Section 111(m) of the Customs Act, 1962. .

40. Imposition of Redemption Fine: As I have already held these goods liable for confiscation in previous para under Section 111(m) of the Customs Act, 1962, I find it necessary to consider as to whether redemption fine under Section 125 of Customs Act, 1962, is liable to be imposed in lieu of confiscation in respect of the impugned goods as alleged vide subject SCNs. The Section 125 ibid reads as under:-

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

(i) Goods seized at M/s OWS Warehouse Services LLP: In respect of goods imported under DTA Bill of Entry No. 2017048 dated 03.11.2022 and DTA Bill of Entry No. 2017572 dated 10.11.2022 which seized at M/s OWS Warehouse Services LLP; I find that in the instant case option to redeem the goods through provisional release has already been availed by the Importer. Now the question remains that whether redemption fine can be imposed on the goods which already provisionally released. In this regard, I place reliance on the judgment of the Hon'ble Apex Court in the case of **M/s. WESTON COMPONENTS LTD. Versus COMMISSIONER OF CUSTOMS, NEW DELHI- 2000 (115) E.L.T. 278 (S.C.)** wherein the Apex Court held that:

“It is contended by the learned Counsel for the appellant that redemption fine could not be imposed because the goods were no longer in the custody of the respondent-authority. It is an admitted fact that the goods were released to the appellant on an application made by it and on the appellant executing a bond. Under these circumstances if subsequently it is found that the import was not valid or that there was any other irregularity which would entitle the customs authorities to confiscate the said goods, then the mere fact that the goods were released on the bond being executed, would not take away the power of the customs authorities to levy redemption fine.”

I believe the ratio of the aforementioned judgment is directly applicable to the present case, as the goods in the current shipment were also allowed under Bond and Bank Guarantee. Consequently, I find that a redemption fine is warranted in respect of goods imported under the subject 02 Bills of Entry.

(ii) Goods which were neither seized nor provisionally released: In respect of past imported goods under 06 Bills of Entry; I find that the goods in question

which are proposed to be confiscated were already cleared and the same are not available physically for confiscation. Thus, I refrain from imposing redemption fine in respect of goods imported under these 06 bills of entry.

41.1 ROLE AND CULPABILITY OF SHRI KAPIL KOTIYA

- i.** I find that Shri Kapil Kotiya is the Proprietor of M/s Ocean Logistics and his firm was engaged in freight forwarding and customs clearance activities, though it does not hold an IEC or a Customs Broker License. Shri Kapil Kotiya outsources customs clearance work to licensed brokers M/s Rainbow Shipping Services and M/s Lara Exim Pvt. Ltd. I find that Shri Kapil Kotiya played a central role in organizing and managing a network of dummy IEC based imports. He in his own statements (dated 27.11.2022, 03.03.2023 and 16.07.2024) admitted that he created, controlled, and operated several importer firms registered under the names of unemployed friends and relatives. The detailed contents of these statements are not repeated here for brevity, they have been duly considered and discussed in the findings of this order.
- ii.** I find that Shri Kapil approached relatives/friends who had lost jobs during the COVID-19 lockdown and opened namesake IEC firms for monetary incentives to act as proprietors of these firms. In the case of M/s JMV Enterprises (IEC No. AUWPM9653R), he used the credentials of Shri Sanjeev Shekhar Malhotra and paid Rs. 15,000 per month for signing documents related to business, RTGS forms, and cheques. Shri Kapil Kotiya handled all day-to-day operations of M/s JMV, including banking, customs clearance, and transportation. Shri Kapil also managed similar dummy firms like M/s Om Enterprises and M/s J Bridge Worldwide. This modus allowed actual importers M/s Jai Maa Enterprises and M/s Skytex, to import PU-coated fabrics and non-woven fabrics from China without revealing their identities by mis-declaring the description and classification of the imported goods.
- iii.** During the premises search of M/s. JMV Enterprise, Shri Kapil Kotiya was found present there. He identified himself as handling clearance and transportation for imports by M/s JMV and provided import-related documents from his email ID. He admitted that these documents were received from entities like M/s Dee Pee Leather, M/s Jai Maa Enterprises, and M/s A.N. Enterprises via hand delivery. This establishes his direct involvement in the operational aspects of M/s

JMV's imports, positioning him as a key facilitator in the supply chain. Shri Kapil Kotiya admitted that Proprietor of the IEC holding firm didn't indulge in any import related work except putting signatures on import related documents.

- iv.** I find that domestic traders (actual owners) used to place orders directly with overseas suppliers and after placing orders they forward import documents to Shri Kapil Kotiya to facilitate customs clearance by using the dummy IECs. I noticed from the statement dated 28.12.2022 of Shri Ankur Mahajan that Shri Kapil Kotiya had sometimes placed orders directly with Chinese suppliers. After clearance, goods were dispatched directly to the actual owners as "domestic sales," and charging Rs. 15,000 per container for IEC lending and these charges were added to the invoice value. These facts also admitted by Shri Kapil himself during statement dated 27.11.2022. Thus, there is no doubt that he charged a fixed amount per consignment for facilitating clearance by mis-declaring the imported goods.
- v.** Shri Kapil Kotiya confirmed in his statement dated 03.03.2023 that he was handling all business activities of M/s JMV Enterprises and M/s. Om Enterprises. He further admitted that letter dated 19.01.2023, addressed to Deputy Commissioner, SEZ Mundra, was issued and signed by Shri Sanjeev Shekhar Malhotra under his direction for requesting clearance of goods declared as "PU Fabrics" under later Bills of Entry (Nos. 2019872 dt. 14.12.2022 and 2019670 dt. 12.12.2022). During his statement, he provided details of Domestic traders who had utilized the IEC of M/s. Om Enterprises and M/s. JMV Enterprises. From the said statement, I find that duty portion for the imported goods was paid by the domestic traders and terms of payment were also finalised by these local traders.
- vi.** In his statement dated 16.07.2024, Shri Kapil Kotiya provided consignment wise details of actual beneficial owners of the imported goods by submitting Annexure-A. Thus, there is no doubt that he was fully aware about the shipments imported by M/s Jai Maa and M/s. Skytex through the IEC of M/s. JMV. I find that actual owners placed orders directly to the Overseas Suppliers and after receiving the import documents from these foreign supplier, the goods were imported by using the IEC of M/s. JMV Enterprises and M/s. Om Enterprises with the help of Shri Kapil Kotiya. Shri Kapil directly transported imported goods from the port to the premises of the above actual owners as per their directions. Thus, it is evident that Shri Kapil Kotiya conspired with the actual importers to carry out the fraudulent import transactions and

1 further facilitated the clearance of goods from Customs which were found to be mis-declared in respect of description and classification.

vii. I find that Shri Sanjeev Shekhar Malhotra (Proprietor, M/s JMV Enterprises) in his statements dated 27.11.2022 and 09.09.2024 directly indicate Shri Kapil Kotiya as the de facto controller of M/s JMV. He admitted that Shri Kotiya established the firm in 2020 using his credentials and paid him Rs. 15,000 monthly and the said amount was deposited in his wife's account.

viii. Shri Arun Jyoti Mahajan (statements dt. 17.05.2023 & 19.09.2024, and Shri Ankur Mahajan (dt. 28.12.2022) clearly identified Shri Kapil Kotiya as the single point of contact for M/s JMV. Shri Arun Jyoti Mahajan (Partner of M/s. Jai Maa Enterprises) confirmed that all dealings were conducted through Shri Kapil Kotiya, who offered door-step delivery. They never met the proprietor of M/s. JMV and dealt only with Shri Kapil Kotiya for ordering, document submission, and payment related work. They admitted ordering PU-coated fabrics from China (Volcano International, Cinorich) but receiving invoices as "Textile Coated Fabric". 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 i.e. Textile Coated Fabrics. He also stated that such above mentioned goods have been sold by them to M/s. Kishore Traders, Mumbai. Shri Arun Jyoti confirmed that 7 consignments out of 8 consignments in Annexure-A (submitted by Shri Kotiya) were ordered by Jai Maa which also includes the seized consignments at OWS Warehouse at SEZ, Mundra.

ix. Shri Lakshay Lamba (Partner, M/s Skytex) admitted, in his statement dated 14.02.2025, ordering Non-Woven Polyester Bonded Fabric from M/s Anhui Tianyi, China, but the goods were imported under the IEC of M/s JMV and invoiced mentioned the description as "Textile Coated Fabric". He confirmed Shri Kapil Kotiya handled all documentation and clearance. Downstream buyers M/s JRN Fabrics and M/s A.K. Fashions, received non-woven fabric but invoices showed "Textile Coated Fabric" which proves that chain of mis-invoicing initiated by Shri Kapil Kotiya at the time of importation. This led to evasion of Rs. 3,12,724/- in respect of import made vide SEZ DTA Bill of Entry 2015500 dt. 10.10.2022.

x. The fact that the Bank Guarantees (for provisional release of seized 02 consignments) for the seized goods were funded by M/s. Jai Maa

Enterprises and not by M/s. JMV Enterprises, was confirmed and disclosed by Shri Kapil Kotiya himself. This fact clearly indicates his knowledge of the mis-declaration. This also establishes that he was actively managing and controlling the import transactions.

xi. I find that Shri Kapil Kotiya is the key person behind the entire scheme of evasion of Anti-Dumping Duty on imports of PU Coated Fabrics who managed imports of PU Coated Fabrics and Non-Woven Fabrics by mis-declaration of description and classification. I notice that Shri Kapil Kotiya was aware with the procedures relating to import and customs clearance, and his clients were regular importers of PU Coated Fabrics from Chinese suppliers. After the imposition of Anti-Dumping Duty on PU Coated Fabrics originating in or exported from China vide Notification No. 14/2022-Customs (ADD) dated 20.05.2022, the landing cost of such fabrics increased significantly. Thus, Shri Kapil Kotiya and other beneficiaries planned a deliberate modus operandi to evade the Anti-Dumping Duty imposed under the said notification. He created dummy or name-sake firms by using the credentials of his friends and relatives. He then offered these dummy IECs to his clients for use in importing PU Coated Fabrics by mis-declaring the same as other types of fabrics which were not subject to payment of Anti-Dumping Duty. I observe that the interested firms (actual beneficiaries) used to place purchase orders directly with the overseas suppliers in China and forward the import documents received from those suppliers to Shri Kapil Kotiya. The remittance towards these imports was also routed through the dummy firms created by him. I further find that Shri Kapil Kotiya managed all activities related to the import process, including customs clearance using the IECs of these dummy firms and arranging direct delivery of the goods from the port to the premises of the actual owners.

xii. I find that the actual owners of the goods, who were earlier importing PU Coated Fabrics prior to the levy of Anti-Dumping Duty, benefitted from this malpractice by evading payment of ADD and Shri Kapil Kotiya also gained financial benefit by facilitating duty evasion. The so-called proprietors of these dummy firms had no role other than signing banking and import-related documents and they were paid a monthly amount of Rs. 15,000/- by Shri Kapil Kotiya. I observe that these actions demonstrate a clear intent on the part of Shri Kapil Kotiya and establish his mens rea in defrauding the Government exchequer through deliberate evasion of Anti-Dumping Duty.

xiii. From the above, I find that by indulging in the above acts, Shri Kapil Kotiya has committed acts and omissions in relation to the imported goods which render such goods liable to confiscation under Section 111 of the Customs Act, 1962. Accordingly, I hold that he rendered himself liable to penalty under **Section 112(b)(ii)** of the Customs Act, 1962. . I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(a) of the Act where ever, penalty under Section 112(b) of Act, is to be imposed.

xiv. I also find that Shri Kapil Kotiya was directly involved in receiving import documents from the beneficiary firms, forwarding them to Customs Brokers for clearance using the IECs of the dummy firms, and subsequently ensuring transportation of the cleared goods to the premises of the actual beneficiaries. I further find that Shri Kapil Kotiya was fully aware of the imposition of Anti-Dumping Duty on the mis-declared goods imported through the IEC of M/s. JMV. Despite this, he intentionally and knowingly caused the submission of false and incorrect declarations and documents in connection with the import transactions, thereby made himself liable for penalty under **Section 114AA** of the Customs Act, 1962.

41.2 ROLE AND CULPABILITY OF M/S. JAI MAA ENTERPRISES AND SHRI ARUN JYOTI MAHAJAN (PARTNER OF M/S. JAI MAA ENTERPRISES):

- i.** As discussed under foregoing paragraphs, it is evident that M/s. Jai Maa Enterprises acted as beneficial owner behind 05 previously cleared consignments (as detailed under Tables 5.1 to 5.5 above) and 02 seized consignments (as detailed under Tables 5.6 and 5.7 above). I find that M/s. Jai Maa Enterprises directly placed orders with Chinese suppliers and provided these mis-declared documents to Shri Kapil Kotiya for customs clearance. M/s. Jai Maa received or purchased the imported goods as domestic sales and further issued invoices to downstream buyers with the incorrect description as "Textile Coated Fabric."
- ii.** I find that Shri Arun Jyoti Mahajan, as the active partner, played a central role in this fraudulent arrangement. He admitted to being aware of the goods' true PU-coated nature and sold them under false descriptions to avoid Anti-Dumping Duty (ADD) and applicable Customs Duty. Their conduct was deliberate and profit-driven which is supported through

multiple statements recorded under Section 108 of the Customs Act, 1962.

- iii.** As discussed earlier, M/s. Jai Maa Enterprises was the actual importer behind the import made vide 07 bills of entry which were filed in the name of M/s. JMV Enterprises. The firm placed direct orders for PU-coated fabrics with Chinese suppliers such as Volcano International and Cinorich and handed them over the false documents to Shri Kapil Kotiya for Customs clearance purpose.
- iv.** Shri Ankur Mahajan revealed in his statement dated 27.11.2022 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. Thus, there is no doubt that orders were placed directly or through Shri Kotiya with full knowledge that the goods were PU-coated, but M/s. Jai Maa Enterprise accepted invoices from M/s. JMV showing the goods as "Textile Coated Fabric" for accounting convenience and resold them under the same false description to buyers such as M/s. Kishor Traders.*
- v.** Shri Narendrachand Ramniwas Moriya (Authorized person of M/s. Kishor Traders, Mumbai) confirmed that 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 also agreed with the test results of the samples which were drawn from the consignment lying at their premises which was purchased from M/s. Jai Maa Enterprises.
- vi.** Shri Arun Jyoti Mahajan (Partner of M/s. Jai Maa Enterprises) confirmed that all dealings were conducted through Shri Kapil Kotiya, who offered door-step delivery. These admissions demonstrate that M/s. Jai Maa Enterprises exercised full control over the import process while concealing its role behind the nominal importer. I find from the Annexure-A submitted by Shri Kapil Kotiya that all seven consignments were imported by M/s. Jai Maa Enterprises by placing orders to foreign suppliers. As an active partner, Shri Arun Jyoti Mahajan managed the domestic end of the operation. He purchased mis-declared goods from M/s. JMV Enterprises and deliberately resold them under the same incorrect description despite knowing the fact that they have received/placed order for PU Coated Fabrics. He admitted that they received PU coated fabrics but goods were mentioned in the import documents/sale invoices as "Textile Coated

Fabric". Despite being aware to this fact, they issued invoices with false descriptions to downstream buyers such as M/s. Kishor Traders and M/s. Ritika Traders.

- vii.** I find that M/s. Jai Maa Enterprises represented through its Partner Shri Arun Jyoti Mahajan who is the beneficiary of the duty evaded in the case. Shri Arun Jyoti Mahajan and his firm 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. I find that M/s. Jai Maa Enterprises and its partner, in collusion with Shri Kapil Kotiya, deliberately carried out a systematic plan to evade payment of Anti-Dumping Duty. They used dummy or name-sake IEC to conceal their involvement although all import activities starting from order placement to payment were managed and financed by the noticees themselves. Their conduct reflects conscious and active involvement with a clear intent to defraud the Government exchequer by evading the legitimate Customs Duty.
- viii.** The firm's role in the seized consignments (B/E Nos. 1015305 and 1015832) further proves its culpability. M/s. Jai Maa Enterprises funded the Bond and Bank Guarantee for provisional release of the seized goods. Downstream buyer M/s. Kishor Traders confirmed that the goods received under Invoice No. 2022-23/1405 dated 12.11.2022 were PU-coated fabrics which were earlier purchased from M/s. Jai Maa Enterprises.
- ix.** From the above, it is evident that Shri Arun Jyoti Mahajan was fully aware about the mis-declaration. These act done resulted in duty evasion amounting to Rs. 1,69,13,077/- . They have knowingly dealt with the offending goods with intend to get the same cleared from Customs. Thus, I have no doubt that they had willfully and deliberately indulged into conspiracy of importing and clearance of offending goods by way of mis-declaration and misclassification. Thus, such acts and omission had rendered impugned goods liable for confiscation under Section 111(m) of the Customs Act, 1962 and also rendered Shri Arun Jyoti Mahajan liable for penalty under Section **112 (b)(ii)** of the Customs Act, 1962. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(a) of the Act where ever, penalty under Section 112(b) of Act, is to be imposed.
- x.** I find that Shri Arun Jyoti Mahajan issued false invoices and collaborated with Shri Kapil Kotiya despite being aware of the mis-declaration. Thus, it is beyond doubt that he was active participants and his firm was prime

beneficiaries in the evasion scheme. They placed orders, routed document for customs clearance purpose and sold the imported goods to downstream buyers with the same false description. They were very aware with the nature, description of the goods in the import consignment. However, they knowingly and intentionally made/signed/used and/or caused to be made/signed/used the documents of their company for import of the offending goods having false and incorrect material particular such as description, classification etc., therefore I hold that Shri Arun Jyoti Mahajan (Partner of M/s. Jai Maa Enterprises) is liable for penalty under **Section 114AA** of the Customs Act, 1962.

xi. In respect of past clearance, as I have already discussed that the goods imported under past 06 shipments are also liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962; consequently penalty under Section 114A is also found to be leviable on the actual beneficial owner or Importer M/s. Jai Maa Enterprises as the elements for penalty as per said Section 114A is *pari materia* with Section 28(4) of the Customs Act, 19692.

41.3 ROLE AND CULPABILITY OF M/S. SKYTEX AND SHRI LAKSHAY LAMBA, PARTNER OF M/S. SKYTEX:

- i.** As discussed under foregoing paragraphs, I find that M/s. Skytex acted as the real importer and beneficial owner of one past cleared consignment imported vide Bill of Entry No. 1013745 dated 12.09.2022 (DTA BE No. 2015500 dated 10.10.2022). I find that M/s. Skytex directly placed orders with Chinese suppliers and handed over import documents to Shri Kapil Kotiya for customs clearance under the false description.
- ii.** Form the statement dated 14.02.2024 of Shri Lakshay Lamba (Partner of M/s. Skytex), I find that M/s. Skytex placed the order directly with the Chinese supplier for “*Non-Woven Polyester Bonded Fabrics*” and 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 with the false description as “*Textile Coated Fabric*”. These goods were later sold (with the same false description) to various firms viz. M/s. Gee EN Enterprises, M/s. JRN Fabrics, M/s. A.K. Fashions & M/s. ANC Manufacturers.
- iii.** I find that downstream local buyers (such as M/s. JRN Fabrics & M/s. A.K. Fashions) purchased non-woven fabric from M/s. Skytex under multiple invoices in the month of Nov. 2022, however, the invoices having mentioned goods description as “*Textile Coated Fabric*”.

iv. I find that Shri Lakshay Lamba, actively participated in and facilitated the fraudulent import with the intention to evade the Customs Duty. I find that he was aware that the imported goods were non-woven polyester bonded fabrics but imported and sold them to local buyers under the false description. From the statement dated 14.02.2024 of Shri Lakshay Lamba, I find that they had placed the order directly with the foreign supplier, provided the import documents to Shri Kotiya for clearance under the IEC of M/s. JMV, and subsequently received the goods at their premises as a domestic sale. He confirmed that the invoice issued by M/s. JMV mentioned the description of goods as "Textile Coated Fabric," although the physical goods had no coating and were purely non-woven polyester bonded fabric used for jacket linings and garment manufacturing. Shri Lamba further accepted that M/s. Skytex was the beneficial owner of the subject consignment and that the firm resold the goods to its downstream buyers using the same description to maintain accounting consistency. The above acts demonstrate the culpable/criminal mindset of Shri Lakshay Lamba (Partner of M/s. Skytex) and undoubtedly prove his mens-reas in the whole act of defrauding the Govt Exchequer by evading the applicable payment of Customs Duty.

v. From the above, I find that Shri Lakshay Lamba (Partner of M/s. Skytex) 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 imported goods. They had indulged themselves in importing of Non-woven Fabrics by mis-declaring and mis-classifying their true identity. They had imported Non-Woven fabric by mis-declaring the same as "Textile Coated Fabric" and "Felt Woven Coated Fabrics". Thus, I find that M/s. Skytex and Shri Lakshay Lamba were active participants and primary beneficiaries of the non-woven fabric evasion scheme. Due to their connived mis-declaration, there was a loss to the government exchequer to the tune of Rs. 3,12,724/-. Thus, I have no doubt that he had willfully and deliberately indulged into conspiracy of importing and clearance of offending goods by way of mis-declaration and misclassification. Thus, such acts and omission had rendered impugned goods liable for confiscation under Section 111(m) of the Customs Act, 1962 and also rendered Shri Lakshay Lamba liable for penalty under Section **112 (b)(ii)** of the Customs Act, 1962. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(a) of the Act where ever, penalty under Section 112(b) of Act, is to be imposed.

vi. I also find that Shri Lakshay Lamba admittedly placed orders, routed document for customs clearance purpose and sold the imported goods to downstream buyers with the same false description. He were very aware with the nature, description of the goods in the import consignment. However, He knowingly and intentionally made/signed/used and/or caused to be made/signed/used the documents of their company for import of the offending goods having false and incorrect material particular such as description, classification etc., therefore I hold that Shri Lakshay Lamba (Partner of M/s. Skytex) is liable for penalty under **Section 114AA** of the Customs Act, 1962.

vii. In respect of proposed penalty under Section 114A, as I have already discussed that the goods imported under past shipment are also liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962; consequently penalty under Section 114A is also found to be leviable on the actual beneficial owner or Importer M/s. Skytex as the elements for penalty as per said Section 114A is *pari materia* with Section 28(4) of the Customs Act, 1962.

41.4 ROLE AND CULPABILITY OF SHRI SANJEEV SHEKHAR MALHOTRA (PROPRIETOR OF M/S. JMV ENTERPRISE):

i. I find that Shri Sanjeev Shekhar Malhotra (Proprietor of M/s. JMV Enterprises) knowingly lent his IEC to Shri Kapil Kotiya for monetary consideration of Rs. 15,000 per month to function as a dummy IEC holder. Due to this act, the actual beneficiaries (M/s. Jai Maa Enterprises, M/s. Skytex) evaded Customs Duty by way of mis-declaring the goods under incorrect description and classification.

ii. I find that Shri Sanjeev Malhotra established M/s. JMV Enterprises in 2020 solely under the guidance of Shri Kapil Kotiya. In his statement dated 27.11.2022, he clearly admitted that Shri Kotiya approached him and offered to open a firm in his name. He stated that he had no knowledge of import procedures, never communicated with overseas suppliers or domestic buyers, did not know the employees of M/s. JMV, and signed all documents as directed by Shri Kotiya. He confirmed that Shri Kotiya informed him that the firm would work as a mediatory entity to import goods for various other firms, and that Shri Kotiya once mentioned M/s. Jai Maa Enterprises and M/s. Bhagwati Enterprises as buyers. He admitted that Shri Kotiya's wife and his wife were friends, which led to the acquaintance, and that Shri Kotiya looked after all work of M/s. JMV Enterprises. I observe that these admission establishes Shri Sanjeev Malhotra's full awareness in the subject case.

- iii.** Despite being aware that the firm was a mediator for other traders and that Shri Kotiya controlled all operations; Shri Sanjeev Malhotra signed all import related documents without verifying contents thereof. I find that his role was active in facilitation. His mens rea is established through his confessional statements, his presence during premises search, email evidence, and voluntary deposits post-seizure.
- iv.** I find that Shri Malhotra continued to facilitate the scheme even after DRI intervention and continued to sign documents under Shri Kapil Kotiya's instructions. In his further statement dated 09.09.2024, after perusal of CRCL reports, he accepted that the imported goods declared as "Textile Coated Fabric" or "Felt Woven Coated Fabric" were actually PU-coated or non-woven fabrics. He confirmed that he signed the letter dated 19.01.2023 addressed to Deputy Commissioner, SEZ Mundra requesting clearance of PU fabrics imported under DTA Bill of Entry Nos. 2019872 dt. 14.12.2022 and 2019670 dt. 12.12.2022 under Kapil Kotiya's instructions.
- v.** I find that Shri Sanjeev Malhotra's presence during of premises visit by DRI on 21.11.2022 further reveals his collusion. He joined the proceedings after Shri Kotiya was found present, and confirmed that his firm provided end-to-end solutions. He did not object to Shri Kotiya's email access or document provision, and no records of independent verification were produced. I observe that his nominal proprietorship was cover-up and his failure to exercise oversight as importer of record under Section 46(4) renders him/his firm liable for penal action under Section 112(a) of the Customs Act, 1962.
- vi.** I find that Shri Sanjeev Malhotra's culpability is not mitigated by his claimed ignorance. I find that Shri Sanjeev Shekhar Malhotra was knowingly lent his IEC in lieu of monetary consideration and he did not bothered to know the business activities running in his IEC firm. These acts done by Shri Sanjeev Malhotra has rendered the subject goods liable for confiscation under the provisions of Section 111 of the Customs Act, thus, made himself liable for penal action under the provisions of Customs Act, 1962.
- vii.** From the above, I find that that Shri Sanjeev Malhotra (proprietor of M/s. JMV Enterprise) had done the activity which rendered the subject goods liable for confiscation under the provisions of Customs Act, 1962. I find that Shri Sanjeev Malhotra (proprietor of M/s. JMV Enterprise) was willfully and deliberately indulged into conspiracy of importing and clearance of mis-declared goods. Further, the Importer by knowingly

concerning himself in removing, depositing, harbouring, keeping, concealing, selling and dealing with mis-declared goods which resulted in contravention of the provisions of Customs Act, 1962 and rules made there under and thus, they have made goods liable for confiscation under Section 111 of the Customs Act, 1962. In view of above, I find that the importer has rendered themselves liable for penalty under **Section 112(a) (ii)** of the Customs Act, 1962. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(b) of the Act where ever, penalty under Section 112(a) of Act, is to be imposed.

viii. As regards the penalty under Section 117 proposed on Shri Sanjeev Malhotra, I find that Section 117 of the Customs Act, 1962 is a covering provision which lays down that for any other contravention of the Customs Act for which express penalty has not been provided elsewhere, the person liable can be charged for penalty under this section. In this regard, I find that Shri Sanjeev Malhotra knowingly lent his IEC to be used by unscrupulous elements and never bothered to get to know the business activities which were being conducted in the name of M/s. JMV Enterprise. This IEC was used by the actual beneficiary through Shri Kapil Kotiya for their own import, and he had used KYC of this firm for clearance of mis-declared goods by way of filing bills of entry with false descriptions and classifications. I find that Shri Sanjeev Malhotra willingly allowed to import the offending goods by way of filing Bills of Entry. He also signed the import related documents, as discussed under foregoing paragraphs. If Shri Sanjeev Malhotra had not provided his documents, the goods would not have been imported under his IEC-holding firm. Therefore, Shri Sanjeev Malhotra cannot completely claim innocence. For these act done by Shri Sanjeev Malhotra, I find that he is liable for penal action under the provisions of **Section 117** of the Customs Act, 1962.

41.5 ROLE AND CULPABILITY OF SHRI SABU GEORGE, (G-CARD HOLDER AND PARTNER OF M/S. RAINBOW SHIPPING SERVICES):

I find 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 in his statement recorded on 03.10.2024 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. Om Enterprises and M/s. JMV Enterprises. They have just forwarded the Bond and Bank Guarantee provided by Shri Kapil Kotiya. From this causal approach, I have no doubt that they have adopted this approach throughout the entire period of importation. They have not bothered to verify or taken approval of the Importer M/s. JMV Enterprises before filing the Bill of Entry. 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 an deterrent if Shri Sabu George, Customs Broker would have exercised due diligence in discharging his duties entrusted under CBLR, 2018. I find that the Customs Broker failed to ensure accuracy and completeness of the details provided for filing of Bills of Entry and thereby violated the provisions of the Section 46(4A) of the Customs Act, 1962. Thus, I find that by indulging in the above act, Shri Sabu George have committed offence punishable under **Section 117** of the Customs Act, 1962.

42. In view of the aforesaid discussions and findings, I pass the following order:

ORDER

42.1 Confiscation and Redemption Fine of live shipment/Seized Goods:

- i. I order to confiscate the goods imported vide SEZ Bill of Entry No. 1015305 dated 27.10.2022 & Bill of Entry No. 1015832 dated 04.11.2022, Corresponding SEZ DTA Bill of Entry No. 2017048 dated 03.11.2022 and Bill of Entry No. 2017572 dated 10.11.2022 (as mentioned in Table-5.6 & 5.7 of para 14.6 of the SCN) having total assessable value of Rs. 38,58,682/- under Section 111(m) of the Customs Act, 1962. As the goods imported under these bill of entry have already been provisionally released, I impose a redemption fine of **Rs. 5,00,000/- (Rupees Five Lakhs only)** under Section 125(1) of Customs Act, 1962 in lieu of confiscation of the goods for the reasons state in foregoing paras.
- ii. I order to reject the declared Classification 59119990 and description of good “Felt Woven Coated Fabric” of the goods confiscated at (i) and order to re-classify the same under HS CODE/CTI 59032090 with the description as “Polyurethane (PU) Coated Fabric” as mentioned in

TABLE-5.6 & TABLE-5.7 at Para 14.6 to the Show Cause Notice.

- iii. I order to re-assess these 02 Bills of Entry (as mentioned in TABLE-5.6 & TABLE-5.7 at Para 14.6 to the Show Cause Notice) after including the applicable duties ((BCD+SWS+IGST+ADD+IGST on ADD) under Section 17(4) of the Customs Act, 1962.
- iv. I order to enforce the Bond & Bank Guarantee furnished by the Importer at the time of provisional release of the goods. If the amount in respect of these Bills of Entry paid in full by the Noticees, the Bond & Bank Guarantee may be cancelled by the competent authority.

42.2 Confiscation and Redemption Fine in respect of past consignments:

- i. I order to reject 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 the Show Cause Notice) and order to re-classify the same HS CODE/CTI 59032090 with the description as "Polyurethane (PU) Coated Fabric".
- ii. I order to reject the declared Classification 59119990 against the description of goods "Felt Woven Coated Fabric" (as mentioned in TABLE-5.5 of para 14.6 to the Show Cause Notice) and order to re-classify the same HS CODE/CTI 59032090 with the description as "Polyurethane (PU) Coated Fabric".
- iii. I confirm the demand of differential Customs duty 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 the Show Cause Notice and order to recover the same from M/s. Jai Maa Enterprise/actual beneficial owner under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA ibid;
- iv. I order to reject the declared Classification 59119990 against the description of goods "Textile Coated Fabric" (as mentioned in TABLE-6 of para 15.5 to the Show Cause Notice) and order to re-classify the same HS CODE/CTI 56039490 with the description as "Non-Woven Fabric".
- v. I confirm the demand of differential Customs duty 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 the Show Cause Notice and order to recover the same from M/s. Skytex/actual beneficial owner under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA ibid;

- vi. I order to confiscate the goods imported vide SEZ Bill of Entry (as mentioned in Table-5.1 & 5.5 of para 14.6 of the SCN and Table-6 of para 15.5 of the SCN) having total assessable value of Rs. 1,38,07,948/- (Rupees One Crore Thirty Eight Lakh Seven Thousand Nine Hundred and Forty Eight only) under Section 111(m) of the Customs Act, 1962. However, I do not impose any redemption fine since the goods are not physically available for confiscation.
- vii. I order to appropriate the amount of Rs. 1,13,31,070/- (Rs. One Crore Thirteen Lakh Thirty One Thousand and Seventy only) already paid during investigation towards their Duty Liabilities.

42.3 Penalty under Section 112(a), 112(b), 114A, 114AA & 117 of the Customs Act, 1962:

- i. I impose a penalty of **Rs. 4,30,000 (Rupees Four Lakhs Thirty Thousand only)** upon **M/s. JMV Enterprises** under Section 112(a)(ii) of the Customs Act, 1962. However, I do not impose penalty upon them under Section 112(b) of the Customs Act, 1962, for the reasons stated above.
- ii. I impose a penalty of **Rs. 3,50,000 (Rupees Three Lakhs Fifty Thousand only)** upon **Shri Sanjeev Shekhar Malhotra** (Proprietor of M/s JMV Enterprises) under Section 117 of the Customs Act, 1962.
- iii. I impose a penalty of **Rs. 16,00,000 (Rupees Sixteen Lakhs only)** upon **Shri Arun Jyoti Mahajan** (Partner of M/s. Jai Maa Enterprise) under Section 112(b)(ii) of the Customs Act, 1962. However, I do not impose penalty upon them under Section 112(a) of the Customs Act, 1962, for the reasons stated above.
- iv. I impose a penalty of **Rs. 20,00,000 (Rupees Twenty Lakhs only)** upon **Shri Arun Jyoti** (Partner of M/s. Jai Maa Enterprise) under Section 114AA of the Customs Act, 1962.
- v. I impose a penalty of **Rs. 30,000 (Rupees Thirty Thousand only)**

upon **Shri Lakshay Lamba** (Partner of M/s Skytex) under Section 112(b)(ii) of the Customs Act, 1962. However, I do not impose penalty upon them under Section 112(a) of the Customs Act, 1962, for the reasons stated above.

- vi. I impose a penalty of **Rs. 5,00,000/- (Rupees Five Lakhs only)** upon **Shri Lakshay Lamba** (Partner of M/s Skytex) under Section 114AA of the Customs Act, 1962.
- vii. I impose a penalty of **Rs. 15,00,000 (Rupees Fifteen Lakhs only)** upon **Shri Kapil Kotiya** (Proprietor of M/s Ocean Logistics) under Section 112(b)(ii) of the Customs Act, 1962. However, I do not impose penalty upon them under Section 112(a) of the Customs Act, 1962, for the reasons stated above.
- viii. I impose a penalty of **Rs. 20,00,000 (Rupees Twenty Lakhs only)** upon **Shri Kapil Kotiya** (Proprietor of M/s Ocean Logistics) under Section 114AA of the Customs Act, 1962.
- ix. I impose a penalty of **Rs. 3,00,000 (Rupees Three Lakhs only)** upon **Shri Sabu George**, G Card Holder, under Section 117 of the Customs Act, 1962.
- x. I impose a penalty of **Rs. 1,24,12,428/- (Rupees One Crore Twenty Four Lakh Twelve Thousand Four Hundred and Twenty Eight only)** upon M/s. Jai Maa Enterprises/beneficial owner/Importer being equal to the amount duty evaded under Section 114A of the Customs Act, 1962.
- xi. I impose a penalty of **Rs. 3,12,724/- (Rupees Three Lakh Twelve Thousand Seven Hundred and Twenty Four only)** upon M/s. Skytex/beneficial owner/Importer being equal to the amount duty evaded under Section 114A of the Customs Act, 1962.

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

(NITIN SAINI)
Commissioner of Customs, Mundra

By Mail/Speed Post & through proper/official channel

To (Noticees),

- 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, Partner, 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, 2nd 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 to:

- (i) The Chief Commissioner of Customs, CCO, Ahmedabad.

- (ii) 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.
- (iii) The Deputy/Assistant Commissioner (Legal/Prosecution), CH, Mundra.
- (iv) The Deputy/Assistant Commissioner (Recovery/TRC), CH, Mundra.
- (v) The Deputy/Assistant Commissioner (EDI), Customs House, Mundra.
- (vi) CBLR Section, Custom House, Mundra.