	प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, मुन्द्रा **OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE: MUNDRA, KUTCH** **MUNDRA PORT & SPL ECONOMIC ZONE, MUNDRA-370421** ई-मेल/ E-Mail: adj-mundra@gov.in

A	फा /.सं .FILE NO.	GEN/ADJ/ADC/1280/2025-Adjn-O/o Pr Commr-Cus-Mundra
B	मूल आदेश सं. ORDER-IN- ORIGINAL NO.	MCH/ADC/ZDC/179/2026-27
C	द्वारा पारित किया गया PASSED BY	**Dipak Zala,** Additional Commissioner of Customs, Custom House, Mundra
D	आदेश की तिथि DATE OF ORDER	04-06-2026
E	जारी करने की तिथि DATE OF ISSUE	04-06-2026
F	कारण बताओ नोटिस संएवं तिथि . SCN NO. & DATE	33/2025-26/ADC/ZDC/ADJ/MCH dated 11.06.2025
G	नोटिसीपार्टी / आयातक/ NOTICEE/PARTY/ IMPORTER	1. M/s R.M. Trading & Co. (IEC: IKFPD6482J) 2. Ms. Sumitra Debnath, Proprietor of M/s R.M. Trading & Co.

1. यह अपील आदेश संबन्धित को नि:शुल्क 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 128A के अंतर्गत प्रपत्र सीए3-में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-
   Any person aggrieved by this Order - in - Original may file an appeal under Section 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, ईश्वर भुवन रोड, नवरंगपुरा, अहमदाबाद 380009"

   "The Commissioner of Customs (Appeals), Mundra, 4TH Floor, Hudco Building, Ishwar Bhuvan Road, Navrangpura, Ahmedabad-380009."

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 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 accompanied by –

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 ड्यूटि/ 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 सीमा शुल्क अधिनियम, 1962 के सभी मामलों में पालन किया जाना चाहिए।
While submitting the appeal, the Customs (Appeals) Rules, 1982 and the Customs Act, 1962 should be adhered to in all respects.

8. 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 (Appeals) 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

Based on an intelligence, the goods i.e. fabric imported by M/s R. M. Trading & Co. (IEC: IKFPD6482J), having registered address: 1st Floor, 238 A M Road, Chanralo, North 24 Pragnas, Natagar, West Bengal, -700113, vide Bills of Entry no. 6885556, 6885561, 6885554 and 6885567 all dated 26-11-2024 and T-Type Bills of Entry, were examined by the officers of DRI, Delhi Zonal Unit under Panchanama dated 28.11.2024 at SEZ unit (Warehouse Code No. AJM6Z015) i.e. M/s Holistic Global Corporation situated at East of Steinweg, Plot No. 3, Block D, Sector 12N, FTWZ Zone, Mundra. It was informed that out of charge in respect of all four Bills of Entry were given on 26.11.2024, but the all four containers, containing goods imported under above said four Bills of Entry, were lying at the said SEZ unit. On examination of the said goods, it was noticed that the quantity of goods had been mis-declared by the importer in the import documents, details of which are as under:

S. No.	BE No. & date	Container No.	Declared Commodity	**Declared Quantity (in SQ. M.)**	Actual length found during examination (in m)	**Actual Quantity found during examination (in SQ. M)**
1	6885556 dt 26.11.2024	MEDU7036287	Polyester Laminated Fabric	92601.53	137525	209038
2	6885561 dt 26.11.2024	UETU6109407		95491.15	142102.7	215996
3	6885554 dt 26.11.2024	MSNU9701280		95894.38	142700	216904
4	6885567 dt 26.11.2024	TWCU8059814		97768.8	146189	222207

2. Further, as the goods were found to be mis-declared in terms of quantity, the same were placed under detention vide Detention Memo dated 28.11.2024, which were subsequently seized vide Seizure Memo dated 19.12.2024.

3. Moreover, representative samples of fabrics, imported vide above referred four Bills of Entry, were drawn from each container (as detailed in Panchnama) for further investigation i.e. to know the actual composition and actual type of fabrics so imported. The said samples (having marking from A-1 to D-1) of fabric were forwarded to Central Revenues Control Laboratory (CRCL), New Delhi, (hereinafter referred to as the CRCL, New Delhi), under respective test memos

(bearing Test Memo No. 43/2024 to 46/2024), for examination.

4. The CRCL, New Delhi vide letter dated 07.01.2025 and its Addendum dated 23.01.2025 forwarded the test reports in respect of the said samples, which are summarized as below:

S. No.	BE No. & date	Item declared by the importer in the import documents	C.L. no.	Test Memo No.	Fabric reported to be (as per test reports)
1	6885556 dt 26.11.2024	**Polyester Laminated Fabric**	CRCL/59/701 (DRI)	43 (Sample Marked as **A-1**)	**Dyed**, **woven textured fabric** of multifilament yarns **of Polyester, laminated one side with translucent film composed of compounded Polyurethane (PU)**. **Other than coated and pile fabric**.
2	6885561 dt 26.11.2024		CRCL/59/702 (DRI)	44 (Sample Marked as **B-1**)	**Bleached**, **woven textured fabric** of multifilament yarns **of Polyester, laminated one side with translucent film composed of compounded Polyurethane (PU)**. **Other than coated and pile fabric**.
3	6885554 dt 26.11.2024		CRCL/59/703 (DRI)	45 (Sample Marked as **C-1**)	**Dyed**, **woven textured fabric** of multifilament yarns of **Polyester, laminated one side with translucent film composed of compounded Polyurethane (PU)**. **Other than coated and pile fabric**.
4	6885567 dt 26.11.2024		CRCL/59/704 (DRI)	46 (Sample Marked as **D-1**)	**Dyed**, **woven textured fabric** of multifilament yarns of **Polyester, laminated one side with translucent film composed of compounded Polyurethane (PU)**. **Other than coated and pile fabric**.

5. A Summons dated 15.01.2025 was issued to M/s R. M. Trading & Co. In response to the Summons, Shri Sachin Sachdeva, an authorized representative of M/s R. M. Trading & Co. appeared whose statement was recorded on 24.01.2025, under Section 108 of the Customs Act, 1962, wherein he, inter alia, stated that-

- M/s R. M. Trading and Co. was engaged in import of 'Polyester Laminated Fabrics and trading thereof, in Delhi and Kolkata.
- He had been working as Manager with M/s R. M. Trading & Co. and he looked after the sale of fabrics in Delhi and the sale of the said goods in Kolkata is being looked after by Ms. Sumitra Debnath, Proprietor of M/s R. M. Trading and Co.
- On being asked regarding import of goods by M/s R. M. Trading & Co. and submission of purchase orders in respect of goods imported vide subject Bills of Entry, he stated that orders to overseas suppliers were being placed by Ms. Sumitra Debnath, telephonically and as such purchase orders are not available with them. Sales of imported fabrics at Kolkata were being looked after by Ms Sumitra Debnath with the help of other staff there. After clearance of the imported goods, the goods were then dispatched to Kolkata or to Delhi and supplied directly to their customers.
- Majority of sales of M/s R. M. Trading & Co. were in Delhi only and bills were generated from Kolkata only.
- On being shown Panchanama dated 28.11.2024 in respect of

examination of goods imported by M/s R. M. Trading & Co., under Bills of Entry No. 6885556; 6885561; 6885554 and 6885567 all dated 26.11.2024 and pointing out that a considerable difference in quantity of fabrics imported by M/s R. M. Trading & Co. under above said Bills of Entry, were found during the examination of goods he, on behalf of the firm, stated that the actual quantity of goods were mis-declared in the above mentioned bills of entry just to save the duty.

- As soon as it came in the knowledge of DRI, realizing their mistake, the firm immediately paid the differential duty, payable on the differential quantity of the goods found during the examination, to the tune of Rs. 19,61, 101/-.
- He, on behalf of M/s R.M. Trading & Co., further undertook to pay penalty and applicable interest on the part of their omission and commission.

6. Classification of goods:

On the basis of actual description of the imported fabrics, as confirmed by the CRCL, New Delhi in their test reports, the imported fabrics appear to be classifiable under CTH of the Customs Tariff Act, 1962 as mentioned in Column (F) of the table below and attract Customs duty as mentioned in Column (G) of the table below-

S. No.	BE No. & date	Sample Marking	Goods i.e. Fabrics as per test reports	Declared CTH (in BE) and Duty Rate	Fabric appear to be classifiable under CTH	BCD Rate
(A)	(B)	(C)	(D)	(E)	(F)	(G)
1	6885556 dt 26.11.2024	A-1	**Dyed**, **woven textured fabric** of multifilament yarns **of Polyester, laminated one side with translucent film composed of compounded Polyurethane (PU)**. **Other than coated and pile fabric**.	59039090 20%	59032090	20%
2	6885561 dt 26.11.2024	B-1	**Bleached**, **woven textured fabric** of multifilament yarns **of Polyester, laminated one side with translucent film composed of compounded Polyurethane (PU)**. **Other than coated and pile fabric**.	59039090 20%	59032090	20%
3	6885554 dt 26.11.2024	C-1	**Dyed**, **woven textured fabric** of multifilament yarns of **Polyester, laminated one side with translucent film composed of compounded Polyurethane (PU)**. **Other than coated and pile fabric**.	59039090 20%	59032090	20%
4	6885567 dt 26.11.2024	D-1	**Dyed**, **woven textured fabric** of multifilament yarns of **Polyester, laminated one side with translucent film composed of compounded Polyurethane (PU)**. **Other than coated and pile fabric**.	59039090 20%	59032090	20%

7. From the import dockets, in respect of all the 4 Bills of Entry, submitted at

the time of examination of the goods imported by M/s R. M. Trading & Co., it can be seen that in the commercial invoices of Bills of Entry No. 6885556, 6885561, 6885554 and 6885567 all dated 26-11-2024, the CIF unit price per sq. metre of the fabric i.e. Polyester Laminated Fabric has been mentioned as 0.13 USD and total quantity of fabric in SQM has been mentioned, in respective invoices. During the examination of the goods imported under the said bills of entry, Mr. Amol Patil, a representative of M/s Holistic Global Corporation, Mundra submitted the detailed packing lists in respect of all four commercial invoices/containers/bills of entry. These detailed packing lists were different from the packing lists found attached with the import dockets, in terms of the quantity of the fabrics imported. Lengths of the rolls of the fabrics were verified randomly and the same were found matching with the length of fabric as mentioned in the detailed packing lists submitted later. The details of the goods i.e. fabrics found during the examination have been recorded in the Panchnama dated 28.11.2024, drawn on the spot.

8. During the statement of Shri Sachin Sachdeva, an authorized representative of M/s R. M. Trading & Co., he was shown the examination Panchnama dated 27.11.2024. In all the four Bills of Entry, the fabric was declared as ***'Polyester Laminated Fabric" and CTH was declared as 59039090***, whereas in lab test reports, fabrics have been found as ***'Dyed or Bleached woven textured fabric of multifilament yarns of Polyester, laminated one side with translucent film composed of compounded Polyurethane (PU),*****Other than coated and pile fabric**.'. On being asked about the mis-declaration with respect to quantity of fabric imported under the said four bills of entry under examination, he admittedly stated that quantity of goods were mis-declared in import documents just to save the Customs duties. He further stated that as soon as it came to the knowledge of DRI, realizing their mistake, the firm immediately paid the differential payable on the differential quantity of the fabric found during examination.

9. On the request of the importer, NOC for provisional release of the goods i.e. fabrics, covered under Bills of Entry No. 6885556, 6885561, 6885554 and 6885567 all dated 26-11-2024, was issued by the Directorate of Revenue Intelligence, Delhi Zonal Unit, New Delhi (hereinafter referred to as DRI, DZU, New Delhi) to the Mundra Port vide letter F.No. DRI/DZU/23/Enq-15/2024/4778 dated 16.04.2025 and vide letter dated 25.04.2025, the provisional release order was issued by the Office of the Principal Commissioner of Customs, Customs Hose, Mundra Port, Kutch, Gujrat, to the importer, subject to submission of bonds for Rs. 10,27,460/-, 10,59,522, 10,63,996/- and 10,84,794/-. As the importer furnished the bonds, goods were provisionally released to the importer.

10. Legal Provisions:

Some of the legal provisions are reproduced herein under for ready reference:

10.1 The Special Economic Zones Act, 2005:

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 offences for the purpose of this Act.

(2) The Central Government may, by general or special order, authorize any officer or agency to be the enforcement officer or agency in respect of any notified offences or offences committed in a Special Economic Zone.

(3) Every officer or agency authorized under sub-section (2) shall have all the corresponding powers of investigation, inspection, search or seizures' as is provided under the relevant Central Act in respect of the notified offences.

Notification No. 2665(E) dated 05.08.2016

S.O. 2665(E).—In exercise of the powers conferred by sub-section (1) of section 21 of the Special Economic Zones Act, 2005 (28 of 2005) (hereinafter referred as the Act), the Central Government hereby, notifies the offences contained in the under-mentioned sections of the Customs Act, 1962 (52 of 1962), the Central Excise Act, 1944 (1 of 1944) and the Finance Act, 1994 (32 of 1994) as offences under the Act:-

The offices under Section 28, 28A, 28AAA, 74, 75, 111,113,115,124,135 and 104 of Customs Act, 1962, have been notified offences under SEZ Act, 2005.

Notification No. 2666(E) dated 05.08.2016

S.O. 2666(E).—In exercise of the powers conferred by **sub-section (2) of section 21** and second proviso to section 22 of the Special Economic Zones Act, 2005 (28 of 2005) (hereinafter referred as the Act), the Central Government hereby authorises the Additional Director General, Directorate of Revenue Intelligence for offences under the Customs Act, 1962 (52 of 1962) and the Additional Director General, Directorate General of Central Excise Intelligence for offences under the Central Excise Act, 1944 (1 of 1944) and the Finance Act, 1994 (32 of 1994) 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 the Special Economic Zone or Unit and shall intimate the details of any action initiated under sub-section (3) of section 21 of the Act to the Joint Secretary in charge of Special Economic Zones Division in the Department of Commerce immediately and in any case not later than seven days of initiation of any action.

The relevant provisions of the Customs Act, 1962 are as under:

10.2 Definitions:

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 importer.*

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

Section 2(3A) "***beneficial owner***" *means* ***any person on whose behalf the goods are being imported*** *or exported or* ***who exercises effective control over the goods being imported*** *or exported;*

Section 2 (14) "***dutiable goods***" *means any goods which are chargeable to duty and on which duty has not been paid;*

Section 2(2)"assessment" *means determination of the dutiability of any goods and the amount of duty, tax, cess or any other sum so payable, if any, under this Act or under the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act) or under any other law for the time being in force, with reference to –*
(a) the tariff classification of such goods as determined in accordance with the provisions of the Customs Tariff Act;
(b) the value of such goods as determined in accordance with the provisions of this Act and the Customs Tariff Act;
(c) exemption or concession of duty, tax, cess or any other sum, consequent upon any notification issued therefore under this Act or under the Customs Tariff Act or under any other law for the time being in force;
(d) the quantity, weight, volume, measurement or other specifics where such duty, tax, cess or any other sum is leviable on the basis of the quantity, weight, volume, measurement or other specifics of such goods;
(e) the origin of such goods determined in accordance with the provisions of the Customs Tariff Act or the rules made thereunder, if the amount of duty, tax, cess or any other sum is affected by the origin of such goods;
(f) any other specific factor which affects the duty, tax, cess or any other sum payable on such goods, and includes provisional assessment, self-assessment, re-assessment and any assessment in which the duty assessed is nil;

Section 12. Dutiable goods. *-(1) Except as otherwise provided in this Act, or any other law for the time being in force, duties of customs shall be levied at such rates as may be specified under # [the Customs Tariff Act, 1975 (51 of 1975)], or any other law for the time being in force, on goods imported into, or exported from India.*

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

10.4 In terms of Section 28 of the Customs Act, 1962-

Section 28 Recovery of duties not levied or not paid or short-levied or short- paid] or erroneously refunded. -

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(4) Where any duty has not been levied or not paid or has been short-levied

or short-paid] or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,-

(a) collusion; or

(b) any wilful mis-statement; or

(c) suppression of facts,

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been [so levied or not paid] or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

(5) Where any [duty has not been levied or not paid or has been short-levied or short paid] or the interest has not been charged or has been part-paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under sub-section (4) by the proper officer, such person may pay the duty in full or in part, as may be accepted by him, and the interest payable thereon under section 28AA and the penalty equal to [fifteen per cent.] of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing.

(6) Where the importer or the exporter or the agent or the employee of the importer or the exporter, as the case may be, has paid duty with interest and penalty under sub-section (5), the proper officer shall determine the amount of duty or interest and on determination, if the proper officer is of the opinion-

(i) that the duty with interest and penalty has been paid in full, then, the proceedings in respect of such person or other persons to whom the notice is served under sub-section (1) or sub-section (4), shall, without prejudice to the provisions of sections 135, 135A and 140 be deemed to be conclusive as to the matters stated therein; or

(ii) that the duty with interest and penalty that has been paid falls short of the amount actually payable, then, the proper officer shall proceed to issue the notice as provided for in clause (a) of sub-section (1) in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of [14] [two years] shall be computed from the date of receipt of information under sub-section (5).

10.5 In terms of **Section 46** of the Customs Act, 1962- *(1) The importer of any goods,*

other than goods intended for transit or transhipment, shall make entry thereof by presenting electronically on the customs automated system to the proper officer a bill of entry for home consumption or warehousing in such form and manner as may be prescribed…….

> ***(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, and such other documents relating to the imported goods as may be prescribed.*
> ***(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.*

10.6 In terms of **Section 111(l)** of the Customs Act, 1962 - *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*

10.7 In terms of **Section 111(m)** of the Customs Act, 1962 - *any goods which do not correspond in respect of value or in any other particulars with the entry made under this Act are liable to confiscation.*

10.8 In terms of **Section 112** of the Customs Act, 1962- *Any person, -*

> *(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or*
> *(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, 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 percent of the duty sought to be evaded on such goods or five thousand rupees, whichever is the heigher;*

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

> *PROVIDED that where such duty or interest, as the case may be, as determined under sub-section (8) of section 28, and the interest payable thereon under section 28AA, is paid within thirty days from the date of the communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent of*

the duty or interest, as the case may be, so determined:

PROVIDED FURTHER that the benefit of reduced penalty under the first proviso shall be available subject to the condition that the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso:

PROVIDED ALSO that where the duty or interest determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, for the purposes of this section, the duty or interest as reduced or increased, as the case may be, shall be taken into account:

PROVIDED ALSO that in case where the duty or interest determined to be payable is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, the benefit of reduced penalty under the first proviso shall be available if the amount of the duty or the interest so increased, along with the interest payable thereon under section [28AA], and twenty-five percent of the consequential increase in penalty have also been paid within thirty days of the communication of the order by which such increase in the duty or interest takes effect :

PROVIDED ALSO that where any penalty has been levied under this section, no penalty shall be levied under section 112 or section 114.

Explanation: For the removal of doubts, it is hereby declared that -
(i) …….;
(ii) any amount paid to the credit of the Central Government prior to the date of communication of the order referred to in the first proviso or the fourth proviso shall be adjusted against the total amount due from such person.

10.10 In terms of **Section 114AA** of the Customs Act, 1962 - *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.*

10.11 Relevant provisions of the Foreign Trade (Regulation) Rules, 1993 are as under:

Rule 11. Declaration as to value and quality of imported goods. - *On the importation into, or exportation out of, any customs ports of any goods, whether liable to duty or not, the owner of such goods shall in the Bill of Entry or the Shipping Bill or any other documents prescribed under the Customs Act, 1962 (52 of 1962), state the value, quality and description of such goods to the best of his knowledge and belief and in case of exportation of goods, certify that the quality and specification of the goods as stated in those documents, are in accordance with the terms of the export contract entered into with the buyer or consignee in pursuance of which the goods are being exported and shall subscribe a declaration of the truth of such statement at the foot of such Bill of Entry or Shipping Bill or any other documents.*

11. Duty calculation: As discussed under para 6 above, the Basic Customs Duty applicable on the imported goods i.e. Polyester fabric laminated with PU is 20% ad valorem. *The differential duty payable has been calculated on the basis of actual assessable value so arrived on the excess quantity of fabrics found during the examination.* The detailed duty calculation is annexed to this notice as Annexure-A and summary of

which is here as under:

S. No.	BE no. & Date	Declared Assessable Value as per Bill of Entry (In INR)	Duty paid as per Bill of Entry	Assessable value (in INR), considering the actual quantity found during examination	Actual duty payable (in INR)	Differential Duty payable (in INR) [6-4]
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	6885556 dt 26.11.2024	10,27,460	3,76,461	23,19,381	8,49,821	4,73,360
2	6885561 dt 26.11.2024	10,59,522	3,88,208	23,96,584	8,78,108	4,89,900
3	6885554 dt 26.11.2024	10,63,996	3,89,848	24,06,658	8,81,800	4,91,952
4	6885567 dt 26.11.2024	10,84,794	3,97,469	24,65,498	9,03,358	5,05,889
Total						**19,61,101/-**

12. From the foregoing Paras, it is evident that M/s R. M. Trading & Co., through its proprietor, have imported fabrics and mis-declared the same in terms of quantity (excess quantity found) with an intention to evade Customs Duties to the tune of Rs. 19,61,101/-, as detailed supra, thereby rendering the goods liable for confiscation under Section 111 (l) and 111 (m) of the Customs Act, 1962 and also rendered themselves liable for penalty under Section 112 (a) and 112(b) of the act ibid. Further, the quantity of the imported goods was suppressed and was wilfully mis-stated by M/s R.M. Trading & Co., therefore, the applicable duty, interest becomes recoverable under Section 28 (4) of the Customs Act, 1962. Ms. Sumitra Debnath, Proprietor of M/s R. M. Trading & Co., intentionally made or caused to be made false and incorrect declarations with regard to quantity, description and classification before the customs authorities. Thus, she appears to have contravened the provisions of Section 46(4) of the Customs Act, 1962 read with Rule 11 of Foreign Trade (Regulation) Rules. Therefore, for her acts of omission and commission, she appears liable for penalty under Section 114A and Section 114AA of the Customs Act, 1962.

13. M/s R. M. Trading & Co. voluntarily paid the differential duty vide Challan No. APSEZ/875/24-25 dated 13.12.2024 for Rs. 491952/-; APSEZ/876/24-25 dated 13.12.2024 for Rs. 489900/-; APSEZ/877/24-25 dated 13.12.2024 for Rs. 473360/- and APSEZ/878/24-25 dated 13.12.2024 for Rs. 505889/- in respect of all four bills of entry along with interest of Rs.13701/- vide Challan No. APSEZ/1009/24-25 dated 12.02.2025 and penalty amounting to Rs. 294166/- vide Challan No. APSEZ/1008/24-25 dated 12.02.2025**.**

14. Accordingly, Show Cause Notice No. 33/2025-26/ADC/ZDC/ADJ/MCH dated 11.06.2025 was issued to the all noticees calling upon it to show cause as to why:

(i) The goods i.e. fabrics imported vide four bills of entry, as mentioned in Annexure A to this Show Cause Notice, having total actual assessable value of Rs. 95,88,121/- (calculated on the basis of actual quantity found during examination),

which were provisionally released on bond, should not be confiscated under the provisions of Section 111(l) and (m) of the Customs Act, 1962;

(ii) The classification of goods as declared by the importer, under CTH59039090 in all four Bills of Entry, as mentioned in Annexure A to this Show Cause Notice should not be rejected and the goods i.e. fabrics should not re-classified as per Table in para 6 above;

(iii) Differential duty amounting to Rs. 19,61,101/- **(Rupees Ninteen Lakh Sixty One Thousand One Hundred and One only),** short levied/short paid on the goods covered under the 4 Bills of Entry detailed in Annexures-A to this Notice, should not be demanded and recovered from them under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962;

(iv) The payments made by the importer, as detailed in Para 12 above, should not be appropriated towards the above demand;

(v) Penalty should not be imposed on M/s R. M. Trading Co. under Section 112(a) & (b) and/or Section 114A;

(vi) Penalty should not be imposed on Ms. Sumitra Debnath under Section 114AA of the Customs, Act, 1962.

PERSONAL HEARING

15. The noticees were granted opportunities of personal hearing on 03.12.2025, 13.01.2026, 18.02.2026 and 11.03.2026. However, neither the noticees nor their authorised representatives appeared on any of the aforesaid dates nor has any written submission been filed on their behalf.

DISCUSSION AND FINDINGS

16. I have carefully gone through the Show Cause Notice No. 33/2025-26/ADC/ZDC/ADJ/MCH dated 11.06.2025 and all the documentary evidence available on record. I find from the records of the case that the noticees did not participate in the adjudication proceedings. This office had given ample opportunity to the noticees for personal hearing i.e. on 03.12.2025, 13.01.2026, 18.02.2026 and 11.03.2026. However, neither the noticees nor their authorized representatives appeared for the personal hearing on the above dates. I therefore find that sufficient opportunities have been given to the noticees and the noticees failed to avail of such opportunity. There is no dispute about the fact that need of speedy adjudication is essential to put an end to litigation. It is further a matter of fact that adjudication proceedings need to be finalized within the stipulated time. With regard to proceeding to decide the case ex-parte, it is observed that *Hon'ble High Court of Allahabad in the case of Modipon Ltd. vs Collector of C. Excise, Meerut on 19 August, 1996* has effectively dealt with the issue of natural justice and personal hearing. The extract of the observations of Hon'ble Court is reproduced herein below **–**

"…….

…….

19. "No doubt hearing includes written submissions and personal hearing as well but the principle of Audi Alteram Partem does not make it imperative for the authorities to compel physical presence of the party concerned for hearing and go on adjourning the proceeding so long the party concerned does not appear before them. What is imperative for the authorities is to afford the opportunity. It is for the party concerned to avail the opportunity or not. If the opportunity afforded is not availed of by the party concerned, there is no violation of the principles of natural justice. The fundamental principles of natural justice and fair play are safeguards for the flow of justice and not the instruments for delaying the proceedings and thereby obstructing the flow of justice. In the instant case as stated in detail in preceding paragraphs, repeated adjournments were granted to the petitioners, dates after dates were fixed for personal hearing, petitioners filed written submissions, the administrative officer of the factory appeared for personal hearing and filed written submissions, therefore, in the opinion of this Court there is sufficient compliance of the principles of natural justice as adequate opportunity of hearing was afforded to the petitioners.

20. For the sake of arguments it was asked by this Court during the course of arguments as to what submissions the petitioners would have made at the time of personal hearing but nothing substantial was suggested by the learned counsel for the petitioners in this regard.

21. It may be recalled here that the requirement of natural justice varies from cases to cases and situations to situations. Courts cannot insist that under all circumstances personal hearing has to be afforded. Quasi-judicial authorities are expected to apply their judicial mind over the grievances made by the persons concerned but it cannot be held that before dismissing such applications in all events the quasi-judicial authorities must hear the applicants personally. When principles of natural justice require an opportunity before an adverse order is passed, it does not in all circumstances mean a personal hearing. The requirement is complied with if the person concerned is afforded an opportunity to present his case before the authority. Any order passed after taking into consideration the points raised in such applications shall not be held to be invalid merely on the ground that no personal hearing had been afforded. This is all the more important in the context of taxation and revenue matters. See Union of India and Anr. v. Jesus Sales Corporation [1996 (83) E.L.T. 486 (S.C.) = J.T. 1996 (3) SC 597]."

In view of the above and rely upon the aforesaid judgement, I am proceeding to decide the case ex-parte on the basis of the facts and evidence on record. The issues to be decided by me are:

(i) Whether the classification of goods as declared by the importer under CTH 59039090 in all four Bills of Entry as mentioned in Annexure-A to the SCN should be rejected and the goods re-classified under CTH 59032090;

(ii) Whether the goods i.e. fabrics imported vide four Bills of Entry as mentioned in Annexure-A to the SCN, having total actual assessable value of **Rs. 95,88,121/-** (calculated on the basis of actual quantity found during examination), which were provisionally released on bond, are liable to confiscation under Section 111(l) and 111(m) of the Customs Act, 1962;

(iii) Whether the differential duty amounting to **Rs. 19,61,101/-** short levied/short paid on the goods covered under the 4 Bills of Entry detailed in Annexure-A to the SCN is recoverable from M/s R.M. Trading & Co. under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA thereof;

(iv) Whether penalty is imposable on M/s R.M. Trading & Co. under Section 112(a) & (b) and/or Section 114A of the Customs Act, 1962;

(v) Whether penalty is imposable on Ms. Sumitra Debnath, Proprietor of M/s R.M. Trading & Co., under Section 114AA of the Customs Act, 1962.

(vi) Whether the payments made by the importer as detailed in Para 12, supra are liable to be appropriated towards the above demand;

17. <u>CLASSIFICATION OF GOODS</u>:

17.1 Regarding the first issue, I find that the goods i.e. Polyester Laminated Fabric were imported by M/s R.M. Trading & Co. vide four Bills of Entry No. 6885556, 6885561, 6885554 and 6885567 all dated 26.11.2024 into the FTWZ unit of M/s Holistic Global Corporation, Mundra (Warehouse Code No. AJM6Z015), wherein the fabric was declared under CTH 59039090. Representative samples of fabrics were drawn from each of the four containers under Panchanama dated 28.11.2024 and forwarded to the Central Revenues Control Laboratory (CRCL), New Delhi under Test Memos No. 43/2024 to 46/2024 for examination to ascertain the actual composition and type of fabric imported. The CRCL, New Delhi vide letter dated 07.01.2025 and Addendum dated 23.01.2025 reported the test results as under:

Sr. No.	BE No. & Date	CRCL Report
1	6885556 dt. 26.11.2024	Dyed, woven textured fabric of multifilament yarns of Polyester, laminated one side with translucent film composed of compounded Polyurethane (PU). Other than coated and pile fabric.
2	6885561 dt. 26.11.2024	Bleached, woven textured fabric of multifilament yarns of Polyester, laminated one side with translucent film composed of compounded Polyurethane (PU). Other than coated and pile fabric.
3	6885554 dt. 26.11.2024	Dyed, woven textured fabric of multifilament yarns of Polyester, laminated one side with translucent film composed of compounded Polyurethane (PU). Other than coated and pile fabric.
	6885567	Dyed, woven textured fabric of multifilament yarns of Polyester,

4	dt. 26.11.2024	laminated one side with translucent film composed of compounded Polyurethane (PU). Other than coated and pile fabric.

17.2 I find that CTH 59039090 covers "Textile fabrics impregnated, coated, covered or laminated with plastics — other". CTH 59032090, on the other hand, specifically covers "Textile fabrics impregnated, coated, covered or laminated with polyurethane — of polyester". The CRCL test reports have conclusively confirmed that the fabric in all four Bills of Entry is a woven polyester fabric laminated with Polyurethane (PU) film and is other than coated and pile fabric. The goods are therefore specifically and squarely classifiable under CTH 59032090 which covers polyester fabrics laminated with polyurethane, and not under the residuary heading CTH 59039090 as declared by the importer. The declared classification under CTH 59039090 is accordingly incorrect and is liable to be rejected. I hold that the goods imported vide all four Bills of Entry are correctly classifiable under CTH 59032090 of the Customs Tariff Act, 1975.

18. <u>CONFISCATION</u>:

18.1 Regarding the second issue, I find that on examination of the said goods under Panchanama dated 28.11.2024 by the officers of DRI, Delhi Zonal Unit, the actual quantity of goods found in each container was significantly in excess of the quantity declared in the respective Bills of Entry, as detailed below:

Sr. No.	BE No. & Date	Container No.	Declared Qty (SQM)	Actual Qty (SQM)	Excess Qty (SQM)
1	6885556 dt. 26.11.2024	MEDU7036287	92,601.53	2,09,038	1,16,436.47
2	6885561 dt. 26.11.2024	UETU6109407	95,491.15	2,15,996	1,20,504.85
3	6885554 dt. 26.11.2024	MSNU9701280	95,894.38	2,16,904	1,21,009.62
4	6885567 dt. 26.11.2024	TWCU8059814	97,768.80	2,22,207	1,24,438.20

18.2 I find that the actual quantity of fabric found in each container was approximately 2.25 times the quantity declared in the respective Bills of Entry. The excess quantity in each container was neither declared nor included in the Bills of Entry filed by the importer. Goods which are in excess of those included in the entry made under the Customs Act, 1962 are liable to confiscation under Section 111(l) of the Customs Act, 1962. Further, since the goods do not correspond in respect of quantity, a material particular, with the entry made under the Customs Act, 1962, they are also liable to confiscation under Section 111(m) of the Customs Act, 1962.

18.3 I further find that Shri Sachin Sachdeva, Authorised Representative of M/s

R.M. Trading & Co., in his statement recorded on 24.01.2025 under Section 108 of the Customs Act, 1962, admitted that the actual quantity of goods was mis-declared in the Bills of Entry just to save Customs duty. He further stated that as soon as the matter came to the knowledge of DRI, the firm immediately paid the differential duty payable on the differential quantity found during examination, and undertook to pay penalty and applicable interest on behalf of the firm. This is an unequivocal admission of misdeclaration of quantity with intent to evade duty, made on behalf of the importer firm.

18.4 I further find that at the time of examination, Mr. Amol Patil, representative of the FTWZ unit M/s Holistic Global Corporation, Mundra, submitted detailed packing lists in respect of all four containers which were different from the packing lists forming part of the import dockets, specifically in terms of the quantity of fabrics. The lengths of fabric rolls were verified randomly and found to match with the detailed packing lists submitted at the time of examination, thereby confirming the actual quantity found during examination as recorded in Panchanama dated 28.11.2024. The presentation of packing lists with lesser quantities in the import dockets, as against the detailed packing lists reflecting the actual quantities, is a clear indicator of deliberate misdeclaration of quantity.

18.5 In view of the above, I hold that the imported goods covered under Bills of Entry No. 6885556, 6885561, 6885554 and 6885567 all dated 26.11.2024, having total actual assessable value of **Rs. 95,88,121/-** (Rupees Ninety-Five Lakhs Eighty-Eight Thousand One Hundred and Twenty-One Only), are liable to confiscation under Section 111(l) and Section 111(m) of the Customs Act, 1962.

18.6 I find that the said goods have already been provisionally released to the importer on execution of bonds for **Rs. 10,27,460/-, Rs. 10,59,522/-, Rs. 10,63,996/-** and **Rs. 10,84,794/-** respectively, vide provisional release order dated 25.04.2025 issued by the Office of the Principal Commissioner of Customs, Mundra, pursuant to the NOC issued by DRI, DZU, New Delhi vide letter dated 16.04.2025. Since the goods have been provisionally released and are no longer physically available for confiscation, the question arises whether Redemption Fine under Section 125 of the Customs Act, 1962 can still be imposed in lieu of confiscation. In this regard, the Hon'ble Supreme Court in *Weston Components Ltd. v. Commissioner of Customs, New Delhi, 2000 (115) ELT 278 (SC)* has held that the mere fact that goods were released on execution of a bond would not take away the power of the Customs authorities to levy redemption fine 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 goods. In view of this settled legal position, I find it appropriate to impose Redemption Fine in lieu of confiscation under Section 125 of the Customs Act, 1962. Since the goods are not prohibited goods, I give an option to M/s R.M. Trading & Co. to redeem the same on payment of Redemption Fine under Section 125 of the Customs Act, 1962.

18.7 I find that while the goods are liable to confiscation, the quantum of Redemption Fine deserves to be kept at a moderate level in the facts and circumstances of this case. The importer voluntarily paid the entire differential

duty during the course of investigation itself, admitted the misdeclaration unequivocally, and the Revenue has suffered no actual loss on account of duty. I accordingly find it appropriate to impose a minimum/moderate Redemption Fine under Section 125 of the Customs Act, 1962.

19. <u>DIFFERENTIAL DUTY DEMAND</u>:

19.1 Regarding the third issue, I find that consequent upon the examination findings establishing misdeclaration of quantity, the self-assessment made by the importer in all four Bills of Entry was incorrect. The SCN has invoked Section 28(4) of the Customs Act, 1962 for recovery of differential duty of **Rs. 19,61,101/-**. I find, however, that M/s R.M. Trading & Co. had voluntarily paid the entire differential duty of **Rs. 19,61,101/-** vide Challans No. APSEZ/875/24-25, APSEZ/876/24-25, APSEZ/877/24-25 and APSEZ/878/24-25 all dated 13.12.2024, along with interest of **Rs. 13,701/-** vide Challan No. APSEZ/1009/24-25 dated 12.02.2025, all prior to the issuance of the Show Cause Notice dated 11.06.2025. In these circumstances, the invocation of Section 28(4) for recovery of duty is of no practical consequence, as there is no outstanding amount to be recovered. I find that the correct legal basis for re-assessment in the present case, flowing directly from the examination findings of the DRI officers, is Section 17(4) of the Customs Act, 1962, which empowers the proper officer to re-assess duty where self-assessment is found to be incorrect on verification or examination of goods. I find that non-mention of a statutory provision or mention of an incorrect provision is not fatal to the proceedings so long as the substance of the allegations is clearly set out in the Show Cause Notice, placing reliance on the following binding precedents:

(i) *Hon'ble CESTAT, Ahmedabad in the case of Geedeelon Texo-Twist Pvt. Ltd. Vs Commissioner C.Ex & Customs, Surat-II – 2009 (238) E.L.T. 455 (Tri.-Ahmd.)* – it is settled law that quoting of wrong sections or not mentioning of specific Sections of Customs Act does not vitiate the proceedings.

(ii) *Five Judge Bench of the Hon'ble Supreme Court in Union of India v. Tulsiram Patel, (1985) 3 SCC 398* – "Further, even the mention of a wrong provision or the omission to mention the provision which contains the source of power will not invalidate an order/notice where source of such power exists."

(iii) *Hon'ble CESTAT, Principal Bench Delhi in M/s. Jagson International Ltd. Vs Commissioner of Customs – 2006 (199) E.L.T. 553 (Tri.-Del.), upheld by Hon'ble Supreme Court in 2015 (323) E.L.T. 243 (S.C.)* – Non-mention of statutory provision not fatal when sufficient averment in Show Cause Notice brings out the substance of the allegations and the requisite ingredients of the provision are set out.

(iv) *Hon'ble Supreme Court in M/s. Fortune Impex Vs Commissioner of Customs, Kolkata – 2004 (167) E.L.T. A134 (S.C.)* – Non-mention of the particular section of Customs Act, 1962 would not vitiate the proceedings particularly when allegation and charges are mentioned in clear terms in the Show Cause Notice.

19.2 I accordingly find that re-assessment of all four Bills of Entry is warranted under Section 17(4) of the Customs Act, 1962. The actual assessable value has been

computed by applying the same CIF unit rate of USD 0.13 per SQM as declared in the commercial invoices, to the actual quantity found during examination. The differential duty has accordingly been calculated as under:

S.No.	BE No. & Date	Declared AV (Rs.)	Duty Paid (Rs.)	Actual AV (Rs.)	Actual Duty (Rs.)	Differential Duty (Rs.)
1	6885556 dt. 26.11.2024	10,27,460	3,76,461	23,19,381	8,49,821	4,73,360
2	6885561 dt. 26.11.2024	10,59,522	3,88,208	23,96,584	8,78,108	4,89,900
3	6885554 dt. 26.11.2024	10,63,996	3,89,848	24,06,658	8,81,800	4,91,952
4	6885567 dt. 26.11.2024	10,84,794	3,97,469	24,65,498	9,03,358	5,05,889
Total		**41,35,772**	**15,51,986**	**95,88,121**	**35,13,087**	**19,61,101**

19.3 I hold that the total differential duty of **Rs. 19,61,101/-** (Rupees Nineteen Lakhs Sixty-One Thousand One Hundred and One Only) stands re-determined under Section 17(4) of the Customs Act, 1962. The said amount has already been voluntarily paid in full by M/s R.M. Trading & Co. prior to issuance of the SCN and accordingly stands recovered.

20. <u>Penalty on M/S R.M. Trading & Co.</u>:

20.1 Regarding the fourth issue, I find that the goods covered under all four Bills of Entry have been held liable to confiscation under Section 111(l) and Section 111(m) of the Customs Act, 1962 as discussed above. Section 112(a)(ii) of the Customs Act, 1962 provides for imposition of penalty on any person who does or omits to do any act which renders goods liable to confiscation under Section 111, where the goods are dutiable goods other than prohibited goods. I find that M/s R.M. Trading & Co., by filing all four Bills of Entry with deliberately mis-declared quantities, supported by packing lists reflecting quantities far below the actual quantities found during examination, has committed acts which have rendered the goods liable to confiscation under Section 111(l) and Section 111(m) of the Customs Act, 1962. M/s R.M. Trading & Co. is accordingly liable to penalty under Section 112(a)(ii) of the Customs Act, 1962.

20.2 I further find that Section 114A of the Customs Act, 1962 is not applicable in the present case, since the said provision is applicable only where duty is determined under Section 28 of the Customs Act, 1962, and the goods in the present case have been re-assessed under Section 17(4) thereof. I also find that simultaneous imposition of penalty under both Section 112(a) and Section 112(b) in respect of the same act would amount to double penalty for the same offence, and accordingly I refrain from imposing penalty under Section 112(b) of the Customs Act, 1962. The SCN had alternatively proposed penalty under Section 114A;

however, in view of the above legal position, penalty under Section 112(a)(ii) alone is being imposed.

21. <u>Penalty on Ms. Sumitra Debnath under Section 114AA</u>:

21.1 Regarding the fifth issue, I find that Section 114AA of the Customs Act, 1962 provides that 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. In the present case, I find that Ms. Sumitra Debnath is the Proprietor of M/s R.M. Trading & Co. and is responsible for all business activities of the firm including placement of orders with overseas suppliers and looking after sales at Kolkata, as stated by the authorised representative Shri Sachin Sachdeva in his statement recorded on 24.01.2025 under Section 108 of the Customs Act, 1962. As the Proprietor and the directing mind of the firm, Ms. Sumitra Debnath was responsible for the import transactions covered under all four Bills of Entry and for the declarations made thereunder to the Customs authorities.

21.2 I find that in all four Bills of Entry, declarations were made as to the truth of the contents under Section 46(4) of the Customs Act, 1962, while the quantity of goods was knowingly under-declared. The packing lists submitted as part of the import dockets reflected quantities far below the actual quantities, which were known to the importer. These declarations and the supporting packing lists were false and incorrect in a material particular, namely the quantity of goods imported. Ms. Sumitra Debnath, as the Proprietor responsible for the import transactions, knowingly caused such false declarations and incorrect documents to be made and used in the transaction of business under the Customs Act, 1962. She has accordingly rendered herself personally liable to penalty under Section 114AA of the Customs Act, 1962.

22. <u>APPROPRIATION OF PAYMENTS</u>:

22.1 Regarding the sixth issue, I find that M/s R.M. Trading & Co. has made the following voluntary payments prior to issuance of the SCN:

	Challan No.	**Date**	**Amount (Rs.)**
Differential duty — BE 6885554	APSEZ/875/24-25	13.12.2024	4,91,952
Differential duty — BE 6885561	APSEZ/876/24-25	13.12.2024	4,89,900
Differential duty — BE 6885556	APSEZ/877/24-25	13.12.2024	4,73,360
Differential duty — BE 6885567	APSEZ/878/24-25	13.12.2024	5,05,889
Total Differential Duty			**19,61,101**
Interest u/s 28AA	APSEZ/1009/24-25	12.02.2025	13,701
Penalty	APSEZ/1008/24-25	12.02.2025	2,94,166

22.2 I hold that an amount of **Rs. 19,61,101/-** (Rupees Nineteen Lakhs Sixty-One Thousand One Hundred and One Only) being the differential duty re-determined in respect of all four Bills of Entry, and an amount of **Rs. 13,701/-** (Rupees Thirteen

Thousand Seven Hundred and One Only) being the interest paid under Section 28AA of the Customs Act, 1962, shall stand appropriated towards the re-determined duty liability and interest thereon respectively. The amount of **Rs. 2,94,166/-** (Rupees Two Lakhs Ninety-Four Thousand One Hundred and Sixty-Six Only) paid towards penalty shall stand adjusted and appropriated towards the penalty confirmed in this Order.

23. Before concluding, I find it appropriate to place on record that the present case is distinguishable from cases of blatant duty evasion where the importer contests liability and makes no voluntary payment. M/s R.M. Trading & Co. voluntarily paid the entire differential duty of **Rs. 19,61,101/-** vide Challans No. APSEZ/875/24-25, APSEZ/876/24-25, APSEZ/877/24-25 and APSEZ/878/24-25 all dated 13.12.2024, interest of **Rs. 13,701/-** vide Challan No. APSEZ/1009/24-25 dated 12.02.2025 and penalty of **Rs. 2,94,166/-** vide Challan No. APSEZ/1008/24-25 dated 12.02.2025, all during the course of investigation itself, well before the issuance of the Show Cause Notice, and unequivocally admitted the misdeclaration. The Revenue has accordingly suffered no actual loss on account of duty. In view of the cooperative conduct of the noticees, the promptness of voluntary payment, and the admission of liability at the earliest stage, I am of the considered view that the ends of justice would be met by imposing moderate penalties in the facts and circumstances of this case.

ORDER

24. In view of the foregoing Discussion and Findings, I pass the following Order:

(i) I hold that the declared classification of goods under CTH 59039090 in Bills of Entry No. 6885556, 6885561, 6885554 and 6885567 all dated 26.11.2024 is rejected, and the goods are correctly classifiable under CTH 59032090 of the Customs Tariff Act, 1975;

(ii) I hold that the imported goods covered under Bills of Entry No. 6885556, 6885561, 6885554 and 6885567 all dated 26.11.2024, having total actual assessable value of **Rs. 95,88,121/-** (Rupees Ninety-Five Lakhs Eighty-Eight Thousand One Hundred and Twenty-One Only), as per actual quantity found during examination as detailed in the table at Para 18.1 supra, are liable to confiscation under Section 111(l) and Section 111(m) of the Customs Act, 1962. However, I give an option to M/s R.M. Trading & Co. to redeem the same on payment of Redemption Fine of **Rs. 2,00,000/-** (Rupees Two Lakh Only) under Section 125 of the Customs Act, 1962;

(iii) I order re-assessment of Bills of Entry No. 6885556, 6885561, 6885554 and 6885567 all dated 26.11.2024 under Section 17(4) of the Customs Act, 1962 on the actual assessable value of **Rs. 95,88,121/-** (Rupees Ninety-Five Lakhs Eighty-Eight Thousand One Hundred and Twenty-One Only), resulting in total differential duty of **Rs. 19,61,101/-** (Rupees Nineteen Lakhs Sixty-One Thousand One Hundred and One Only), which stands recovered from the voluntary payments made by M/s R.M. Trading & Co.;

(iv) I hold that an amount of **Rs. 19,61,101/-** (Rupees Nineteen Lakhs Sixty-One Thousand One Hundred and One Only) being the differential duty re-determined, and an amount of **Rs. 13,701/-** (Rupees Thirteen Thousand Seven Hundred and One Only) being the interest under Section 28AA of the Customs Act, 1962, shall stand appropriated from the voluntary payments made by M/s R.M. Trading & Co. vide Challans No. APSEZ/875/24-25, APSEZ/876/24-25, APSEZ/877/24-25 and APSEZ/878/24-25 all dated 13.12.2024 and Challan No. APSEZ/1009/24-25 dated 12.02.2025 respectively;

(v) I impose a penalty of **Rs. 1,90,000/-** (Rupees One Lakh Ninety Thousand Only) on M/s R.M. Trading & Co. under Section 112(a)(ii) of the Customs Act, 1962;

(vi) I impose a penalty of **Rs. 50,000/-** (Rupees Fifty Thousand Only) on Ms. Sumitra Debnath, Proprietor of M/s R.M. Trading & Co., under Section 114AA of the Customs Act, 1962;

(vii) I hold that the amount of **Rs. 2,94,166/-** paid vide Challan No. APSEZ/1008/24-25 dated 12.02.2025 shall stand appropriated towards the penalty confirmed in this order;

(viii) I refrain from imposing penalty on M/s R.M. Trading & Co. under Section 112(b) and Section 114A of the Customs Act, 1962 in view of Para 20.2, supra.

25. This Order is issued without prejudice to any other action that may be taken against the noticees or any other person(s) under the provisions of the Customs Act, 1962 and rules/regulations framed thereunder or any other law for the time being in force in the Republic of India.

26. Show Cause Notice No. 33/2025-26/ADC/ZDC/ADJ/MCH dated 11.06.2025 stands disposed of in the above terms.

Digitally signed by
Dipakbhai Zala
Date: 04-06-2026
17:07:37

(Dipak Zala)
Additional Commissioner of Customs,
Custom House, Mundra

To,

1. M/s R.M. Trading & Co. (IEC: IKFPD6482J),
1st Floor, 238 A M Road, Chanralo, North 24 Pragnas,
Natagar, West Bengal – 700 113

2. Ms. Sumitra Debnath, Proprietor of M/s R.M. Trading & Co.,
1st Floor, 238 A M Road, Chanralo, North 24 Pragnas,
Natagar, West Bengal – 700 113

Copy to:

1. The Principal Additional Director General, DRI, DZU, B-3&4, 6th Floor, Pt. Deendayal Antyodaya Bhawan, CGO Complex, Lodhi Road, New Delhi – 110003
2. The Deputy Commissioner, Review, Customs House, Mundra
3. The Deputy Commissioner, TRC, Custom House, Mundra
4. The Deputy Commissioner, EDI, Custom House, Mundra
5. The Deputy Commissioner, APSEZ, Mundra
6. Guard File