

	<p>प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, एमपी और एसईजेड, मुंद्रा, कच्छ-गुजरात -370421</p> <p>OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOMS HOUSE, MP & SEZ MUNDRA, KUTCH-GUJARAT</p> <p>PHONE : 02838-271426/271428 FAX :02838-271425 Mail: group3-mundra@gov.in</p>	
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A	फा./सं FILE NO.	CUS/APR/MISC/9138/2025-Gr.3-O/o Pr.Commr-Cus-Mundra.
B	मूल आदेश संख्या/ ORDER-IN-ORIGINAL NO.	MCH/ADC/ZDC/460/2025-26
C	द्वारा पारित किया गया/ PASSED BY	Dipak Zala Addl. Commissioner of Customs Mundra Customs House
D	आदेश की तिथि DATE OF ORDER	20.12.2025
E	जारी करने की तिथि DATE OF ISSUE	20.12.2025
F	कारण बताओ नोटिस संख्या & तिथि SCN NUMBER & DATE	WAIVED
G	आयातक / नोटिस प्राप्तकर्ता IMPORTER / NOTICEE	M/s. H.V. Enterprises (IEC No. AAQFH6998G/0)
H	डिन संख्या /DIN NUMBER	20251271M00000319685

1. यह आदेश संबन्धित को निःशुल्क प्रदान किया जाता है।

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

2. यदि कोई व्यक्ति इस आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 128 A के अंतर्गत प्रपत्र सीए-1 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 128A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

“सीमा शुल्क आयुक्त) अपील,
चौथी मंजिल, हुडको बिल्डिंग, ईश्वरभुवन रोड,

नवरंगपुरा, अहमदाबाद 380 009”
“THE COMMISSIONER OF CUSTOMS (APPEALS),
HAVING HIS OFFICE AT 4TH FLOOR, HUDCO BUILDING, ISHWAR BHUVAN
ROAD,
NAVRANGPURA, AHMEDABAD-380 009.”

3. उक्तअपील यहआदेश भेजने की दिनांक से 60दिन के भीतर दाखिल की जानी चाहिए।

Appeal shall be filed within sixty days from the date of communication of this order.

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5 -/रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-

Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must be accompanied by –

- i. उक्त अपील की एक प्रति और A copy of the appeal, and
- ii. इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची 1-के अनुसार न्यायालय शुल्क अधिनियम 1870-के मद सं. 6-में निर्धारित 5 -/रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।

This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.

5. अपील जापन के साथ ड्रूटि /ब्याज /दण्ड /जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।

Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo.

अपील . 6 प्रस्तुत करते समय, सीमाशुल्क) अपील (नियम, 1982और सीमाशुल्क अधिनियम, 1962के अन्य सभी प्रावधानोंके तहत सभी मामलों का पालन किया जाना चाहिए।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.

7. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (A) के समक्ष मांग शुल्क का 7.5 %भुगतान करना होगा।

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

Brief facts of the Case:

On the basis of intelligence, the consignment imported by M/s. H.V. Enterprises (IEC No. AAQFH6998G/0), Shop No. 8, Siri Nagar Colony, Near Lakshmi Bai College, New Delhi – 110052, imported from M/s. Chang Xing Letian Textile Co. Ltd., China, covered under Bill of Entry No. 5440099 dated 01.11.2025, is put on hold on 06.11.2025 at the premises of M/s. OWS Warehouse Services LLP, SEZ Unit, Mundra SEZ for detailed examination by SIIB Mundra, and prior intimation in this regard is also sent to the Development Commissioner, APSEZ, Mundra (Kutch) on 06.11.2025.

The examination of the consignment imported by M/s H.V. Enterprises under Bill of Entry No. 5440099 dated 01.11.2025 is conducted on 10.11.2025 at the premises of OWS Warehouse Services LLP, Survey No. 169, Sector-8, Village Dhruve, Mundra. The examination is carried out in the presence of Mr. Abhishek Pathak, Operational Executive representing OWS Warehouse Services LLP (SEZ Unit), and Mr. Surender Kumar Sharma, Authorized Representative of the importer (Aadhaar No. 6900 0149 2332).

As per the Bill of Entry, Invoice, and Packing List, the goods are declared as under:

Sr. No.	CTH No.	Description of Goods	Unit Price (USD)	Quantity (SQM)	Amount (USD)	Rolls	Gross weight (KGS)
1	59031090	Polyester Fabric with PVC Coating Width 58 Inch	0.18	53,550	9639	803	26,500

At the commencement of physical inspection, the container is examined externally and found structurally sound with no signs of damage, tampering, or forced entry. The seal on the container is verified and is found intact and matching the particulars as per the shipping documents. The seal is cut open in the presence of the undersigned Preventive Officer, Mr. Abhishek Pathak (OWS), Mr. Surender Kumar Sharma (Importer's authorised representative) and labour arranged by the SEZ unit, and the container doors are then opened to facilitate detailed inspection.

2. Action taken: – Examination findings:

On opening, rolls of fabric of different assorted colours wrapped in

plastic are found. A physical count reveals a total of 803 rolls, with the colour-wise breakup as tabulated below:

TABLE-A

Sr. No.	Colour of Fabric Roll	Number of Rolls
1	Red	74
2	Blue	502
3	Sky Blue	66
4	Black	125
5	Brown	36
Total		803 Rolls

During the course of examination, the approximate weight of each roll is found to be **33.2 Kgs**, and based on the total of **803 rolls**, the overall weight works out to approximately **26,670 Kgs**. The **weighbridge slip issued by OWS SEZ Unit** shown a **weight of 26,640 Kgs**, while the **weight as per the Bill of Entry is 26,500 Kgs**.

The packages (rolls) are found stacked and their condition is consistent with the declared description. Although the cargo of the consignment appears to be fabric in roll form, the exact nature, composition, and characteristics of the material cannot be ascertained through visual examination. Accordingly, representative samples are drawn in triplicate in the presence of all concerned representatives for laboratory testing to determine the precise nature and composition of the goods.

The samples are properly sealed, labelled, signed, and forwarded to the CRCL Laboratory, Kandla for detailed analysis under the following Test Memo Numbers (all dated 10.11.2025):-

TABLE -B

Test Memo No.	Date	Description / Colour of Sample
338	10.11.2025	Red Colour
339	10.11.2025	Blue Colour
340	10.11.2025	Sky Blue Colour
341	10.11.2025	Black Colour
342	10.11.2025	Brown Colour

During examination, no concealment of any other items is found in the cargo, and no concealment of any other goods is observed inside the

rolls or within the packing materials.

3. Investigations Conducted:-

Subsequently, the samples were forwarded to CRCL, Kandla for testing. The test report Lab No. SIIB-7206 dt. 19.11.2025, Lab No. SIIB-7207 dt. 18.11.2025, Lab No. SIIB-7208 dt. 18.11.2025, Lab No. SIIB-7209 dt. 18.11.2025 and issued by CRCL and Lab No. SIIB-7210 dt. 19.11.2025 issued by CRCL and received in this office is summarized below:-

TABLE -C

Test Memo No. & date	Colour of Sample	TR No. & Date	Report
338 / 10.11.2025	Red Colour	Lab No. SIIB-7206 dt. 19.11.2025	<p>The sample as received is in form of a cut piece of dyed (Red Coloured) fabric having smooth coating on one side (without selvedge). The base woven fabric is composed of polyester filament yarn (non-textured) and coating is composed of compounded polyvinylchloride (PVC). GSM (as such) = 226.06 % composition Polyester=21.85% PVC=balance.</p> <p>Note- The sample is coated fabric, hence azo dye could not be ascertained.</p>
339/ 10.11.2025	Blue Colour	Lab No. SIIB-7207 dt. 18.11.2025	<p>The sample as received is in form of a cut pieces of dyed (dark Blue Coloured) woven fabric having light blue polymeric coating on one side. The base woven fabric is composed of polyester filament yarn and coating is composed of polymer based on compounded polyvinylchloride (PVC). GSM (as such) = 222.68 Width (selvedge to selvedge)= One side. % composition Polyester=24.38% by Wt. Coating material (PVC)=balance.</p> <p>Note- As the sample is coated, azo dye</p>

			could not be ascertained.
340/ 10.11.2025	Sky Blue Colour	Lab No. SIIB-7208 dt. 18.11.2025	<p>The sample as received is in form of a cut pieces of dyed (Blue Coloured) woven fabric having polymeric coating on one side.</p> <p>Base fabric is composed of polyester filament yarn and coating is composed of polymer based on compounded polyvinylchloride (PVC).</p> <p>GSM (as such) = 227.90</p> <p>Selvedge to selvedge width (cms)=One side selvedge.</p> <p>% composition</p> <p>% of polyester=34.52% by Wt.</p> <p>% of coating material (PVC)=balance.</p>
341/ 10.11.2025	Black Colour	Lab No. SIIB-7209 dt. 18.11.2025	<p>The sample as received is in form of a cut pieces of dyed (black Coloured) fabric having bluish smooth coating on one side (without selvedge). The base woven fabric is composed of polyester filament yarn (non-textured) and coating is composed of compounded polyvinylchloride (PVC).</p> <p>GSM (as such) = 222.00</p> <p>% composition</p> <p>Polyester=25.5% PVC=balance.</p> <p>Note- The sample is coated fabric, hence azo dye could not be ascertained.</p>
342/ 10.11.2025	Brown Colour	Lab No. SIIB-7210 dt. 19.11.2025	<p>The sample as received is in form of a cut pieces of dyed (brown Coloured) fabric having greyish smooth coating on one side. The base woven fabric is composed of polyester filament yarn (non-textured) and coating is composed of compounded polyvinylchloride (PVC).</p> <p>GSM (as such) = 214.00</p> <p>Width (Selvedge to selvedge)=148 cm</p> <p>% composition</p> <p>Polyester=20.84 %</p> <p>PVC=balance.</p> <p>Note- The sample is coated fabric, hence azo dye could not be ascertained.</p>

3.2.1 The test reports received from CRCL, Kandla in respect of BE No. 5440099 dated 01.11.2025 (Z-Type) were communicated to the importer vide this office e-mail dated 22.11.2025. In response, the importer, vide

their e-mail dated 22.11.2025, conveyed their acceptance of the test results and requested that further necessary action be taken and the shipment be processed for release.

3.2.2 The importer has declared the goods as "Polyester fabric with PVC coating" under CTH 5903 10 90. Further, as per the test reports, the goods correspond to the description declared in the Bill of Entry. Based on the findings of the test reports and the provisions of the Customs Tariff, the description declared by the importer is found to be correct. Accordingly, the correct classification of the goods is as under:-

TABLE-D

Test Memo No. & date	Description / Colour of Sample	TR No. & Date	Description of Goods - As per Test Report	Correct HSN
338 / 10.11.2025	Red Colour	Lab No. SIIB-7206 dt. 19.11.2025	The sample as received is in form of a cut pieces of dyed (Red Coloured) fabric having smooth coating on one side (without selvedge). The base woven fabric is composed of polyester filament yarn (non-textured) and coating is composed of compounded polyvinylchloride (PVC). GSM (as such) = 226.06 % composition Polyester=21.85% PVC=balance. Note- The sample is coated fabric, hence azo dye could not be ascertained.	59031090
339/ 10.11.2025	Blue Colour	Lab No. SIIB-7207 dt. 18.11.2025	The sample as received is in form of a cut pieces of dyed (dark Blue Coloured) woven fabric having light blue polymeric coating on one side. The base woven fabric is composed of polyester filament yarn and coating is composed	59031090

			of polymer based on compounded polyvinylchloride (PVC). GSM (as such) = 222.68 Width (selvedge to selvedge)= One side. % composition Polyester=24.38% by Wt. Coating material (PVC)=balance. Note- As the sample is coated, azo dye could not be ascertained.	
340/ 10.11.2025	Sky Blue Colour	Lab No. SIIB-7208 dt. 18.11.2025	The sample as received is in form of a cut pices of dyed (Blue Coloured) woven fabric having polymeric coating on one side. Base fabric is composed of polyester filament yarn and coating is composed of polymer based on compounded polyvinylchloride (PVC). GSM (as such) = 227.90, Selvedge to selvedge width (cms)=One side selvedge. % composition % of polyester=34.52% by Wt. % of coating meterail (PVC)=balance.	59031090
341/ 10.11.2025	Black Colour	Lab No. SIIB-7209 dt. 18.11.2025	The sample as received is in form of a cut pices of dyed (black Coloured) fabric having bluish smooth coating on one side (without selvedge). The base woven fabric is composed of polyester filament yarn (non-textured) and coating is composed of compounded polyvinylchloride (PVC). GSM (as such) = 222.00 % composition Polyester=25.5%	59031090

			PVC=balance. Note- The sample is coated fabric, hence azo dye could not be ascertained.	
342/ 10.11.2025	Brown Colour	Lab No. SIIB-7210 dt. 19.11.2025	The sample as received is in form of a cut pieces of dyed (brown Coloured) fabric having greyish smooth coating on one side. The base woven fabric is composed of polyester filament yarn (non-textured) and coating is composed of compounded polyvinylchloride (PVC). GSM (as such) = 214.00 Width (Selvedge to selvedge)=148 cm % composition Polyester=20.84 % PVC=balance. Note- The sample is coated fabric, hence azo dye could not be ascertained.	59031090

3.3 All five samples, as received, are in the form of cut pieces of dyed woven fabric with a smooth or polymeric coating on one side, varying in color as Red, Dark Blue, Blue, Black, and Brown. The base fabric in each case is composed of polyester filament yarn (synthetic fiber), while the coating is made of compounded polyvinylchloride (PVC). The fabrics are uniform in structure, and the coating is applied on one side without affecting the integrity of the woven base; some samples do not have selvedge. Based on their composition — synthetic fiber base (polyester) coated with plastic (PVC) — these fabrics fall under Chapter 59, Heading 5903, Subheading 590310, specifically under CTH 59031090 ("Textile fabrics of synthetic fibers, impregnated, coated, covered or laminated with plastics, other"), which covers synthetic woven fabrics coated with plastics that are not specified elsewhere. Despite differences in color or minor coating appearance, all five samples are structurally and chemically similar and correctly classifiable under 59031090.

3 . 4 In view of the above, the imported goods are required to be re-determined on the basis of the GSM established in the test report. Accordingly, the quantity in square meters (SQM) must be recalculated in accordance with the actual GSM of the fabric ascertained during testing. Based on the revised GSM, the re-determined SQM quantity of the imported goods is as under:

TABLE-E

BE No	Description of Goods	Description / Colour of Sample	Number of Rolls	Weight in Kg (Each Roll weight approx 33.200 Kgs)	TR No. & Date	GS M As per TR	Quantity in SQM as per GSM in TR
54400 99 dat e 01.1 1.202 5	Polyester Fabric with PVC Coating Width 58 Inch (CTH 59031090)	Red Colour	74	2456.8	Lab No. SIIB-72 06 dt. 1 9.11.20 25	226 .06	10867.9
		Blue Colour	502	16666.4	Lab No. SIIB-72 07 dt. 1 8.11.20 25	222 .68	74844.6
		Sky Blue Colour	66	2191.2	Lab No. SIIB-72 08 dt. 1 8.11.20 25	227 .9	9614.74
		Black Colour	125	4150	Lab No. SIIB-72 09 dt. 1 8.11.20 25	222 9	18693.6
		Brown Colour	36	1195.2	Lab No. SIIB-72 10 dt. 1 9.11.20 25	214	5585.05
TOTAL			803	26659.6			119606.01

3 . 5 Rejection of declared value & Redetermination of Assessable Value:

Rule 3 of the Customs Valuation (Determination of Price of Imported Goods) Rules, 2007 (hereinafter referred to as “the CVR, 2007”) provides the method of valuation. Rule 3(1) of the CVRs, 2007 provides that subject to Rule 12, the value of imported goods shall be the transaction value adjusted in accordance with provisions of Rule 10. Rule 3(4) *ibid* states that if the value cannot be determined under the provisions of sub-rule (1), the value shall be determined by proceeding sequentially through Rule 4 to 9 of CVR, 2007. Whereas, it appears that, transaction value in terms of Rule 3 of the CVR, 2007, is to be accepted only where there are direct evidences with regard to the price actually paid or payable in respect of the imported goods by the importer. Whereas, in the present case, it appears that, there is reasonable doubt regarding the truth and accuracy of the declared value as the goods have been found to be mis-declared in terms of quantity, and hence the transaction value appears to be liable to be rejected in terms of Rule 12 of the CVR, 2007. Since the items found during the examination with no specification, the valuation of the same could not be determined in terms of Rule 4 to 8 of the CV Rules, *ibid*. Therefore, valuation of the goods appears liable to be done under residual method of valuation provided under Rule 9 of the CV Rules *ibid* and accordingly, opinion of the empanelled Chartered Engineer was sought for determination of the value of the imported goods. The Chartered Engineer vide his Report No. – **ABJ:INSP:CE:SIIB:APEX:25-26:05 Date: 26/11/2025 (RUD-1)** has suggested the value of the imported goods as 21529.08 USD as detailed in Table-F below:-

TABLE-F
VALUATION TABLE (1 USD = 88.70 INR)

2	Polyester Fabric with PVC Coating Width 58 Inch	Blue Colour	502	16666.4	722027	74844.622		0.18	13472.03	1194969	
3	Polyester Fabric with PVC Coating Width 58 Inch	Sky Blue Colour	66	2191.2	72207.89	9614.7400	0.18	9747.44 (9639+108.44)	1730.65	153509	
4	Polyester Fabric with PVC Coating Width 58 Inch	Black Colour	125	4150	720990	18693.62900		0.18	3364.86	298464	
5	Polyester Fabric with PVC Coating Width 58 Inch	Brown Colour	36	1195.2	72114.00	5585.0500		0.18	1005.31	89171	
				80.63		26659			21529.08	190909	

									6
									3
									0

3.6. On the basis of CE report, the Assessable Value of the goods imported by the importer comes to Rs. 19,09,630/- as follows:-

TABLE-G

Sr. No.	Total CIF Value in USD	Assessable Value in INR (Exch. Rate = 88.7 INR)
1	21529.08/-	19,09,630/-
	Total	19,09,630/-

3.7. The duty on the imported goods needs to be re-determined based on the revised assessable value of Rs. 19,09,630/-, instead of the declared value of Rs. 8,64,597.82/-, and the applicable customs duty rates. On this basis, the total Customs duty payable on the imported goods amounts to Rs. 5,36,606/-, as opposed to Rs. 2,42,953/- self-assessed by the importer in the said Bill of Entry. Consequently, there is a case of non/short levy of Customs duty amounting to Rs. 2,93,653/- . The re-determined duty has been calculated in accordance with the applicable duty rates and the test report findings, and the details of the recalculated duty are presented in Table-H below.

TABLE-H

Total Value (In INR)	BCD 20%	SWS 10%	IGST 5%	TOTAL
19,09,630/-	3,81,926/-	38,193/-	1,16,487/-	5,36,606/-

4. RELEVANT LEGAL PROVISIONS:

(A) RELEVANT PROVISIONS OF SEZ ACT, 2005:

2. Definitions.— In this Act, unless the context otherwise requires,—

.....

(o) “**import**” means—

(i) *bringing goods or receiving services, in a Special Economic Zone, by a Unit or Developer from a place outside India by land, sea or air or by any other mode, whether physical or otherwise; or*

(ii) receiving goods, or services by a Unit or Developer from another Unit or Developer of the same Special Economic Zone or a different Special Economic Zone;

Section 21: Single enforcement officer or agency for notified offences.

1. The Central Government may, by notification, specify any act or omission made punishable under any Central Act, as notified offence for the purposes of this Act.
2. The Central Government may, by general or special order, authorise any officer or agency to be the enforcement officer or agency in respect of any notified offence or offences committed in a Special Economic Zone.
3. Every officer or agency authorised under sub-section (2) shall have all the corresponding powers of investigation, inspection, search or seizure as is provided under the relevant Central Act in respect of the notified offences.

Section 22: Investigation, inspection, search or seizure.—

The agency or officer, specified under section 20 or section 21, may, with prior intimation to the Development Commissioner concerned, carry out the investigation, inspection, search or seizure in the Special Economic Zone or in a Unit if such agency or officer has reasons to believe (reasons to be recorded in writing) that a notified offence has been committed or is likely to be committed in the Special Economic Zone:

Provided that no investigation, inspection, search or seizure shall be carried out in a Special Economic Zone by any agency or officer other than those referred to in sub- section (2) or sub-section (3) of section 21 without prior approval of the Development Commissioner concerned:

Provided further that any officer or agency, if so authorised by the Central Government, may carry out the investigation, inspection, search or seizure in the Special Economic Zone or Unit without prior intimation or approval of the Development Commissioner

Notification Nos. 2665(E) and 2667(E) dated 05.08.2016:

1. In exercise of the powers conferred by section 22 of the Special Economic Zones Act, 2005 (28 of 2005), the Central Government by Notification No. 2667(E) dated 05.08.2016 issued by the Ministry of

Commerce & Industry, has authorized the jurisdictional Customs Commissioner, in respect of offences under the Customs Act, 1962 (52 of 1962) to be the enforcement officer(s) in respect of any notified offence or offences committed or likely to be committed in a Special Economic Zone. The enforcement officer(s), for the reasons to be recorded in writing, may carry out the investigation, inspection, search or seizure in a Special Economic Zone or Unit with prior intimation to the Development Commissioner, concerned. Under Section 21(1) of the SEZ Act, 2005, the Central Government may, by notification, specify any act or omission made punishable under any Central Act, as notified offence for the purposes of this Act.

2. *The Central Government, by the Notification 2665(E) dated 05.08.2016 has notified offences contained in Sections 28, 28AA, 28AAA, 74, 75, 111, 113, 115, 124, 135 and 104 of the Customs Act, 1962 (52 of 1962) as offences under the SEZ Act, 2005.*

47 (5) *Refund, Demand, Adjudication, Review and Appeal with regard to matters relating to authorise operations under Special Economic Zones Act, 2005, transactions, and goods and services related thereto, shall be made by the Jurisdictional Customs and Central Excise Authorities in accordance with the relevant provisions contained in the Customs Act, 1962, Central Excise Act, 1944, and the Finance Act, 1994 and the rules made thereunder or the notifications issued thereunder.*

(B) RELEVANT PROVISIONS OF CUSTOMS ACT, 1962:

Section 2(22): "goods" includes (a) vessels, aircrafts and vehicles; (b) stores; (c) baggage; (d) currency and negotiable instruments; and (e) any other kind of movable property;

Section 2(23): "import", with its grammatical variations and cognate expressions, means bringing into India from a place outside India;

Section 2(25): "imported goods", means any goods brought into India from a place outside India but does not include goods which have been cleared for home consumption;

Section 2(26): "importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes [any owner, beneficial owner] or any person holding himself out to be the importer;

Section 2(39): "smuggling", in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113.

Section 11A: "illegal import" means the import of any goods in contravention of the provisions of this Act or any other law for the time being in force.

Section 17. Assessment of duty. –

(1) An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.

..

(4) Where it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.

Section 46. Entry of goods on importation:

(4) The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, relating to the imported goods.

(4A) the importer who presents a bill of entry shall ensure the following, namely:

- (a) The accuracy and completeness of the information given therein;
- (b) The authenticity and validity of any document supporting it; and
- (c) Compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

Section 111. Confiscation of improperly imported goods, etc. – The following goods brought from a place outside India shall be liable to confiscation:-

--

(l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;

(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;

Section 112. Penalty for improper importation of goods, etc. –

Any person,-

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

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

- i.
- ii. in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher:

114AA. Penalty for use of false and incorrect material.—

If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.

(C) Relevant Provisions of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007:

“Rule 4. Transaction value of identical goods. - (1) (a) Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued;

.....

(3) In applying this rule, if more than one transaction value of identical goods is found, the lowest such value shall be used to determine the value of imported goods.

“Rule 5. Transaction value of similar goods . -(1) Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of similar goods sold for export to India and imported at or about the same time as the goods being valued:

Provided that

(2) The provisions of clauses (b) and (c) of sub-rule (1), sub-rule (2) and sub-rule (3), of rule 4 shall, mutatis mutandis, also apply in respect of similar goods.

Rule 12. Rejection of declared value. - (1) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, he may ask the importer of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a

response of such importer, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such imported goods cannot be determined under the provisions of sub-rule (1) of rule 3.

5. Summary of Investigations Conducted:

5.1 Based on intelligence, the consignment imported by **M/s H.V. Enterprises (IEC No. AAQFH6998G/0)** from **M/s Chang Xing Letian Textile Co. Ltd., China**, covered under **BE No. 5440099 dated 01.11.2025**, was put on hold on **06.11.2025** at **M/s OWS Warehouse Services LLP, SEZ Unit, Mundra SEZ** for detailed examination by SIIB, Mundra, with prior intimation sent to the **Development Commissioner, APSEZ, Mundra**. During examination, each of the 803 rolls was found to weigh approximately **33.2 Kgs** (total ~26,670 Kgs), which was broadly consistent with the weighbridge slip (26,640 Kgs) and BE declaration (26,500 Kgs). The rolls were stacked and matched the declared description; however, the exact nature and composition of the fabric could not be determined visually. Accordingly, **representative samples in triplicate** were drawn for laboratory testing in the presence of all concerned, and no concealment of other goods was observed within the cargo or packaging.

5.2. The importer declared the goods as “Polyester fabric with PVC Coating” under CTH 5903 10 90, and the CRCL test reports confirms that fabric samples match the declared description. Accordingly, the declared classification under CTH 5903 10 90 is found to be correct. In view of these findings, the quantity of the imported goods is required to be re-determined based on the GSM established in the test report, and the SQM must be recalculated as per the actual GSM of the fabric. Accordingly, the recalculated quantities of **1,19,606 SQM**.

5.3 Based on the revised quantity of the import cargo as per GSM and CE report **No. ABJ:INSP:CE:SIIB:APEX:25-26:05 Date: 26/11/2025**, the assessable value of the imported goods has been revised to Rs. 19,09,630/- instead of the declared Rs. 8,64,597.82/-, and the Customs duty has been re-determined accordingly. The recalculated duties are: BCD 20% – Rs. 3,81,926/-, SWS 10% – Rs. 38,193/-, and IGST 5% – Rs. 1,16,487/-, totalling Rs. 5,36,606/-. This is against the self-assessed duty of Rs. 2,42,953/- declared by the importer, resulting in a short levy of Rs. 2,93,653/- as per the applicable rates and test report findings.

5.5 The test report and the CE report have been duly accepted by the importer vide their email dated 22.11.2025 and letter dated 27.11.2025 received through mail. Further, the importer has also conveyed, through their letter dated 27.11.2025, their willingness to accept the revised valuation and to pay all applicable duties, fines, and penalties. They have additionally requested that the matter be settled without the issuance of a Show Cause Notice or the requirement of a personal hearing.

5.6 Thus, by the act of omission and commission at the level of importer,

it appears that, the importer has contravened the provisions of Section 46 and Section 17 of the Customs Act, 1962, in as much as, they failed to make correct and true declaration and information to the Customs Officer in the form of Bill of Entry and also failed to assess their duty liability correctly and accordingly the goods imported by the importer appear liable to be confiscation under Section 111(m) of the Customs Act, 1962 and the importer M/s. HV Enterprises have rendered themselves liable for penalty under Section 112(a)(ii) and 114AA of the Customs Act, 1962.

6. In view of the above facts, it appears that –

i. The quantity of the imported goods i.e. 53550 SQM as declared by the importer is liable to be rejected and the same is required to be re-determined based on the GSM established in the test report as **1,19,606 SQM.**

ii. The assessable value of the mis-declared imported goods is liable to be re-determined instead of as declared in the Bills of Entry under Rule 9 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with Section 14 of the Customs Act, 1962.

The details are as under:-

BE No. & date	Declared Value	Re-determined Value
5440099 dated 01.11.2025 (Z-Type)	8,64,598.82/-	19,09,630/-

iii. The Customs duty involved in the imported goods is liable to be re-determined instead of as declared in the Bills of Entry. The details are as under:-

Particulars	Declared in the BE	Re-determined
	Amount in Rs.	Amount in Rs.
Total Duty	2,42,953/-	5,36,606/-

- iv. The said Bills of Entry No. 5440099 dated 01.11.2025 (Z-Type) is liable to be re-assessed accordingly under Section 17(4) of the Customs Act, 1962;
- v. The goods have been imported by way of mis-declaration in contravention of Sec 46 of the Customs Act, 1962 and are therefore liable for confiscation under Section 111(m) of the Customs Act, 1962 in both Bills of Entry;
- vi. The importer M/s. HV Enterprise is liable for Penalty under Section

- 112(a)(ii) of the Customs Act, 1962;
- vii. M/s. HV Enterprise is liable to penalty under Section 114AA of the Customs Act, 1962 for furnishing false or incorrect particulars.

7. WAIVER OF NOTICE AND PERSONAL HEARING: -

The importer vide their letter dated 27.11.2025 confirmed his readiness to pay all applicable customs duties, fines, and penalties arising from these discrepancies without the need for issuance of a Show Cause Notice or the conduct of a personal hearing.

Discussion and Findings

8. I have carefully gone through the facts of the case, the Investigation Report, documents relied upon therein, including the Panchnama dated 10.11.2025, the CRCL Test Reports, the Chartered Engineer's Valuation Report, and the importer's letter dated 28.11.2025 waiving the issuance of a Show Cause Notice (SCN) and personal hearing (PH). The importer has accepted the findings of the CRCL Test Reports and the Chartered Engineer's report, and has requested adjudication on merits, agreeing to pay applicable fine/penalty. In view of this waiver under Section 124 of the Customs Act, 1962, I proceed to adjudicate the matter on merits based on the available records, without issuing a formal SCN or granting PH, as the principles of natural justice are deemed satisfied by the importer's explicit consent.

8.1 As the principles of natural justice stand complied with in view of the importer's explicit waiver of Show Cause Notice and personal hearing vide their letter dated 27.11.2025, I now proceed to adjudicate the matter on merits. After going through the facts of the case as brought out in the Investigation Report, the following key issues are identified for determination:

- i. Whether the declared quantity of the imported goods i.e. 53550 SQM is liable to be rejected and to be re-determined to **1,19,606 SQM**.
- ii. Whether the assessable value of the imported goods is liable to be re-determined at Rs. 19,09,630/- under Rule 9 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with Section 14 of the Customs Act, 1962, instead of the declared assessable value of Rs. 8,64,598.82/-;
- iii. Whether the Customs duty involved in the imported goods is liable to

be re-determined;

- iv. Whether the said Bill of Entry No. 5440099 dated 01.11.2025 (Z-Type) is liable to be re-assessed under Section 17(4) of the Customs Act, 1962;
- v. Whether the goods are liable to confiscation under Section 111(l) and Section 111(m) of the Customs Act, 1962 on account of mis-declaration in contravention of Section 46 of the Customs Act, 1962; and
- vi. Whether the importer, M/s HV Enterprise, is liable for penalty under Section 112(a)(ii) as well as under Section 114AA of the Customs Act, 1962.

9. I find that the investigation was initiated based on intelligence inputs, leading to the hold and detailed scrutiny of the consignment under Bill of Entry No. 5440099 dated 01.11.2025 at M/s. OWS WAREHOUSE SERVICES LLP SEZ Unit, Mundra SEZ. The physical examination of the container CAAU8677281 was conducted on 10.11.2025 in the presence of the importer's authorized representative, Shri Surender Kumar Sharma of M/s. HV Enterprises, and Mr. Abhishek Pathak the SEZ unit's representative. The seal on the container is verified and is found intact and matching the particulars as per the shipping documents. Upon destuffing, rolls of fabric of different assorted colours wrapped in plastic were found. A physical count revealed a **total of 803 rolls**. No other goods were concealed within the rolls or packing materials, confirming the absence of any undeclared or smuggled items.

10. The nature of the goods was established through visual inspection and subsequent laboratory analysis. The declared goods were "Polyester Fabric with PVC Coating Width 58 Inches" under CTH 59031090. Representative samples from each marking type were drawn in triplicate and forwarded to CRCL, Kandla, for testing under Test Memo Nos. 338 to 342 dated 10.11.2025. The CRCL reports (Lab Nos. SIIB-7206 to SIIB-7210, dated between 18.11.2025 and 19.11.2025) confirmed that all samples were PVC-coated fabrics with a woven polyester base, where the compounded PVC coating constituted the major portion by weight (polyester content ranging from 20.84% to 34.52%). Azo dye analysis could

not be ascertained in most cases due to the coated or multi-component nature, but this did not affect the overall composition findings. The reports uniformly supported the goods as polyester-based PVC-coated fabrics, aligning with the declared description and classification under CTH 59031090, which covers textile fabrics coated with polyvinyl chloride (PVC) under the residual entry 59031090 – Other, as they are not imitation leather fabrics of cotton. Despite differences in color or minor coating appearance, all five samples are structurally and chemically similar and correctly classifiable under **59031090**.

10.1 Regarding quantity and physical attributes, the total number of rolls physically found (803) tallied exactly with the declared quantity in the Bill of Entry, invoice, and packing list. However, minor variances were noted in weights: the declared gross weight was 26,500 Kgs, the SEZ weighbridge recorded 26,640 Kgs, and the approximate weight from per-roll averages during examination totalled 26,670 Kgs. These minor variations in the weight are less than 1% hence, I find that this cannot be considered as mis-declaration of weight.

However, I find that GSM as mentioned in the Test report varies. Therefore, the quantity in square meters (SQM) must be recalculated in accordance with the actual GSM of the fabric ascertained during testing. Based on the revised GSM, the re-determined SQM quantity of the imported goods is as under:

TABLE-1

BE No. & Date	Description of Goods	Description / Colour of Sample	Number of Rolls	Weight in Kgs (Each Roll weight approx 33.200 Kgs)	TR No. & Date	GSM As per TR	Quantity in SQM as per GSM in TR
5440099 date 01.11.2025	Polyester Fabric with PVC Coating Width 58 Inch (CTH 59031090)	Red Colour	74	2456.8	Lab No. SIIB-7206 dt. 19.11.2025	226.06	10867.91
		Blue Colour	502	16666.4	Lab No. SIIB-7207 dt. 18.11.2025	222.68	74844.62
		Sky Blue Colour	66	2191.2	Lab No. SIIB-7208 dt.	227.9	9614.74

		Black Colour	125	4150	18.11.2025 Lab No. 222 SIIB-7209 dt. 18.11.2025		
		Brown Colour	36	1195.2	Lab No. 214 SIIB-7210 dt. 19.11.2025		5585.05
TOTAL			803	26659.6			119606.01

In view of the above table, I find that the total square meters (SQM) were found to be 119606 Sqm as against declared 53,550 Sqm which is a vast variation from the declaration and requires necessary adjustments on assessment. I find that this difference in the SQM of the goods have arrived due to the GSM that has been found as per Test Reports. Therefore, I reject the declared Unit Quantity i.e. 53,550 SQM as declared by the importer in the Bill of Entry and Re-determine the same to 119606 SQM as calculated in the above table.

10.2 These variances were pursued as evidence of quantity misdeclaration, as the core metrics (SQM) did not match precisely. The description and quality of the goods, as per Lab analysis, was consistent with technical PVC-coated polyester fabrics, with no indications of substandard materials, defects, or deviations from standard import norms.

10.3 The goods do not fall under any restricted or prohibited category under the Import Policy or Customs Tariff. There are no mentions of licensing requirements, prohibitions, or restrictions in the investigation, and the classification under CTH 59031090 is unrestricted for import. Similarly, no brand confirmation was necessary, as the goods were not branded items subject to IPR concerns.

10.4 I find that though description and classification were correct, and no items found during the examination were undeclared in the import documents, the fact that the goods imported under the present shipment were found mis-declared in respect of Unit Quantity (SQM) cannot be ignored. The importer during the investigation has not disputed the findings of the investigation. Goods declared in the Bill of Entry and actual goods found during the examination of the goods are already mentioned in foregoing paras and there is no need to repeat them here for the sake of brevity. The above findings clearly establish that the importer failed to make a true and correct declaration in Unit Quantity and Value of the imported goods as mandated under Section 46 of the Customs Act, 1962.

1 1 . The importer declared the goods as "Polyester Fabric with PVC Coating Width 58" under CTH 59031090 with a total quantity of 53,550 SQM and a transaction value equivalent to Rs. 8,64,598.82/- (CIF). The unit price worked out to approximately Rs. 16 per SQM (or about 0.18 USD per SQM at the prevailing exchange rate). The self-assessed duty of Rs. 2,42,953/- was paid accordingly at the time of filing the Bill of Entry.

11.1 Although the description, classification, and quantity (in terms of rolls) were found to be correct and matching the goods physically examined, the Test Reports revealed that the Unit Quantity (SQM) as declared by the importer is incorrect and is found to be 119606 Sqm as against declared 53,550 Sqm which also raised a doubt on the valuation of the goods. Thus, I find that the declared value cannot be accepted as transaction value and merits rejection in terms of Section 14 of Customs Act, 1962 read with Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Accordingly, the value is required to be re-determined by sequentially proceeding in terms of Rules 4 to 9 of Customs Valuation.

3. Determination of the method of valuation-

(1) Subject to rule 12, the value of imported goods shall be the transaction value adjusted in accordance with provisions of rule 10;

(2) Value of imported goods under sub-rule (1) shall be accepted:

Provided that -

(a) there are no restrictions as to the disposition or use of the goods by the buyer other than restrictions which -

(i) are imposed or required by law or by the public authorities in India; or

(ii) limit the geographical area in which the goods may be resold; or

i. do not substantially affect the value of the goods;

(b) the sale or price is not subject to some condition or consideration for which a value cannot be determined in respect of the goods being valued;

(c) no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provisions of

rule 10 of these rules; and

(d) the buyer and seller are not related, or where the buyer and seller are related, that transaction value is acceptable for customs purposes under the provisions of sub-rule (3) below.

(3) (a) Where the buyer and seller are related, the transaction value shall be accepted provided that the examination of the circumstances of the sale of the imported goods indicate that the relationship did not influence the price.

(b) In a sale between related persons, the transaction value shall be accepted, whenever the importer demonstrates that the declared value of the goods being valued, closely approximates to one of the following values ascertained at or about the same time.

(i) the transaction value of identical goods, or of similar goods, in sales to unrelated buyers in India;

(ii) the deductive value for identical goods or similar goods;

(iii) the computed value for identical goods or similar goods:

Provided that in applying the values used for comparison, due account shall be taken of demonstrated difference in commercial levels, quantity levels, adjustments in accordance with the provisions of rule 10 and cost incurred by the seller in sales in which he and the buyer are not related;

(c) substitute values shall not be established under the provisions of clause (b) of this sub-rule.

(4) if the value cannot be determined under the provisions of sub-rule (1), the value shall be determined by proceeding sequentially through rule 4 to 9.

4. Transaction value of identical goods. –

(1)(a) Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued;

Provided that such transaction value shall not be the value of the goods provisionally assessed under section 18 of the Customs Act, 1962.

(b) In applying this rule, the transaction value of identical goods in a sale at

the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the value of imported goods.

(c) Where no sale referred to in clause (b) of sub-rule (1), is found, the transaction value of identical goods sold at a different commercial level or in different quantities or both, adjusted to take account of the difference attributable to commercial level or to the quantity or both, shall be used, provided that such adjustments shall be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustments, whether such adjustment leads to an increase or decrease in the value.

(2) Where the costs and charges referred to in sub-rule (2) of rule 10 of these rules are included in the transaction value of identical goods, an adjustment shall be made, if there are significant differences in such costs and charges between the goods being valued and the identical goods in question arising from differences in distances and means of transport.

(3) In applying this rule, if more than one transaction value of identical goods is found, the lowest such value shall be used to determine the value of imported goods.

Rule 5 (Transaction value of similar goods).-

(1) Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of similar goods sold for export to India and imported at or about the same time as the goods being valued:

Provided that such transaction value shall not be the value of the goods provisionally assessed under section 18 of the Customs Act, 1962.

(2) The provisions of clauses (b) and (c) of sub-rule (1), sub-rule (2) and sub-rule (3), of rule 4 shall, mutatis mutandis, also apply in respect of similar goods.

Further, as per Rule 6 of the CVR, 2007, if the value cannot be determined under Rule 3, 4 & 5, then the value shall be determined under Rule 7 of CVR, 2007.

Rule 7 of the CVR, 2007, stipulates that:-

(1) Subject to the provisions of rule 3, if the goods being valued or identical or similar imported goods are sold in India, in the condition as imported at or

about the time at which the declaration for determination of value is presented, the value of imported goods shall be based on the unit price at which the imported goods or identical or similar imported goods are sold in the greatest aggregate quantity to persons who are not related to the sellers in India, subject to the following deductions : -

- (i) either the commission usually paid or agreed to be paid or the additions usually made for profits and general expenses in connection with sales in India of imported goods of the same class or kind;*
- (ii) the usual costs of transport and insurance and associated costs incurred within India;*
- (iii) the customs duties and other taxes payable in India by reason of importation or sale of the goods.*

(2) If neither the imported goods nor identical nor similar imported goods are sold at or about the same time of importation of the goods being valued, the value of imported goods shall, subject otherwise to the provisions of sub-rule (1), be based on the unit price at which the imported goods or identical or similar imported goods are sold in India, at the earliest date after importation but before the expiry of ninety days after such importation.

(3) (a) If neither the imported goods nor identical nor similar imported goods are sold in India in the condition as imported, then, the value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons who are not related to the seller in India.

(b) In such determination, due allowance shall be made for the value added by processing and the deductions provided for in items (i) to (iii) of sub-rule (1).

Rule 8 of the CVR, 2007, stipulates that:-

Subject to the provisions of rule 3, the value of imported goods shall be based on a computed value, which shall consist of the sum of:-

- (a) the cost or value of materials and fabrication or other processing employed in producing the imported goods;*
- (b) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to India;*
- (c) the cost or value of all other expenses under sub-rule (2) of rule 10.*

Rule 9 of the CVR, 2007, stipulates that:-

(1) *Subject to the provisions of rule 3, where the value of imported goods cannot be determined under the provisions of any of the preceding rules, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules and on the basis of data available in India;*

Provided that the value so determined shall not exceed the price at which such or like goods are ordinarily sold or offered for sale for delivery at the time and place of importation in the course of international trade, when the seller or buyer has no interest in the business of other and price is the sole consideration for the sale or offer for sale.

(2) *No value shall be determined under the provisions of" this rule on the basis of-*

- (i) *the selling price in India of the goods produced in India;*
- (ii) *a system which provides for the acceptance for customs purposes of the highest of the two alternative values;*
- (iii) *the price of the goods on the domestic market of the country of exportation;*
- (iv) *the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of rule 8;*
- (v) *the price of the goods for the export to a country other than India;*
- (vi) *minimum customs values; or*
- (vii) *arbitrary or fictitious values.*

11.2 I state that "Value" has been defined under Section 2(41) of the Customs Act, 1962 as "Value", in relation to any goods, means the value thereof determined in accordance with the provisions of sub-section (1) or sub-section (2) of section 14".

11.3 The Section 14 ibid provides, inter alia, that the value of the imported goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, where the buyer and

seller of the goods are not related and price is the sole consideration for the sale subject to such their conditions as may be specified in the rules made in this behalf. Further, its proviso provides that such transaction value in the case of imported goods shall include, in addition to the price as aforesaid, any amount paid or payable for costs and services, including commissions and brokerage, engineering, design work, royalties and license fees, costs of transportation to the place of importation, insurance, loading, unloading and handling charges to the extent and in the manner specified in the rules made in this behalf. I find that as per the above provision value of any imported goods is the price actually paid or payable for the goods plus the components of other incidental charges to the extent mentioned in proviso to Section 14 ibid and in the manner specified in the Rules made under Section 14 ibid.

11.4 I find that Rule 4 (1) (a) of Rules 2007 stipulates determination of value of goods on the basis of value of identical goods. Rule 5, providing for transaction value of similar goods. I observed that the imported goods were found in different variety, description, specification and quality, so, it was not possible to find and compare the same with other goods having identical/similar description, brand, make, model, quantity and Country of Origin. As the import data with respect to contemporaneous imports was general in nature and contemporaneous data for imports of identical/similar goods was not available/found, therefore, the value cannot be determined under Rules 4 and 5 of CVR, 2007. As per Rule 6 ibid, if the value cannot be determined under Rules 3, 4 and 5 same shall be determined under the provisions of Rule 7 or when same cannot be determined under that rule then under Rule 8. I also noticed that no exact sales values and data required for quantification of the deductions was available, hence, rule 7 cannot be invoked. Further, computed value, as provided under Rule 8, cannot be calculated in the absence of quantifiable data relating to cost of production, manufacture or processing of import goods. In such scenario, I find it appropriate to invoke the provisions of Rule 9 i.e. residual method for determining the value of the impugned import goods. Rule 9 provides for determination of value using reasonable means consistent with the principles and general provisions of these rules.

11.5 I find that, in the absence of credible contemporaneous import data for identical or similar goods and due to the varied markings, specific compositions, and technical specifications of the goods as revealed during examination and confirmed by CRCL reports, the value cannot be determined under Rules 4, 5, 6, 7 or 8 of the Customs Valuation

(Determination of Value of Imported Goods) Rules, 2007. Hence, the value is required to be determined by resorting to the residual method under Rule 9 of the said Rules.

11.6 For the purpose of valuation, the empanelled Chartered Engineer, vide his report Ref. No. **ABJ:INSP:CE:SIIB:APEX:25-26:05 Date: 26/11/2025**, has suggested the value of the goods at USD 0.18 per SQM, arriving at a total CIF value of USD 21,529.08 (equivalent to Rs. 19,09,630/- at the exchange rate of 1 USD = 88.70 INR). The contents of the valuation table provided in the Chartered Engineer's report are consistent with the details already discussed in the foregoing paragraphs and are not repeated here for the sake of brevity.

I find that though the Chartered Engineer vide above report have suggested the unit price of the goods as USD 0.18 Per SQM which tallies with the unit price as declared by the importer in the Bill of Entry, the fact that the goods have been undervalued cannot be ignored as Unit Quantity variance found on examination has drastically affected the value of goods which ultimately resulted in duty evasion.

11.7 In view of the above, I find that the value suggested by the Chartered Engineer, which has been expressly accepted by the importer vide their letter dated 22.11.2025 and 27.11.2025, has to be considered as the basis for arriving at the assessable value of the imported goods. I hold that the transaction value declared by the importer is liable to be rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, and the assessable value is liable to be re-determined under Section 14 of the Customs Act, 1962 read with Rule 9 of the CVR, 2007. Thus, I find it appropriate to re-determine the assessable value of the present shipment at Rs. 19,09,630/- (Rupees Nineteen Lakhs Nine Thousand Six hundred and Thirty only).

11.8 The re-determined value in comparison with the declared value is tabulated below:

Table-2

Particulars	Declared by Importer	Re-determined Value
Quantity (SQM)	53,550	1,19,606.01
Unit Price (USD/SQM)	Approx. 0.18	0.18
Total CIF Value (USD)	9639	21,529.08
Total Assessable Value (INR)	8,64,598.82/-	19,09,630/-

11.9 Consequent to the re-determination of assessable value at Rs. 19,09,630/-, the duty liability also stands revised. The differential duty

payable by the importer, calculated at the applicable rates (BCD @ 20%, SWS @ 10% on BCD, and IGST @ 5%), is as follows:

Table-3

Particulars	On Declared Value (Rs.)	On Re-determined Value (Rs.)	Differential (Rs.)
Assessable Value (CIF)	8,64,598.82/-	19,09,630/-	10,45,031
Basic Customs Duty (20%)	1,72,919	3,81,926/-	2,09,007
Social Welfare Surcharge (10% on BCD)	17,291/-	38,193/-	20,902
Value for IGST	10.54,808/-	23,29,749/-	1274940
IGST (5%)	52,741/-	1,16,487	63,746
Total Duty	2,42,953	5,36,606	2,93,653

Thus, the short-levy of duty amounting to Rs. 2,93,653/- (Rupees Two Lakhs Ninety-Three Thousand Six Hundred and Fifty-Three only) is confirmed. The importer has already agreed to pay this differential duty along with applicable interest, fine, and penalties.

12. The investigation report proposes that the imported goods are liable for confiscation under Section 111(l) and Section 111(m) of the Customs Act, 1962. In this regard, I find that Section 111 of the Customs Act, 1962 provides for confiscation of improperly imported goods. The relevant clauses are reproduced below:

- (l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;
- (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;

12.1 I find that the description declared as "Polyester Fabric with PVC Coating Width 58" under CTH 59031090 has been confirmed as correct by the detailed CRCL test reports and the quantity in terms of number of rolls (803) tallies exactly with the physical findings and declared documents. I also find that no undeclared goods were detected, and there was no concealment in the rolls or packing materials, nor other issues of any import restriction/prohibition have noticed. However, in view of the facts and material evidence on record, I find that the goods imported under Bill

of Entry No. 5440099 dated 01.11.2025 (Z-Type) have been found mis-declared in respect of Unit Quantity (Sqm) ultimately resulting in undervaluation and duty evasion.

13. From the above discussion, it is evident that the importer has mis-declared the goods in respect of Unit Quantity and Assessable Value. The declared Unit Quantity i.e. 53550 SQM is lower as against found 119606 SQM ultimately leading to rejection of the declared CIF Value of Rs. 8,64,598.82/- under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and re-determination at Rs. 19,09,630/-. By this act, the importer has rendered the subject goods liable to confiscation under Section 111(l) & 111(m) of the Customs Act, 1962 and has also rendered themselves liable for penal action under the provisions of Section 112(a) of the Customs Act, 1962.

13.1 Since the goods are dutiable (and not prohibited), and the misdeclaration pertains to Unit Quantity and Value which renders the goods liable to confiscation under Section 111(l) & 111(m), I find that the importer, M/s. HV Enterprise, is liable for penalty under Section 112(a)(ii) of the Customs Act, 1962.

13.2 As regards penalty under Section 114AA of the Customs Act, 1962 is concerned, the said section provides for penalty on a person who knowingly or intentionally makes, signs, uses, or causes to be made, signed or used any declaration, statement or document which is false or incorrect in any material particular in the transaction of business for the purposes of the Act.

In the instant case, I find that the Importer has not presented correct facts at the time of filing B/E. The importer has presented false and incorrect documents before the Customs Department for import of the subject consignment by mis-declaring the Unit Quantity and valuation of declared items with an intention to evade the applicable customs duty. Thus, Importer has knowingly and intentionally used Bill of Lading, invoices and packing list while filing Bill of Entry which contained incorrect or false material particulars regarding the quantity, and value of the goods imported by them. Accordingly, I find that the importer has rendered themselves liable for penalty under Section 114AA of the Customs Act, 1962

14. As the impugned goods have been found liable to confiscation under Section 111(l) & 111(m) of the Customs Act, 1962, it becomes necessary to examine whether redemption fine under Section 125 of the said Act is imposable in lieu of confiscation. The statutory provision 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 [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.”

14.1 A plain reading of the above provision reveals that the imposition of redemption fine serves as an alternative to confiscation, providing the owner of the goods an opportunity to redeem them on payment of a fine, wherever their clearance for home consumption is not restricted under any policy or statutory provision.

14.2 In the instant case, the goods are dutiable but not prohibited under the Customs Tariff Act, 1975 or the Foreign Trade (Development & Regulation) Act, 1992. There exists no restriction or prohibition under any policy framework which would prevent their clearance for home consumption.

14.3 Since the goods are non-prohibited, and the importer has not opted for re-export, the mandatory provision under Section 125(1) comes into operation. Accordingly, the importer is entitled to the option of redemption of the confiscated goods for home consumption on payment of an appropriate fine in lieu of confiscation.

15. Further, as the goods are dutiable and not prohibited, an option to redeem the goods on payment of a redemption fine under Section 125(1) of the Customs Act, 1962, in addition to the differential duty and applicable charges, is extended to the importer.

16. In view of the above discussion and findings, I pass the following order.

Order

- (i) I order to reject the declared Unit quantity of the goods i.e. 53550 SQM imported vide Bill of Entry no. 5440099 dated 01.11.2025 (Z-Type) and order for re-determination of the to **1,19,606 SQM** as represented in Table-1 above.
- (ii) I order to reject the self-assessment for Bill of Entry No. 5440099 dated 01.11.2025 (Z-Type), made by the importer under

Section 17(1) of the Customs Act, 1962. Further, I order to re-assess the said Bill of Entry, in accordance with as mentioned in Table – 1 and 3, under the provisions of Section 17(4) of the Customs Act, 1962.

(iii) I order to reject the declared assessable value for Bill of Entry No. 5440099 dated 01.11.2025 (Z-Type) and order to re-determine the same as Rs. 19,09,630/- (Rupees Nineteen Lakh Nine Thousand Six Hundred and Thirty only) under Rule 9 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with Section 14 of the Customs Act, 1962.

(iv) I order for confiscation of the goods imported vide Bill of Entry No. 5440099 dated 01.11.2025 (Z-Type), having a re-determined assessable value of Rs. 19,09,630/- (Rupees Nineteen Lakh Nine Thousand Six Hundred and Thirty only), under Section 111(l) & 111(m) of the Customs Act, 1962. However, I give an option to the importer to redeem the said goods on payment of a Redemption Fine of Rs.1,90,000/- (Rs. One lakh Ninety Thousand only) under Section 125 of the Customs Act, 1962, as the same are not prohibited goods.

(v) I impose a penalty of Rs.29,000/- (Rs. Twenty-Nine Thousand) upon the importer, M/s. H V Enterprise, under Section 112(a)(ii) of the Customs Act, 1962.

(vi) I impose a penalty of Rs.25,000/- (Rs. Twenty-Five Thousand only) upon the importer, M/s. H V Enterprise, under Section 114AA of the Customs Act, 1962..

17. This Order 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.

Customs
Mundra

(Dipak Zala)
Addl. Commissioner of
Customs House,

BY Speed Post A.D / E-mail
To, (The Noticee):-

M/s. H.V. Enterprises,
Shop No. 8, Siri Nagar Colony,
Near Lakshmi Bai College,
New Delhi – 110052

Copy to:

1. The Addl. Commissioner (SIIB), Customs House, Mundra.
2. The Deputy/Assistant Commissiner, TRC Mundra
3. The Deputy Commissioner, RRA Customs House, Mundra.
4. The Deputy/ Assistant Commissioner (EDI), Custom House, Mundra.
5. Notice Board.