
	<p>सीमा शुल्क के प्रधान आयुक्त का कार्यालय सीमा शुल्क सदन, मुंद्रा, कच्छ, गुजरात</p> <p><b>OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS CUSTOMS HOUSE, MUNDRA, KUTCH, GUJARAT</b></p> <p><b><u>Phone No.02838- 271165/66/67/68</u></b></p> <p><b><u>FAX.No.02838-271169/62,</u></b></p> <p><b><u>Email-adj-mundra@gov.in</u></b></p>	
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<b>A FILE NO.</b> फाइल संख्या	GEN/ADJ/ADC/737/2025-Adjn-O/o Pr Commr-Cus-Mundra
<b>B OIO NO.</b> आदेश संख्या	MCH/ZDC/ADC/428/2025-26
<b>C PASSED BY</b> जारीकर्ता	Dipak Zala, Additional Commissioner of Customs/अपर आयुक्त सीमा शुल्क, Custom House, Mundra/कस्टम हाउस, मुंद्रा।
<b>D DATE OF ORDER</b> आदेश की तारीख	09.12.2025
<b>E DATE OF ISSUE</b> जारी करने की तिथि	09.12.2025
<b>F SCN No. &amp; Date</b> कारण बताओ नोटिस क्रमांक	GEN/ADJ/ADC/737/2025-Adjn-O/o Pr Commr-Cus-Mundra dated 21.03.2025
<b>G NOTICEE/ PARTY/ IMPORTER</b> नोटिसकर्ता/पार्टी/आयातक	<ul style="list-style-type: none"> <li>i. M/s. Tapisserie Homes Private Limited (IEC: AAHCT3015C)</li> <li>ii. M/s SRV Shipping (Customs Broker)</li> <li>iii. M/s. DSR Logistics (Custom Broker)</li> <li>iv. M/s. Freight Link Logistics (Custom broker)</li> <li>v. Shri Dharendra Shukla alias Sonu Shukla</li> <li>vi. Shri Krishna Nand Shahi alias Shri Krishna Shahi</li> <li>vii. Shri Sanatan Jha</li> </ul>
<b>H DIN/दस्तावेज़ पहचान संख्या</b>	20251271MO00002177E5

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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 सीमाशुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमाशुल्क 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:

**“सीमाशुल्क आयुक्त (अपील)  
चौथी मंजिल, हुडको बिल्डिंग, ईश्वरभुवन रोड,  
नवरंगपुरा, अहमदाबाद 380 009”  
“THE COMMISSIONER OF CUSTOMS (APPEALS), MUNDRA  
HAVING HIS OFFICE AT 4<sup>TH</sup> FLOOR, HUDCO BUILDING, ISHWAR BHUVAN  
ROAD,  
NAVRANGPURA, AHMEDABAD-380 009.”**

3. उक्त अपील यह आदेश भेजने की दिनांक से 60 दिन 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 सं० 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 ज्ञापन के साथ ड्यूटी / 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.

6. अपील प्रस्तुत करते समय, सीमा शुल्क (अपील) नियम, 1982 और सीमाशुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के 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**

Intelligence gathered by the Directorate of Revenue Intelligence (DRI), Gandhidham Regional Unit suggested that M/s. Tapisserie Homes Private Limited (IEC: AAHCT3015C), having address as, 482, Phase II, HSIIDC, Barhi Industrial, Sonipat, Haryana - 131101 (hereinafter referred to as "M/s Tapisserie Homes Private Limited/the Importer"), is indulged in duty evasion through mis-declaration of goods.

## **2. Investigation Summary:**

**2.1** Whereas, Acting on the intelligence, investigation was initiated by DRI with respect to the following live consignments pending for clearance at Mundra Custom House as mentioned in Table A below:

**TABLE-A**

Sl. No	Bill of Entry No. & Date	Bill of Lading No. and date	Container No.	IGM No. and Date
1	5656835 dated 18-09-2024	SNKO03K240800974 dated 24-08-2024	SKHU9407958	2388191 dated 15.09.2024
2	5902231 dated 01-10-2024	KMTCNBO8215736 dated 31-08-2024	BMOU6205458	2388370 dated 17.09.2024
3	5901128 dated 01-10-2024	YSNBF24090543 dated 05-09-2024	TIU4501345	2388765 dated 21.09.2024
4	6223557 dated 19-10-2024	YSNBF24090559 dated 17-09-2024	EITU1928939	2389868 dated 04.10.2024

The goods contained in container Nos. mentioned against given Bill of Entry at Sr. No. 1 was examined under panchnama dated 12.11.2024 drawn at M/s. Seabird Marine Services (Gujarat) Pvt. Ltd, Sr. No. 3 were examined under panchnama dated 09.11.2024 drawn at M/s. Landmark CFS (P) Ltd. and Sr. No. 2 & 4 were examined under panchnama dated 18.10.2024 and 07.11.2024 respectively drawn at Container Freight Station of M/s Saurashtra Freight Pvt. Ltd., Mundra.

During investigation, it was noticed that different CTH were declared by the respective shipping lines while filing of IGM in respect of import consignments as mentioned in Table-B below and accordingly the copies of Bills of Lading were called for and it was found that corresponding Bills of Lading contains the CTH as "60019200/60011020" and same CTH was declared while filing of IGM. The details are as tabulated below -

**TABLE-B**

Sl. No	Bill of Lading No. and date	Bill of Entry No. & Date	CTH declared in BE	CTH declared in BL supplied by CHA during panchnama	Shipping Line	CTH declared in BL supplied by Shipping Line	CTH declared in IGM
1	SNKO03K240800974 dated 24-08-2024	5656835 dated 18-09-2024	60011020	60011020 (M/s. SRV Shipping)	Parekh Marine Services Pvt. Ltd.	60019200	60019200

2	KMTCNBO8215736 dated 31-08-2024	5902231 dated 01-10- 2024	60019200	60019200 (M/s. DSR Logistics)	Korea Marine Transport Co. Ltd.	60019200	60019200
3	YSNBF24090543 dated 05-09-2024	5901128 dated 01-10- 2024	60019200	60019200 (M/s. DSR Logistics)	Multiport Cargo Logistics Private Limited	60019200	60019200
4	<b>YSNBF24090559 dated 17-09-2024</b>	<b>6223557 dated 19-10- 2024</b>	<b>60019200</b>	<b>60019200 (M/s. Freight Link Logistics)</b>	<b>Multiport Cargo Logistics Private Limited</b>	<b>60011020</b>	<b>60011020</b>

However, during the examination of the said import consignments by DRI, the concerned CHAs i.e. M/s. SRV Shipping and M/s. Freight Link Logistics have produced copies of Bills of Lading containing the different CTH declared as “60011020/60019200” and same CTH was declared while filing corresponding Bills of Entry in respect of Bill of Entry at Sr. No. 1 & 4 of table above. During the panchnama proceedings, representative samples were drawn from each container for laboratory testing of fabric.

**2 . 2** The representative samples so drawn under panchnama dated 18.10.2024, 07.11.2024, 09.11.2024 and 12.11.2024 were forwarded to Custom House Laboratory, Custom House Kandla for necessary testing therefore to ascertain the exact nature, characteristics, GSM, etc. of the fabric.

**2.3** The test reports were received from Custom House Laboratory, Custom House Kandla for samples forwarded vide Test Memo No. 474/2024, 475/2024, 476/2024, 477/2024, 478/2024, 479/2024, 480/2024, 481/2024, 482/2024, 483/2024, 484/2024, 488/2024, 489/2024, 490/2024, 491/2024, 492/2024, 493/2024 and 494/2024 all dated 09.12.2024. All the test reports were received vide letter dated 12.12.2024, 01.01.2025, 10.01.2025 and 17.01.2025 issued by Custom House Laboratory, Kandla.

**2 . 4** Whereas, on analyzing the test reports received from Custom House Laboratory, Custom House Kandla, it came to notice that goods imported vide Bills of Entry mentioned at Sr. No. 1 of Table-A were mis-declared in terms of description, CTH, quantity, etc. From the Test Reports received from Custom House Laboratory, Custom House Kandla, it appears that the declared description and classification in corresponding Bills of Entry filed for the subject goods is liable to be rejected. Further, it was also noticed that goods imported vide Bills of Entry mentioned at Sr. No. 2, 3 & 4 of Table-A were mis-declared in terms of quantity. Additionally, the goods imported vide Bills of Entry mentioned at Sr. No. 4 of Table-A were found to be mis-declared in Bill of Lading/IGM. There was reason to believe that the subject goods imported vide 04 (Four) Bills of Entry mentioned in Table-A were liable for confiscation as per provisions of Section 111 of Customs Act, 1962. In view of the above facts, the subject imported goods were placed under seizure as per the provisions of Section 110(1) of the Customs Act, 1962 vide Seizure Memo dated 15.01.2025 and 19.02.2025. The comparative analysis of description of goods and CTH declared in Bills of Lading and Bills of Entry vis-à-vis that found as per test reports has been summarized in Table-C below:

**TABLE-C**

Sl. No.	BE No.	CTH Declared in	Goods Declared	CTH Declared	Goods Declared	Goods Actually found in Test Reports	CTH Ascertained
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		<b>BL</b>	<b>in BL</b>	<b>in BE</b>	<b>in BE</b>		<b>as per Test Reports</b>
1	<b>5656835</b> <b>dated</b> <b>18-09-</b> <b>2024</b>	<b>60011020/</b> <b>60019200</b>	Fabrics	<b>60011020</b>	Pile Fabrics	Polyester knitted dyed bonded fabric having cut pile on one side (Avg. GSM 380)	<b>60019200</b>
2	<b>5902231</b> <b>dated</b> <b>01-10-</b> <b>2024</b>	60019200	Fabrics	60019200	Polyester Knitted cut pile Fabric	Polyester knitted dyed bonded fabric having cut pile on one side (Avg. GSM 382)	<b>60019200</b>
3	<b>5901128</b> <b>dated</b> <b>01-10-</b> <b>2024</b>	60019200	Polyester Knitted pile Fabric	60019200	Polyester Knitted cut pile Fabric	Polyester knitted dyed bonded fabric having cut pile on one side (Avg. GSM 312)	<b>60019200</b>
4	<b>6223557</b> <b>dated</b> <b>19-10-</b> <b>2024</b>	<b>60011020/</b> <b>60019200</b>	Fabrics	60019200	Polyester Knitted cut pile Fabric	Polyester knitted dyed bonded fabric having cut pile PU coated on one side (Avg. GSM 282)	<b>60019200</b>

**2.5** In view of the test report received from Custom House Laboratory, Kandla, it came to notice that goods covered under Bills of Entry No. 5656835 dated 18.09.2024, 5902231 dated 01.10.2024, 5901128 dated 01.10.2024 and 6223557 dated 19.10.2024 were mis-declared in terms of description, CTH, quantity, etc. by the importer. Moreover, it was observed that the goods were mis-declared in the Bills of Lading/IGM Entries and forged/fabricated Bills of Lading were submitted before Customs during assessment as well as during examination of the import goods by DRI in respect of the Bills of Entry No. 5656835 dated 18.09.2024 and 6223557 dated 19.10.2024.

**2.6** After receiving the test report(s), summons were issued to the persons mentioned in the below Table D for tendering their statements and produce /explain the documents:

**TABLE-D**

<b>Sr. No.</b>	<b>Name of the person/importer to whom summon issued</b>	<b>Summon issued date</b>	<b>Date of appearance as per summon issued</b>
1.	Authorized Representative of M/s Tapisserie Homes Private Limited	17.01.2025	27.01.2025
2.	Proprietor of M/s. DSR Logistics	17.01.2025	31.01.2025
3.	Proprietor of M/s. Freight Link Logistics	17.01.2025	31.01.2025
4.	Partner of M/s. SRV Shipping	17.01.2025	29.01.2025
	Partner of M/s. SRV Shipping	13.02.2025	17.02.2025
	Partner of M/s. SRV Shipping	27.02.2025	05.03.2025
	Partner of M/s. SRV Shipping	12.03.2025	12.03.2025

**2.6.1** Whereas, statement of Shri Shwetank Jain, son of Sh. Suresh Jain, Director of M/s. Tapisserie Homes Private Limited, was recorded on 27.01.2025 under section 108 of the Customs Act, wherein he inter-alia stated as follows:

- that in year 2019, he joined as a sales executive of M/s Tapisserie Homes Private Limited which mainly deals in Sofa Fabric, Curtain Fabric and Bedsheets in domestic and international market and that M/s Tapisserie Homes Private Limited is a manufacturing entity and he specifically looks after all the work related to sale, purchase, import and export (both domestic and international dealings).
- that M/s Tapisserie Homes Private Limited is a Private Limited Company in which he was working as one of the Director alongwith his friend Shri Aseem Kumar. Apart from that he was also holding the post of Director in

the firm M/s Tapisserie Lifestyle Pvt. Ltd. since 2020, but this firm was not operational as on date.

- that in total 15 (fifteen) containers of pile fabric/polyester knitted cut pile fabric have been imported by M/s Tapisserie Homes Private Limited at Mundra Port.
- that he perused both Bill of Entry No. 5656835 dated 18.09.2024 and BL No. SNKO03K240800974 dated 24-08-2024 wherein description is declared as "Pile Fabrics" in BE and as "Fabrics" in BL and CTH is declared as "60011020" in BE and "60019200" in BL and in token of perusing the same has put his dated signature on both the documents. Further, he stated that he was not aware of this fact and it may be the mistake done by their clearing agent, Shri Dharendra Shukla alias Sonu, a representative of M/s. SRV Shipping.
- that he regularly visited China on business trip (twice a year) for exhibition and machinery fare purpose since 2016. From these exhibitions and good demand of Chinese fabrics by their customers he started importing fabrics from China.
- that he came into contact with Shri Dharendra Shukla alias Sonu in 2022 through Shri Vikas and Shri Rakesh (marketing persons in Panipat) who introduced him as a clearing agent already handling imports of fabrics at Mundra Port. Further, Shri Dharendra Shukla alias Sonu discussed with him about import of fabrics and also discussed the import rates and clearance charges. Accordingly, in March-2024, he asked him for assistance in customs clearance work in relation to his imports of fabrics.

**2.6.2** Further, statement of Shri Shwetank Jain, son of Sh. Suresh Jain, Director of M/s. Tapisserie Homes Private Limited, was recorded on 28.01.2025 under section 108 of the Customs Act, wherein he inter-alia stated as follows:

- that he knows Shri Krishna Shahi as a partner of Shri Dharendra Shukla alias Sonu since 2023 as both of them visited their office of M/s Tapisserie Homes Private Limited situated at Plot No. 80, Second Floor, Sector-25, HUDA, Panipat, Haryana in December-2023;
- that Shri Lakhan Malhotra (Mob. No. 92540 76440), Purchase Manager of M/s Tapisserie Homes Private Limited was contacting them regarding information of shipments arriving from China and all respective documents i.e. Bill of Lading, Commercial Invoice, Packing List, AZO reports and Customs duty paid documents for the purpose of finalization of checklist, filing of Bills of Entry and necessary customs clearances;
- that he has seen the 21 (Twenty One) test reports in respect of samples drawn during examination of consignments covered under Bills of Entry No. 5656835 dated 18-09-2024, 5902231 dated 01-10-2024, 5900749 dated 01-10-2024, 5901128 dated 01-10-2024 and 6223557 dated 19-10-2024 filed at Mundra Port by M/s Tapisserie Homes Private Limited and he has put his dated signature on all the original test reports;
- that he knows the difference among the CTH 60011020 and CTH 60019200 and further stated that the goods covered under CTH 60011020 have applicable BCD as 10% of Assessable Value, however, the goods covered under CTH 60019200 have applicable BCD as 20% of Assessable Value;
- that on being asked he stated that he has been billed by Shri Dharendra Shukla alias Sonu and his partner Shri Krishna Shahi from a Bombay based firm namely Shri R. L. Logistics and according to the information

provided to him by Shri Dhirendra Shukla alias Sonu that M/s. SRV Shipping, M/s. DSR Logistics and M/s. Freight Link Logistics are sister concerns;

- that the commercial invoice has been sent by the shipper to them and the CTH code is decided by the shipper according to regulations in their country; that they have not changed or objected any of the information provided by the shipper but they have filed all BEs as per the fabric type according to the best of their knowledge and therefore all test reports except one has come as per their declared description. However, for the one test report which is not in their favour, they have already requested for re-testing from the textile committee;
- On being specifically asked he stated that he is ready to pay the applicable customs duties as per the prevailing MIP in respect of consignments pending for customs clearances.

**2.6.3 Whereas,** statement of Shri Sreekumar Narayanan Nair, son of Lt. Shri Narayanan Nair, F-Card holder of Custom Broker Firm M/s. DSR Logistics, was recorded on 31.01.2025 u/s 108 of the Customs Act, 1962 wherein he inter-alia stated as follows:

- that he was not aware with the importer M/s Tapisserie Homes Private Limited;
- that he submitted all the KYC related documents of M/s. Tapisserie Homes Private Limited and checklist, Bills of Entry, Bills of Lading, Commercial Invoice, Packing List pertaining to BE No. 5901128 and 5902231 all dated 01.10.2024 (duly signed by him) in respect of import consignments of M/s. Tapisserie Homes Private Limited filed at Mundra Port by M/s. Alpen Logistics in the name of M/s. DSR Logistics and e-mail conversations between Shri Suresh Maheshwari (Mob. No. 9925336999) from M/s. Sigma Shipping Services and M/s. Alpen Logistics received by him from M/s. Alpen Logistics;
- that as he has earlier stated in reply to Q. No. 4 of his statement dated 20.09.2024 that he has given his license on rent to M/s. Alpen Logistics and therefore none of the documents had been received by M/s. DSR Logistics in respect of import consignments of M/s. Tapisserie Homes Private Limited;
- that he did not receive either checklist or documents and therefore he did not verify the documents in respect of import consignments of M/s. Tapisserie Homes Private Limited; and that Shri Rahul Mithwani (Mob.No. 9909999185) or Shri Deepak Solanki alias Deepak Dineshbhai Mali (Mob. No. 9978081122) from M/s. Alpen Logistics were responsible for handling the documentation as well as customs clearances on behalf of M/s. DSR Logistics;
- that he was not aware that the consignment of M/s Tapisserie Homes Private Limited had been put on hold by DRI; and that Shri Rahul Mithwani from M/s. Alpen Logistics requested him for authorization in the name of Shri Suresh Maheshwari for supervising the Customs examination;
- that he received monthly rent of Rs. 40,000/- for lending his CHA license only and no other benefit was passed on to him. He further assured to submit the bank statement within 2-3 days.

**2.6.4** Whereas, statement of Shri Deepak Singh, son of Shri Vinod Singh, Manager of Custom Broker Firm M/s. Freight Link Logistics was recorded on 17.02.2025 under Section 108 of the Customs Act, wherein he inter-alia stated as follows:

- that he joined M/s. Freight Link Logistics in the year 2014 and he mainly look after the work related to documentation and finance on behalf of M/s. Freight Link Logistics. However, cargo loading and unloading and customs clearances is being handled by Shri Shubham Kumar Yadav, G-Card Holder of M/s. Freight Link Logistics;
- that regarding M/s. Tapisserie Homes Private Limited he has been contacted by Shri Vikas Kashyap (Mob. No. 9821182517) from M/s. DNV Global Logistics, a freight forwarder firm in Delhi to handle the custom clearance work of the importer and they sent the related documents to him through mail via mail id vikaskashyap251191@gmail.com;
- that he has handled the custom clearance work and filed 01 Bills of Entry in respect of import consignments of importer M/s. Tapisserie Homes Private Limited;
- that they have received all the KYC related documents, commercial invoice, packing list, Bills of Lading, COO, freight certificate, AZO test reports and accordingly they prepared the checklist and sent them for approval of the importer through revert mail. After receiving the approval only, they filed the respected Bills of Entry for the said importer;
- that he submitted the copy of e-mail correspondence along with complete set of documents (duly signed by him) i.e. KYC and checklist, Bills of Entry, Bills of Lading, Commercial Invoice, Packing List pertaining to BE No. 6223557 dated 19.10.2024 in respect of import consignments of M/s. Tapisserie Homes Private Limited filed at Mundra Port by M/s. Freight Link Logistics;
- that he himself has verified the documents/KYC in respect of import consignments of M/s. Tapisserie Homes Private Limited.
- that he was not aware that the consignment of M/s Tapisserie Homes Private Limited have been put on hold by DRI;
- that he hasn't received any amount till date. However, the agency charges of Rs. 5000/- was agreed for handling the import consignments of M/s Tapisserie Homes Private Limited. Further, he assured to submit the bank statement within 2-3 days;
- On perusing the copy of Sea IGM enquiry downloaded from [https://enquiry.icegate.gov.in/enquiryatices/sealgmICES\\_action](https://enquiry.icegate.gov.in/enquiryatices/sealgmICES_action) wherein for BL No. YSNBF24090559 dated 17.09.2024, the CTH "60011020" is mentioned and asking why he has filed the Bill of Entry No. 6223557 dated 19.10.2024 with CTH declared as "60019200" in respect of import consignments of M/s Tapisserie Homes Private Limited he put his dated signature on the said copy and further stated that he inadvertently overlooked the CTH declared in the IGM filed by the shipping line, however, he has prepared the checklist and filed the Bill of Entry No. 6223557 dated 19.10.2024 on the basis of the copy of Bill of Lading No. YSNBF24090559 dated 17.09.2024 supplied to him by the importer wherein the CTH is declared as "60019200" in respect of import consignment of M/s Tapisserie Homes Private Limited and further stated that it appears that either it is a clerical mistake done by the shipping line while filing of the IGM or it may be possible that the shipping line has



amended the BL on the request of the shipper or importer and he was not aware about such amendment done if any.

**2.6.5** Whereas, Statement of Shri Sanatan Jha, son of Shri Rajendra Jha, Authorized Representative of Custom Broker Firm M/s. SRV Shipping, recorded on 12.03.2025 u/s 108 of the Customs Act, 1962 wherein he inter-alia stated as follows:

- that he joined M/s. SRV Shipping in 2017 as a Partner cum Manager and he used to look after the day to day activities related to customs and field work on behalf of M/s. SRV Shipping. Later in 2023, he discontinued the said partnership and started a proprietorship firm namely M/s. S J Logistics (Forwarder) but he continued to use the license of M/s. SRV Shipping on rental charges of Rs. 1000-1500 per container basis;
- that he came in contact with Shri Krishna Shahi (Mob. No. 7666339214) from M/s. SRL Shipping, Mumbai during May-2023 regarding the customs work. Thereafter, the staff of M/s. SRL Shipping used to send all the related documents of import consignments in respect of importer M/s. Tapisserie Homes Private Limited, Panipat, Haryana through mail id – import.srl@gmail.com to official mail id - sjlogisticsgdm@gmail.com of his firm M/s. S J Logistics, Gandhidham which he used to forward to official mail id – srvshipping@gmail.com of M/s. SRV Shipping for further documentation and Bills of Entry filing;
- that he used to receive agency charges of Rs. 2000-2500/- per container for handling the documentation work in relation to import consignments of M/s Tapisserie Homes Private Limited and further assured to submit the bank statement within 04-05 days. Moreover, he further state that Shri Krishna Shahi himself alongwith his associates was instrumental in handling the examination, getting out of charge from customs as well as handling loading/unloading and logistics of the import consignments;
- that M/s. S J Logistics has handled the import consignments of other importers viz. M/s. Indo Impex, M/s. R S Impex, etc. and further assured to provide the complete list of importers within 04-05 days;
- that M/s. S J Logistics has handled the custom clearance work and till date has filed 11 Bills of Entry in respect of import consignments of importer M/s. Tapisserie Homes Private Limited;
- that M/s. S J Logistics has received all the KYC related documents, commercial invoice, packing list, Bills of Lading, COO, AZO test reports, draft checklist for reference and accordingly he forwarded these documents to M/s. SRV Shipping for further necessary documentation and preparation of the final draft checklist and thereafter, he also sent them back for approval of the importer/forwarder through revert mail. After receiving the approved checklist only, M/s. SRV Shipping filed the respective Bills of Entry for the said importers;
- that to the best of his knowledge there are 03-04 employees working in office at present under M/s. SRV Shipping and he don't know the details about the staff deployed in the field work;
- that the documents related to import consignments of M/s. Tapisserie Homes Private Limited, Panipat, Haryana are not readily available with him but assured to submit the copy of e-mail correspondence along with complete set of documents (duly signed by him) i.e. KYC and checklist, Bills of Entry, Bills of Lading, Commercial Invoice, Packing List etc. in respect of above mentioned importer within 04-05 days;

- that he himself has verified the documents/KYC via online in respect of importer M/s. Tapisserie Homes Private Limited;
- that as soon as he got aware that the import consignments of M/s Tapisserie Homes Private Limited along with other importers have been put on hold by DRI, he tried to contact Shri Krishna Shahi but he was not available. Later, two persons namely Shri Niranjana Pandey (Mob. No. 8169115626) and Shri Suresh Shukla (Mob. No. 7304253979) came forward as friends/relatives of Shri Krishna Shahi for getting necessary assistance during the examination of the import goods and getting clearance from the customs. Accordingly, on his request, M/s. SRV Shipping authorized them to supervise the examination of the import consignments put on hold by DRI on behalf of the forwarder i.e. M/s. SRL Shipping, Mumbai;
- On perusing the copies of Bills of Lading No. SNKO03K240800974 dated 24-08-2024 supplied by him/ authorized representatives of the CHA-M/s. SRV Shipping during examination of goods by DRI and also uploaded by the CHA on e-sanchit on ICEGATE portal along with copies of Bills of Lading supplied by concerned shipping lines in respect of the import consignments of M/s Tapisserie Homes Private Limited and in token of having seen the same he put his dated signature on the said copies and on being specifically asked about the reasons for two types of Bills of Lading having different CTH declarations being available, he stated that he has uploaded and filed the Bill of Entry No. 5656835 dated 18-09-2024 on the basis of the copies of Bill of Lading that was supplied to him by M/s. SRL Shipping. It appears that the shipping line has amended the BL on the request of the shipper or importer, however, he was not aware about such amendment done if any;
- On being specifically asked who used to take the Delivery Order (DO) from Shipping Lines as it has come to notice during investigation that M/s SRV Shipping was being authorized to collect DO, he stated that M/s. S J Logistics used to receive complete set of documents through courier in which M/s SRV Shipping has been authorized consignment wise by the respective importer to take the Delivery Order on behalf of them from the concerned shipping lines. He further stated that the field staff used to check the Bill of Lading No. only and they never verify CTH and other details. After compilation of the necessary set of documents they endorse them and submit it to the concerned shipping lines to take DO and on being specifically asked he stated that CHA used to verify the IGM details like BL No., BL Date, IGM No., IGM Date, Gross Weight, Total Package etc. which are necessary for filing Bill of Entry, however, the column "Desc of Goods" which covers Description of Goods, CTH, GST No. and contact details of the importer which are uploaded by the concerned shipping lines and made available on ICEGATE portal, CHA rarely verify CTH details from the ICEGATE portal and file Bills of Entry on the basis of Bills of Lading, Commercial Invoice, Packing List and approved checklist as provided by the importer/forwarder.

### **3. Seizure:**

In view of the test report received from Custom House Laboratory, Kandla, it came to notice that goods covered under all 04 (Four) Bills of Entry No. 5656835 dated 18.09.2024, 5902231 dated 01.10.2024, 5901128 dated 01.10.2024 and 6223557 dated 19.10.2024 were mis-declared in terms of

description, CTH, quantity, etc. by the importer. Further, it was also noticed that the goods were mis-declared in the Bills of Lading/IGM Entries and forged/fabricated Bills of Lading were submitted before Customs during assessment as well as during examination of the import goods by DRI in respect of the Bills of Entry No. 5656835 dated 18.09.2024 and 6223557 dated 19.10.2024 and that the importer in connivance with CHA has restrained themselves from submitting the forged/fabricated Bills of Lading and filed Bills of Entry No. 5902231 dated 01.10.2024 and 5901128 dated 01.10.2024 after initiation of enquiry by DRI, with correct CTH and description filed in Bills of entry. There was reason to believe that the subject goods imported vide all 04 (Four) Bill of Entry No. 5656835 dated 18.09.2024, 5902231 dated 01.10.2024, 5901128 dated 01.10.2024 and 6223557 dated 19.10.2024 were liable for confiscation as per provisions of Section 111 of Customs Act, 1962. Accordingly, the subject imported goods were placed under seizure as per the provisions of Section 110(1) of the Customs Act, 1962 vide Seizure Memo dated 15.01.2025 and 19.02.2025.

#### **4 . Rejection of Assessable Value of the imported goods and re-determination of assessable value:**

**4.1.** For the Bills of Entry mentioned at Sr. No. 1 in Table C, the actual goods covered under the import consignments of M/s Tapisserie Homes Private Limited was different from the declared one. For the Bills of Entry as mentioned in at Sr. No. 2, 3 & 4 in Table C, the goods differed in quantity. Hence, the value declared in the Bills of Entry cannot be considered as true assessable value when the nature of goods declared in the Bills of Entry and Bills of Lading are itself wrong. Hence the declared value of the consignment is liable to be rejected as per Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

**4 . 2 .** In view of the above, the value declared by the importer in the corresponding Bill of Entry and invoices did not appear to be the true transaction value under the provisions of Section 14 of the Customs Act, 1962 read with the provisions of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and thus the same appear liable to be rejected in terms of Rule 12 of CVR, 2007. The value is required to be re-determined by sequentially proceeding in terms of **Rules 4 to 9 of CVR, 2007**. The relevant Rules of CVR, 2007 are reproduced hereunder: -

#### **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

*(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).*

**4.4.** The subject import consignments have been imported from China by M/s Tapisserie Homes Private Limited. As appeared from contemporary data of import of the said fabrics, it is noticed that some importers have imported similar type of fabric having similar thickness, description, nature etc. during the month of August, 2024 to October, 2024 vide Bills of Entry filed at Indian ports/airports/ICD as detailed in the Table E & F mentioned below to this notice with one such example as Bill of Entry No. 5993605 dated 07.10.2024 filed at INSBI6. On going through the details available, relevant unit price has been taken and considering the quantity found during examination of goods covered under all 04 (Four) Bills of Entry No. 5656835 dated 18.09.2024, 5902231 dated 01.10.2024, 5901128 dated 01.10.2024 and 6223557 dated 19.10.2024, an Table E & F has been prepared which shows the new ascertained valuation of these goods. Therefore, it appears that the importer M/s. Tapisserie Homes Private Limited have deliberately mis-declared the assessable value as **Rs. 64,97,772/-** on which declared total customs duty comes to **Rs.16,10,740/-** whereas considering the valuation based on contemporary imports, the appropriate assessable value comes to **Rs. 3,88,08,826/-** on which total customs duties comes to **Rs.1,08,94,041/-**.

**TABLE: E**[illegible]

1	INMU N1	5656835	18.09.2024	SMKO03K240800974 dated20.08.2024	SKHU9407958	Tapisseri e Homes Pvt. Ltd.	60011020	Fabric (718 packages)	60011020	Pile Fabrics	1.2	17191.1 Kg	1751429	289861
2	INMU N1	5902231	01.10.2024	KMTCNBO8215736 dated31.08.2024	BMOU6205458	Tapisseri e Homes Pvt. Ltd.	60019200	Fabrics 701 Packages	60019200	Polyester Knitted Cut PileFabric 510 Kgs	1.2	11873 kg	1303060	355565
								63079099		Sample Fabrics swatch Hangar (8 Packages)	0.35	300 No.		
								49019900		Printed Books with sample Fabric swatch (183 Packages)	0.42	2500 No.		
3	INMU N1	5901128	01.10.2024	YSNBF24090543 dated05.09.2024	TIU4501345	Tapisseri e Homes Pvt. Ltd.	60019200	Polyester Knitted Cut Pile Fabric 763 Rolls	60019200	Polyester Knitted cut pile Fabric (45840.9 m)	1.2	18495.4 Kg	1877653	527621
4	INMU N1	6223557	19.10.2024	YSNBF24090559 dated17.09.2024	EITU1928939	Tapisseri e Homes Pvt. Ltd.	60019200	Polyester Knitted Cut Pile Fabric 685 Packages	60019200	Polyester Knitted Cut Pile Fabric (668 rolls)	1.2	13900 Kg		
								63079099		Sample Fabrics swatch Hangar (17 Packages)	0.35	600 No.	1565630	437693

**TABLE-F**

S. No	Port Code	Bill of Entry No.	BE Date	Panchnama date	Quantity Found during panchnama	CTH	New rate in USD	New Value	BCD	SWS Cess	IGST	Total; Duty
1	2	3	4	5	6	7	8	9	10	11	12	13
1	INMU N1	5656835	18.09.2024	12.11.2024		60019200	10.25/kg (1					
						60019200	10.25/kg (1 USD= 84.9					
						60019200	10.25/kg (1 USD= 84.9	14960125	2992025	299202.5	912567.62	4203795.12
						60019200	10.25/kg (1 USD= 84.9					
					656.26 Kg	60019200	10.25/kg (1 USD= 84.6	569075.859	113815.172	11381.517	34713.63	159910.32
					1133.73 Kg	60019200	10.25/kg (1 USD= 8	983113.9695	196622.794	19662.279	59969.95	276255.03

2	INMU N1	5902 231	01.1 0.2 024	18/19. 10.202 4			4.6					
					11470.31 Kg	6001 9200	10.25/kg (1 USD= 8 4.6	994647 9.317	19892 95.86	19892 9.59	60673 5.24	279496 0.69
					280 No.	6307 9099	0.35	8290.8	829.08	82.90 8	1104 .33	2016.3 2
					2498 No.	4901 9900	0.42	88758 .936	8875. 8936	887.5 8936	4926 .12	14689. 60
3	INMU N1	5901 128	01.1 0.2 024	09.11.2 024	12392.7 m/ 47 46.9 kg	6001 9200	4.99/kg (1USD =84.6 INR)					
					21552.9 m/ 9086.92 kg	6001 9200	4.99/kg (1USD =84.6 INR)	805067 9.414	16101 35.88	16101 3.59	49109 1.44	226224 0.92
					11895.3 m/ 5236.67	6001 9200	4.99/kg (1USD =84.6 INR)					
4	INMU N1	6223 557	19.1 0.2 024	07.11.2 024	7462.42 Kg	6001 9200	3.43/kg (1USD= 84.95 INR)	217438 8.746	43487 7.749	43487 .775	13263 7.71	611003 .24
						6001 9200	3.43/kg (1USD= 84.95 INR)					
						6001 9200	3.43/kg (1USD= 84.95 INR)					
					6898.5 Kg	6001 9200	3.43/kg (1USD= 84.95 INR)	201007 4.582	40201 4.916	40201 .492	12261 4.55	564830 .96
						6001 9200	3.43/kg (1USD= 84.95 INR)					
						6001 9200	3.43/kg (1USD= 84.95 INR)					
						6307 9099	0.35	17839. 5	1783.9 5	178.3 95	2376. 2214	4338.5 664

## 5. Liability of imported goods for confiscation

On analyzing the Test Reports related to the subject import consignments of M/s. Tapisserie Homes Private Limited received from Custom House Laboratory, Custom House Kandla, it is revealed that the subject goods are not only mis-declared in respect of description of the goods but also mis-declared in respect of classification thereof. The declared classification and actual classification of the subject import consignment is mentioned under Table-C for Bills of Entry No. **5656835 dated 18.09.2024**. Further,



investigation also revealed that for consignments covered under Bill of Entry No. 5656835 dated 18.09.2024 mentioned at Serial No 1 of Table C, the importer had imported "Bonded Polyester Knitted Cut Pile Fabric" having CTH 60019200 by way of concealment and declared as "Pile Fabrics" with CTH declared as "60011020". Moreover, in case of Bills of Entry No. **6223557 dated 19.10.2024**, which were filed by importer after initiation of investigation by DRI, CTH in Bills of Entry were deliberately changed against the CTH mentioned in the corresponding Bills of Lading. Further, investigation also revealed that for consignments covered under Bill of Entry No. 6223557 dated 19.10.2024 mentioned at Serial No 4 of Table C, the importer had imported "Bonded Polyester Knitted Cut Pile Fabric" having CTH 60019200 and also declared as "Polyester Knitted Cut Pile Fabrics" with CTH declared as "60019200" but concerned shipping line has submitted parallel BL with containing different CTH declared as "60011020". Since the subject import consignments were found in gross mis-declaration, same falls under the category of offending goods and therefore liable to be confiscated under the provisions of **Section 111(m) of the Customs Act, 1962**. Investigation also revealed that in the IGM/Bills of lading for these consignments, the description of the goods was not correct. It appears that the importer had not mentioned the actual description of the goods in IGM/Bill of Lading and in connivance with foreign supplier tried to hide the true nature of the fabric being imported. Hence, it appears that the subject goods are also liable for confiscation under **Section 111(f) of the Customs Act**. Since the subject import consignments were found in gross mis-declaration, same falls under the category of offending goods and therefore liable to be confiscated under the provisions of **Section 111(m) and 111(f) of the Customs Act, 1962**.

Further, it is observed that after initiation of enquiry by DRI, the importer in connivance with CHA has restrained themselves from submitting the forged/fabricated Bills of Lading and filed Bills of Entry No. 5902231 dated 01.10.2024 and 5901128 dated 01.10.2024 with correct CTH and description filed in Bills of entry, however, there was variation in quantity declared and that found during examination in case of Bills of Entry No. **5902231 dated 01.10.2024 and 5901128 dated 01.10.2024**. Since, the subject import consignments were also found in gross mis-declaration, same falls under the category of offending goods and therefore liable to be confiscated under the provisions of **Section 111(m) and 111(f) of the Customs Act, 1962**.

It appears that M/s. Tapisserie Homes Private Limited in connivance with the CHA and Forwarder has indulged in the evasion of Customs Duty by way of mis-declaration of description, classification, and quantity etc. of the import goods with deliberate intention of evasion of Customs duty. It is revealed that M/s. Tapisserie Homes Private Limited not only mis-declared the description and classification of the goods but also indulged into gross undervaluation thereof. On the basis of facts discussed above, it appears that against 04 (Four) Bills of Entry, the assessable value of the same has been declared as **Rs. 64,97,772/-**. Whereas, the appropriate assessable value of the subject import consignments comes to **Rs. 3,88,08,826/-**. During investigation, the appropriate value of the subject import consignments of M/s. Tapisserie Homes Private Limited covered under total 04 (Four) Bills of Entry comes to Rs. **Rs. 3,88,08,826/-**. Therefore, the declared assessable value of the goods as **Rs. 64,97,772/-** cannot be considered the actual transaction value for the subject import consignments. The same appeared to have grossly been mis-declared with clear intention of evasion of appropriate Customs duty applicable

thereon.

It is apparent from the above that the importer has mis-declared the description, CTH and value in the import documents. Hence, it appears that the goods covered under 04 (Four) Bills of Entry are actually classifiable under CTH mentioned in **Column No. 7 of TABLE-F** instead of declared CTH as mentioned in **Column No. 8 and Column No. 10 of TABLE-E** having declared total assessable value **Rs. 64,97,772/-** and re-determined total amount as **Rs. 3,88,08,826/-** are liable for confiscation under Section 111(m) and 111(f) of the Customs Act, 1962.

## **6. Presentation of False documents/ declarations/entries to Customs**

**6.1** During the course of investigation, the concerned shipping lines M/s. Parekh Marine Services Pvt. Ltd. submitted the copy of Bill of Lading SNKO03K240800974 dated 24-08-2024 wherein declared CTH is mentioned as "60019200" and description was mentioned as "Fabrics"; however same Bill of Lading but with different CTH declared as "60011020" which was digitally signed on 17.09.2024 by Shri Rajesh Kumar Jain, Partner of M/s. SRV Shipping and was submitted to Customs and uploaded in systems by the CHA while filing of Bill of Entry No. 5656835 dated 18-09-2024 (Sr. No. 1 of Table-B above) for assessment as well as during examination of the import goods by DRI. Further, the shipping line - M/s. Multiport Cargo Logistics Private Limited also submitted the copy of Bill of Lading No. YSNBF24090559 dated 17-09-2024 wherein declared CTH is mentioned as "60011020" and description was mentioned as "Fabrics", however same Bill of Lading with different CTH declared as "60019200" was submitted by CHA before Customs while filing of Bill of Entry No. 6223557 dated 19-10-2024 (Sr. No. 4 of Table-B above) for assessment as well as during examination of the import goods by DRI.

**6.2** From the above facts and evidences, it is revealed that two types of Bills of Lading with different CTH declaration as "**60019200/60011020**" and description as "Fabrics" were available in respect of import consignments of M/s. Tapisserie Homes Private Limited. From the above, it appears that the importer along with customs broker and forwarders were involved in forging/fabricating the Bills of Lading by not declaring the correct CTH and mis-declaring the CTH having low customs duty implications in order to evade applicable custom duties. Had the enquiry been not initiated by the DRI, their modus operandi will continue to affect leakage of revenue and huge loss to the Government Exchequer.

**6.3** After initiation of enquiry, it is observed that, in order to save themselves from penal consequence for their act of forging/fabricating the Bills of lading, the importer in connivance with respective custom broker, M/s. Freight Link Logistics, had intentionally and deliberately changed the CTH in Bills of Entry No. 6223557 dated 19-10-2024 with correct CTH (**60019200**) which is different from CTH (**60011020**) as declared on the copy of corresponding Bills of Lading/IGM details No. and YSNBF24090559 dated 17-09-2024. Moreover, after initiation of enquiry by DRI, the importer in connivance with CHA has restrained themselves from submitting the forged/fabricated Bills of Lading and filed Bills of Entry No. 5902231 dated 01.10.2024 and 5901128 dated 01.10.2024 with correct CTH and description.

**6.4** From the above, it appears that both the importer and customs broker were involved in forging/fabricating the Bills of Lading by not declaring the correct CTH and mis-declaring the CTH having low customs duty implications in order to evade applicable custom duties and it is only after initiation of enquiry by DRI, they restrained themselves from submitting the forged/fabricated Bills of Lading and moreover filed the Bills of Entry with correct CTH shows that they were very much aware about the mis-declaration and forged/fabricated Bills of Lading.

## **7. Relevant Legal provision**

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

*(f) any dutiable or prohibited goods required to be mentioned under the regulations in an 1 [arrival manifest or import manifest] or import report which are not so mentioned;*

.....

*(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 transshipment, with the declaration for transshipment 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, harboring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,*

*shall be liable, -*

*(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is the greater;*

*(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 :*

**Provided** that where such duty 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 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 penalty so determined;

*(iii) in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty not exceeding the difference between the declared value and the value thereof or five thousand rupees, whichever is the greater;*

*(iv) in the case of goods falling both under clauses (i) and (iii), to a penalty not*

*exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees, whichever is the highest;*

*(v) in the case of goods falling both under clauses (ii) and (iii), to a penalty not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees, whichever is the highest.*

**SECTION 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.*

**Section 117. Penalties for contravention, etc., not expressly mentioned. -**

*Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding 1[four lakh rupees].*

**8. Roles of various persons:**

**8.1 Role of the importer M/s. Tapisserie Homes Private Limited:**

From the investigations carried out as narrated in foregoing paras, it is revealed that the importer M/s. Tapisserie Homes Private Limited (IEC: AAHCT3015C), having address as, 482, Phase II, HSIIDC, Barhi Industrial, Sonipat, Haryana - 131101 imported goods and mis-declared the same as "Pile Fabric/Polyester Knitted Cut Pile Fabric" vide Bills of Entry mentioned in Table E & F and mis-declared the description, classification and value in the import documents and thereby appears to have violated the provisions of Section 14 and Section 46 of the Customs Act, 1962.

**1[ Section 14. Valuation of goods. -**

*(1) For the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, the value of the imported goods and export 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, or as the case may be, for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf:*

*Provided 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 licence 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:*

*Provided further that the rules made in this behalf may provide for,-*

*(i) the circumstances in which the buyer and the seller shall be deemed to be related;*

*(ii) the manner of determination of value in respect of goods when there is no sale, or the buyer and the seller are related, or price is not the sole consideration for the sale or in any other case;*

*(iii) the manner of acceptance or rejection of value declared by the importer or exporter, as the case may be, where the proper officer has reason to doubt the truth or accuracy of such value, and determination of value for the purposes of this section:*

*2[(iv) the additional obligations of the importer in respect of any class of imported goods and the checks to be exercised, including the circumstances and manner of exercising thereof, as the Board may specify, where, the Board has reason to believe that the value of such goods may not be declared truthfully or accurately, having regard to the trend of declared value of such goods or any other relevant criteria]*

*Provided also that such price shall be calculated with reference to the rate of exchange as in force on the date on which a bill of entry is presented under section 46, or a shipping bill of export, as the case may be, is presented under section 50.*

*(2) Notwithstanding anything contained in sub-section (1), if the Board is satisfied that it is necessary or expedient so to do, it may, by notification in the Official Gazette, fix tariff values for any class of imported goods or export goods, having regard to the trend of value of such or like goods, and where any such tariff values are fixed, the duty shall be chargeable with reference to such tariff value.*

*Explanation . - For the purposes of this section -*

*(a) rate of exchange" means the rate of exchange -*

*(i) determined by the Board, or*

*(ii) ascertained in such manner as the Board may direct, for the conversion of Indian currency into foreign currency or foreign currency into Indian currency;*

*(b)"foreign currency" and "Indian currency" have the meanings respectively assigned to them in clause (m) and clause (q) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999).]*

**“Section 46(2)** provides that “Save as otherwise permitted by the proper officer, a bill of entry shall include all the goods mentioned in the bill of lading or other receipt given by the carrier to the consignor.”

Section 46(4A) puts certain responsibilities on the importer as mentioned below:

“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.]”*

Hence, it appears that the goods mentioned in 04 (Four) Bills of Entry mentioned in Table B having total declared assessable value **Rs.64,97,772/-** and re-determined total amount as are liable for confiscation under Section 111(m) and 111(f) of the Customs Act, 1962. During investigation, the appropriate total value of the subject import consignment of M/s. Tapisserie Homes Private Limited covered under 04 (Four) Bills of Entry comes to **Rs. 3,88,08,826/-**. Therefore, the declared assessable value of the goods as **Rs. 64,97,772/-** cannot be considered the actual transaction value for the subject import consignment. The same appeared to have grossly been mis-declared with clear intention of evasion of appropriate Customs duty applicable thereon. From the above it also appears that the importer is liable for penal action under **Section 112 (a) and 112(b)** of the Customs Act, 1962.

Moreover, during the course of investigation, the concerned shipping lines M/s. Parekh Marine Services Pvt. Ltd. submitted the copy of Bill of Lading SNKO03K240800974 dated 24-08-2024 wherein declared CTH is mentioned as "60019200" and description was mentioned as "Fabrics"; however same Bill of Lading but with different CTH declared as "60011020" which was digitally signed on 17.09.2024 by Shri Rajesh Kumar Jain, Partner of M/s. SRV Shipping and was submitted to Customs and uploaded in systems by the CHA while filing of Bill of Entry No. 5656835 dated 18-09-2024 (Sr. No. 1 of Table-B above) for assessment as well as during examination of the import goods by DRI. Further, M/s. Multiport Cargo Logistics Private Limited also submitted the copy of Bills of Lading No. YSNBF24090542 dated 05-09-2024 and YSNBF24090559 dated 17-09-2024 wherein declared CTH is mentioned as "60011020" and description was mentioned as "Fabrics", however same Bill of Lading with different CTH declared as "60019200" was submitted by CHA before Customs while filing of Bill of Entry No. 5900749 dated 01-10-2024 and 6223557 dated 19-10-2024 (Sr. No. 3 & 5 of Table-B above) for assessment as well as during examination of the import goods by DRI. From the above, it appears that both the importer and customs broker were involved in forging/fabricating the Bills of Lading by not declaring the correct CTH and mis-declaring the CTH having low customs duty implications in order to evade applicable custom duties. Accordingly, M/s Tapisserie Homes Private Limited knowingly and intentionally made, signed or used and/or caused to be made/signed/used import documents and other related documents, which were false or incorrect, in material particulars, for the purposes of illegal import of subject goods, therefore, they are also be liable to penalty under **Section 114AA** of the Customs Act, 1962.

## **8.2 Role of Customs Broker M/s SRV Shipping (CB Code: ADLFS0369JCH001)**

The Customs broker is responsible for filing the Bill of Entry with correct declarations. In the current case, it is observed that M/s SRV Shipping had uploaded forged/fabricated Bills of Lading with different CTH for the Bills of Entry mentioned at serial no. 1 of Table-B above. The actual Bills of lading provided by the Shipping Lines for these consignments were having different CTH. It appears that such forging/fabrication has been done by the CHA to ensure that the CTH mentioned by them in the Bills of Entry matches with the CTH mentioned in the Bills of lading uploaded in ICES. Further, it was also observed that Shri Rajesh Kumar Jain of M/s. SRV Shipping, the Custom Broker in case of Bill of Entry at serial no. 1 of the Table-B has digitally signed and uploaded Bills of Lading in the ICES, authenticating the truthfulness of the information provided to the customs. Also, it was observed that the CHA was authorized consignment wise by the respective importer to take the Delivery Order on behalf of them from the concerned shipping lines. It is also observed

that they endorse the Bills of Lading and submit it to the concerned shipping lines to take DO without verifying the IGM details as available on the ICEGATE portal. From the facts, that they were already having two sets of Bill of Lading, thus clearly shows the involvement and intention of the CHA to assist the importer in resultant concealment and mis-declaration in order to evade the applicable customs duty.

The consignment for which Bill of Entry No. 5656835 dated 18-09-2024 was filed by the said customs broker were found to be grossly mis-declared as per test reports from the Custom House Laboratory, Kandla. Such acts on the part of M/s SRV Shipping (Customs Broker, CB Code: ADLFS0369JCH001) who were knowingly concerned in mis-declaration of the description, classification and value in the import documents have rendered themselves liable to penalty under **Section 112 (a) and 112(b)** of the Customs Act, 1962.

Moreover, during the course of investigation, the concerned shipping lines M/s. Parekh Marine Services Pvt. Ltd. submitted the copy of Bill of Lading SNKO03K240800974 dated 24-08-2024 wherein declared CTH is mentioned as "60019200" and description was mentioned as "Fabrics"; however same Bill of Lading but with different CTH declared as "60011020" which was digitally signed on 17.09.2024 by Shri Rajesh Kumar Jain, Partner of M/s. SRV Shipping and was submitted to Customs and uploaded in systems by the CHA while filing of Bill of Entry No. 5656835 dated 18-09-2024 (Sr. No. 1 of Table-B above) for assessment as well as during examination of the import goods by DRI. From the above, it appears that both the importer and customs broker were involved in forging/fabricating the Bills of Lading by not declaring the correct CTH and mis-declaring the CTH having low customs duty implications in order to evade applicable custom duties. Accordingly, M/s SRV Shipping (CB Code: ADLFS0369JCH001) knowingly and intentionally made, signed or used and/or caused to be made/signed/used import documents and other related documents, which were false or incorrect, in material particulars, for the purposes of illegal import of subject goods, therefore they are also be liable to penalty under **Section 114AA** of the Customs Act, 1962.

### **8.3 Role of M/s. DSR Logistics (Customs Broker, CB Code: AANFD4685MCH001)**

After initiation of enquiry by DRI, it is observed that the importer in connivance with respective custom broker, M/s. DSR Logistics the importer in connivance with CHA has restrained themselves from submitting the forged/fabricated Bills of Lading and filed Bills of Entry No. 5902231 dated 01.10.2024 and 5901128 dated 01.10.2024 with correct CTH and description which shows that they were very much aware about the mis-declaration and forged/fabricated Bills of Lading. Moreover, M/s. DSR Logistics has lended his Customs Broker license to M/s. Alpen Logistics without authority and also failed to verify the genuineness/KYC details of the importer have thereby violated the provisions of Customs Brokers Licensing Regulations, 2018. The omission and commission on the part of M/s. DSR Logistics (Customs Broker, CB Code: AANFD4685MCH001) who were knowingly concerned in mis-declaration of the description, classification and value in the import documents have rendered themselves liable to penalty under **Section 112 (a) and 112(b)** of the Customs Act, 1962.

### **8.4 Roles of Customs Broker M/s. Freight Link Logistics (CB Code: AEXPM7049ECH003)**

After initiation of enquiry, it is observed that the importer in

connivance with respective custom broker, M/s. Freight Link Logistics, had intentionally and deliberately changed the CTH in Bills of Entry No. 6223557 dated 19-10-2024 against that declared in Bills of Lading which shows that they were very much aware about the mis-declaration and forged/fabricated Bills of Lading. The omission and commission on the part of M/s. Freight Link Logistics (Customs Broker, CB Code: AEXPM7049ECH003) who were knowingly concerned in mis-declaration of the description, classification and value in the import documents have rendered themselves liable to penalty under **Section 112 (a)** and **112(b)** of the Customs Act, 1962.

### **8.5 Role of Shri Dharendra Shukla alias Sonu Shukla.**

During the course of investigation, it is revealed that Shri Dharendra Shukla alias Sonu Shukla is one of the directors of the firm M/s. SRL Shipping who along with Shri Krishna Nand Shahi was an accomplice to the importer and the Custom Broker in providing the false information and documents related to the Bills of Entry of Table-B above to the Customs and in connivance with the importer, CHA and overseas shipper was involved in preparing/procuring/supplying the forged/fabricated documents such as Bills of Lading, Commercial Invoices, Packing List, etc. and also instrumental in deceiving the customs authorities, handling the checks on self-assessment, opting the green channel under RMS facility and managing the faster and hassle-free clearances through obtaining Out-of-Charge at Mundra Port for the import consignments of fabrics. Also, it is revealed that M/s. SRL Shipping used to send all the related documents of import consignments in respect of importer M/s. Tapisserie Homes Private Limited through mail id – import.srl@gmail.com to official mail id – sjlogistics@gmail.com of M/s. S J Logistics (Forwarder) who in turn used to forward to official mail id – srvshipping@gmail.com of M/s. SRV Shipping for further documentation and filing of Bills of Entry.

Further, it is also revealed that M/s. SRL Shipping through M/s. S J Logistics used to send a draft checklist for reference to M/s. SRV Shipping, who after preparation of the final draft checklist used to send it back through M/s. S J Logistics to M/s. SRL Shipping for approval and only after receiving the approved Checklist from the forwarder/importer, M/s. SRV Shipping used to file the respective Bills of Entry for the said importer thus clearly shows that Shri Dharendra Shukla/M/s. SRL Shipping was fully aware about the mis-declaration of the consignments and yet assisted the importer in resultant concealment and mis-declaration in order to evade the applicable customs duty. Also, it was revealed that firms for which the customs forwarding work related to import cargo was taken up by Shri Dharendra Shukla, Shri Krishna Shahi used to look after the customs clearance work in docks, thus shows that both Shri Dharendra Shukla and Shri Krishna Shahi were actively involved in getting the cargo cleared with incorrect declaration so as to evade the applicable customs duty. It was Shri Dharendra Shukla of M/s. SRL Shipping who provided forged bills of lading for filing the Bills of Entry.

The omission and commission on the part of Shri Dharendra Shukla alias Sonu Shukla, who was knowingly concerned in mis-declaration of the description, classification and value in the import documents have rendered themselves liable to penalty under Section 112 (a) and Section 112(b) of the Customs Act, 1962.

Also, Shri Dharendra Shukla alias Sonu Shukla, knowingly and intentionally made, signed or used and/or caused to be made/signed/used import documents and other related documents, which were false or incorrect, in material particulars, for the purposes of illegal import of subject goods,



therefore Shri Dharendra Shukla alias Sonu Shukla is also liable to penalty under Section 114AA of the Customs Act, 1962.

### **8.6 Role of Shri Krishna Nand Shahi alias Shri Krishna Shahi.**

During the course of investigation, it is revealed that Shri Krishna Nand Shahi (Mob. No. 7666339214) of the firm M/s. SRL Shipping was an accomplice to the importer and the Custom Broker in providing the false information and documents related to the Bills of Entry of Table-B above to the Customs and in connivance with the importer, CHA and overseas shipper was involved in preparing/procuring/supplying the forged/fabricated documents such as Bills of Lading, Commercial Invoices, Packing List, etc. and also instrumental in deceiving the customs authorities, handling the checks on self-assessment, opting the green channel under RMS facility and managing the faster and hassle-free clearances through obtaining Out-of-Charge at Mundra Port for the import consignments of fabrics. Also, it is revealed that M/s. SRL Shipping used to send all the related documents of import consignments in respect of importer M/s. Tapisserie Homes Private Limited through mail id – import.srl@gmail.com to official mail id – sjlogistics@gmail.com of M/s. S J Logistics (Forwarder) who in turn used to forward to official mail id – srvshipping@gmail.com of M/s. SRV Shipping for further documentation and filing of Bills of Entry.

Further, it is also revealed that M/s. SRL Shipping through M/s. S J Logistics used to send a draft checklist for reference to M/s. SRV Shipping, who after preparation of the final draft checklist used to send it back through M/s. S J Logistics to M/s. SRL Shipping for approval and only after receiving the approved Checklist from the forwarder/importer, M/s. SRV Shipping used to file the respective Bills of Entry for the said importer thus clearly shows that Shri Krishna Nand Shahi/M/s. SRL Shipping was fully aware about the mis-declaration of the consignments and yet assisted the importer in resultant concealment and mis-declaration in order to evade the applicable customs duty. Also, it was revealed that Shri Krishna Shahi were actively involved in getting the cargo cleared with incorrect declaration so as to evade the applicable customs duty. It was Shri Krishna Shahi of M/s. SRL Shipping who provided forged bills of lading for filing the Bills of Entry.

The omission and commission on the part of Shri Krishna Shahi, who was knowingly concerned in mis-declaration of the description, classification and value in the import documents have rendered themselves liable to penalty under Section 112 (a) and Section 112(b) of the Customs Act, 1962.

Also, Shri Krishna Shahi, knowingly and intentionally made, signed or used and/or caused to be made/signed/used import documents and other related documents, which were false or incorrect, in material particulars, for the purposes of illegal import of subject goods, therefore Shri Dharendra Shukla alias Sonu Shukla is also liable to penalty under Section 114AA of the Customs Act, 1962.

### **8.7 Role of Shri Sanatan Jha, son of Shri Rajendra Jha, Authorized Representative of Custom Broker Firm M/s. SRV Shipping:**

During the course of investigation, it was revealed by Shri Sanatan Jha that M/s. SRL Shipping used to send all the related documents of import consignments in respect of importer M/s. Tapisserie Homes Private Limited through mail id – import.srl@gmail.com to mail id - sjlogisticsgdm@gmail.com who in turn used to forward to mail id – srvshipping@gmail.com of M/s. SRV Shipping for further documentation and filing of the Bills of Entry pertaining to consignments of M/s Tapisserie Homes Private Limited. Also, it was revealed

that Shri Krishna Nand Shahi was actively involved in handling the work related to examination, getting out of charge from customs as well as handling loading/unloading and logistics of the import consignment. Shri Sanatan Jha had previously worked with M/s SRV Shipping (Customs Broker) and was very well aware of the Customs procedure. He was also aware that no other person except the authorized employees of Customs Broker is allowed to handle examination and clearance of imported cargo. Despite knowing the same, the same was being handled by unauthorized persons. Shri Sanatan Jha had not provided any supportive claim i.e. e-mail correspondences etc. evidencing that he used to get approval of importer before filing of Bill of Entry.

The omission and commission on the part of Shri Sanatan Jha, who was knowingly concerned in mis-declaration of the description and classification in the import documents have rendered himself liable to penalty under **Section 112 (a)** and **Section 112 (b)** of the Customs Act, 1962. Also, Shri Sanatan Jha, knowingly and intentionally made, signed or used and/or caused to be made/signed/used import documents and other related documents, which were false or incorrect, in material particulars, for the purposes of illegal import of subject goods, therefore Shri Sanatan Jha, is also liable to penalty under **Section 114AA** of the Customs Act, 1962. For not providing the supportive evidence of his claim regarding correspondence on e-mails from import.srl@gmail.com to srvshipping@gmail.com, Shri Sanatan Jha is also liable to penalty under **Section 117** of the Customs Act, 1962.

**9.** Accordingly, a show cause notice bearing F.No. GEN/ADJ/ADC/737/2025-Adjn-O/o Pr Commr-Cus-Mundra, dated 21.03.2025 was issued wherein:

**9 . 1** M/s Tapisserie Homes Private Limited (IEC: AAHCT3015C), had been called upon to show cause in writing to the Additional/Joint Commissioner of Customs, Customs House, Mundra as to why:-

- i. the declared description of import goods declared as "Pile Fabrics" under CTH '60011020' in Bill of Entry No. 5656835 dated 18.09.2024, should not be rejected as per Column No. (10 & 11) of Table E and re-classified under CTH '60019200' as per Column No. (7) of Table F having declared assessable value Rs. 17,51,429/- (CIF).
- ii. Since the goods mentioned in subject import consignment covered under Bill of Entry No. 5656835 dated 18.09.2024 found mis-declared in respect of value thereof, therefore the declared assessable value of **Rs. 17,51,429/-** (CIF) as per Column No. (14) of Table E should not be rejected and re-determined as **Rs. 1,49,60,125/-** as per Column No. (9) of Table F under Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.
- iii. the goods covered under Bill of Entry No. 5656835 dated 18.09.2024 having declared assessable value **Rs. 17,51,429/-** (CIF) should not be confiscated under Section 111(m) and 111 (f) of the Customs Act, 1962.
- iv. Since the quantity found mis-declared, the total value declared in Bills of Entry No. 5902231 dated 01.10.2024, 5901128 dated 01.10.2024 and 6223557 dated 19.10.2024 as **Rs. 47,46,343/-** as per Column No. (14) of Table E should not be rejected and re-determined/re-assessed as **Rs. 2,38,48,701/-** as per Column No. (9) of Table F under Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.
- v. the goods covered under Bills of Entry No. 5902231 dated 01.10.2024 and 5901128 dated 01.10.2024 and 6223557 dated 19.10.2024 having total

declared assessable value of **Rs. 47,46,343/-** (CIF) should not be confiscated under Section 111(m) and 111 (f) of the Customs Act, 1962.

- vi. penalty should not be imposed on the importer under **Section 112 (a), Section 112(b) & Section 114AA** of the Customs Act, 1962 considering forging of Bills of Lading and/or mis-declaration in all 04 (Four) Bills of Entry mentioned in Table E & F in this Notice.

9.2 Vide SCN dated 21.03.2025, **M/s. SRV Shipping** (Customs Broker CB Code: ADLFS0369JCH001) was called upon to show cause in writing to the Additional/Joint Commissioner of Customs, Customs House, Mundra as to why penalty should not be imposed upon them under Section 112(a), Section 112(b), and Section 114AA of the Customs Act, 1962, considering forging/fabricating of Bills of Lading and/or mis-declaration in 01 (One) Bill of Entry No. 5656835 dated 18.09.2024.

9 . 3 Further vide SCN dated 21.03.2025, **M/s. DSR Logistics** (Customs Broker, CB Code: AANFD4685MCH001) was called upon to show cause in writing to the Additional/Joint Commissioner of Customs, Customs House, Mundra as to why penalty should not be imposed upon them under Section 112(a) and Section 112(b), of the Customs Act, 1962 considering lending his Customs Brokers license to M/s. Alpen Logistics without authority and also violating the provisions of Customs Brokers Licensing Regulations, 2018 in 02 (Two) Bills of Entry mentioned at Serial No. 2 & 3 of Table-B above.

9 . 4 Furthermore vide SCN dated 21.03.2025, **M/s. Freight Link Logistics** (Customs Broker CB Code: AEXPM7049ECH003) was called upon to show cause in writing to the Additional/Joint Commissioner of Customs, Customs House, Mundra as to why penalty should not be imposed upon them under Section 112(a) and Section 112(b), of the Customs Act, 1962 considering mis-declaration in 01 (One) Bill of Entry No. 6223557 dated 19.10.2024 mentioned at Serial No. 4 of Table-B above.

9.5 Vide SCN dated 21.03.2025, **Shri Dhirendra Shukla alias Sonu Shukla** was called upon to show cause in writing to the Additional/Joint Commissioner of Customs, Customs House, Mundra as to why penalty should not be imposed upon them under Section 112(a), Section 112(b) and Section 114 AA of the Customs Act, 1962 considering forging of Bills of Lading and/or mis-declaration in all 04 (Four) Bills of Entry.

9 . 6 Vide SCN dated 21.03.2025, **Shri Krishna Nand Shahi alias Shri Krishna Shahi** was called upon to show cause in writing to the Additional/Joint Commissioner of Customs, Customs House, Mundra as to why penalty should not be imposed upon them under Section 112(a), Section 112(b) and Section 114 AA of the Customs Act, 1962 considering forging of Bills of Lading and/or mis-declaration in all 04 (Four) Bills of Entry.

9.7 Vide SCN dated 21.03.2025, **Shri Sanatan Jha** was called upon to show cause in writing to the Additional/Joint Commissioner of Customs, Customs House, Mundra as to why penalty should not be imposed upon them under Section 112(a), Section 112(b), Section 114 AA and Section 117 of the Customs Act, 1962 considering forging of Bills of Lading and/or mis-declaration in all 04 (Four) Bills of Entry.

## **WRITTEN SUBMISSIONS**

**10.1 M/s. Tapisserie Homes Pvt Ltd filed their written submission dated**

**13.06.2025.** In the defence submission dated 13.06.2025 the noticee No. 1 has stated/contended that:-

### **Valuation**

#### **A.1 Rejection of value under Rule 12 of CVR 2007**

**A.1.1** Bills of Entry No. 5902231 dated 01.10.2024, 5901128 dated 01.10.2024 and 6223557 dated 19.10.2024.

The respondent in their notice made a proposal for rejection of the declared value of above 3 Bills of Entry under Rule 12 of CVR 2007. The Para 9.1(iv) of the Order reads as:

*iv. Since the **quantity found mis-declared**, the total value declared in Bills of Entry No. 5902231 dated 01.10.2024, 5901128 dated 01.10.2024 and 6223557 dated 19.10.2024 as Rs. 47,46,343/- as per Column No. (14) of Annexure-A should not be rejected and re-determined/re-assessed as Rs. 2,38,48,701/- as per Column No. (20) of Annexure-A under Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.*

(Bold underline supplied)

Therefore, the sole criteria for which the transaction value of the above 3 bill of Entry is rejected is because of misdeclaration of quantity. The Annexure A attached to the show cause notice (SCN) shows the weight of the goods as under

1) Bill of entry no 5902231 dtd 01.10.24= 13260.30 kgs.

**2) Bill of Entry no 5901128 dtd 01.10.2024=19070.49**

3) Bill of Entry no 6223357 dtd 19.10.24=14360.92

The Noticee contends that a panchnama was drawn in all instances.

**1) Bill of entry no 5902231 dtd 01.10.24= 13260.30 kgs.**

The Net weight of fabric is not shown in the panchnama. only average wt is shown. There is no clarity as to whether the weight shown is actual net weight of the fabric . There is no weighment slip in this case.

**2) Bill of Entry no 5901128 dtd 01.10.2024=19070.49**

While the panchnama state that the goods were weighed, no annexures detailing the actual net weight are attached. Furthermore, although the panchnamas refer to weighment slips for the containers, copies of these slips are not enclosed. Weighbridge slips typically provide the net weight by subtracting vehicle and container weights. Crucially, the net weight of the fabric, after excluding packing materials, necessitates an actual weighing of the goods themselves, which is absent in this case.

**3** Bill of Entry no 6223357 dtd 19.10.24=14360.92 .

As per panchnama the weighment slip of the container shows the Wt as 14140 kgs as submitted earlier Weighbridge slips typically provide the net weight by subtracting vehicle and container weights. Crucially, the net weight of the fabric, after excluding packing materials, necessitates an actual weighing of the goods themselves, which should be even lesser than the weight given by weigh bridge .In the present case the gross weight of the goods **found** is 14140 itself is less net wt weight of 14360.62.

The aforementioned circumstances demonstrate that the purported

weighment of the goods was conducted in a perfunctory and lackadaisical manner, betraying a patent disregard for due diligence. In the absence of cogent and reliable evidence establishing the ascertainment of the actual net weight, a palpable apprehension arises that a hasty and imprecise approximation of the gross weight may have been recorded, in blatant contravention of established protocols and procedures. Such a superficial and unsubstantiated weighment is manifestly unreliable and cannot form a valid basis for any adverse inference. Consequently, the allegation of misdeclaration in the weight of the goods is devoid of any legal or factual foundation.

Furthermore, the very basis upon which the transaction value has been impugned is fundamentally flawed and legally untenable. Thus, the rejection of the transaction value is void ab initio, being vitiated by an inherent legal defect from its inception. It is a settled principle of law, firmly rooted in the jurisprudence of valuation, that absent a legally sound and justifiable rejection of the declared transaction value, any subsequent redetermination of the value of the goods is wholly without legal effect. Once the rejection of the transaction value is adjudged invalid, the redetermination of the value automatically collapses as a matter of legal consequence, akin to a superstructure built upon a non-existent foundation – *sublato fundamento cadit opus*. Therefore, the purported redetermination of value in the present case is legally unsustainable and warrants immediate nullification.

#### **A.2 Redetermination of value under Rule 5 of CVR is incorrect**

The crux of the matter lies in the Show Cause Notice's explicit reliance upon Bill of Entry Number 5993605, dated 07.10.2024 and filed at INSBI6, as the foundational evidence for establishing the value of similar goods under the purview of Rule 5 of the Customs Valuation (Determination of Price of Imported Goods) Rules, 2007; however, a fundamental procedural flaw exists in that the very copy of this critical bill of entry, unequivocally referenced within the body of the Show Cause Notice itself as a primary basis for the allegations, has conspicuously and unjustifiably **not been furnished** as an integral part of the relied-upon documents supplied to the Noticee, thereby creating a significant impediment to a fair and transparent process, compounded further by the ambiguity surrounding the foundational value being cited, as it remains entirely unclear whether the department's assessment hinges upon the declared invoice value or a subsequently determined assessed value, underscoring a critical lapse in the fundamental principle that any document forming the bedrock of the department's case must be unequivocally disclosed in its entirety, as this conspicuous omission severely and demonstrably hinders the Noticee's fundamental ability to undertake a thorough and informed examination of the purported valuation and to effectively formulate a cogent contestation against its veracity, especially when juxtaposed with a critical examination of Annexure A which independently reveals a fundamental contradiction inherent within the methodology employed for the re-determination of the subject value.

These discrepancies and contradictions strongly indicate that the entire exercise of re-determination of value has been conducted in a hasty and flawed manner, rendering it legally untenable and void.

The following case laws were relied upon:

Stephen M Fernandes Vs Commr of Customs Goa  
2018(362)ELT370(Tri-Mumbai)

#### **F. No extra sale consideration made by the Noticee importer:**

The Noticee submits that there is no findings in the investigation that

the noticee send any payment through to their supplier through other channels there transactions are through proper banking channels. Therefore their transaction value merits acceptance .

In case of Divine International Versus Commissioner of Customs, New Delhi as reported in 2016 (338) E.L.T. 142 (Tri. - Del.) the Hon'ble Tribunal held;

*"6. It stands strongly contested before us that once the transaction value of the goods is available, it is not open to the Revenue to adopt the other measures of valuation, without first rejecting the transaction value by producing sufficient and cogent evidence. In the entire order of the Commissioner, he has not even alleged that the appellant had paid more than the payment as reflected in the invoice. We note that it is settled law that in terms of provisions of Rule 3 of the Customs Valuation Rules, the transaction value has to be accepted as the correct assessable value unless contrary evidence is available to show that the payments made by the importer to the exporter stand influenced by the other compelling circumstances. Rule 3 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 clearly lay down that the value of imported goods shall be the transaction value and shall be accepted subject to examination and circumstances of sale of the imported goods enumerated therein; that is there are no restriction as to dispensation or use of the goods by the buyers; that the sale or price are not subject to some condition or consideration for which the value cannot be determined; no part of the proceeds by any subsequent sale will accrue directly or indirectly to the seller; that the buyer and seller are not related. Even in terms of sub-rule (3) of Rule 3, where the buyer and seller are related, the transaction value was to be accepted provided that examination and circumstances of sale of the imported goods indicated that relationship did not influence the price. As such, it is clear from the reading of the said rule that transaction value is required to be accepted as correct assessable value unless the circumstances mentioned therein are available. Even in the case of related parties, the transaction value has been given importance provided the relationship has not influenced the said transaction value. As such, we are of the view that there being no evidence, much less an allegation to the effect that transaction value stand influenced by any circumstances mentioned in said Rule and in the absence of any allegation of flow back of money to the seller of goods, the transaction value has to be adopted as the correct assessable value "*

*The notice further relies upon following decisions*

*2020 (374) E.L.T. 810 (Tri. - Mumbai) - MANGALAM ALLOYS LTD. – versus COMM. OF CUS. (IMPORT), NHAVA SHEVA.*

## **B Confiscation under section 111(m) and 111(f).**

B.1 Statement of Shri Shwetank Jain, son of Sh. Suresh Jain, Director of M/s. Tapisserie Homes Private Limited, was recorded on 27.01.2025 under section 108 of the Customs Act. He categorically submitted before the investigation

that the commercial invoice has been sent by the shipper to them and the CTH code is decided by the shipper according to regulations in their country; that they have not changed or objected any of the information provided by the shipper but they have filed all BEs as per the fabric type according to the best of their knowledge and therefore all test reports except one has come as per their declared description. However, for the

one test report which is not in their favour, they have already requested for re-testing from the textile committee.

Given the details of the three shipping bills in paragraph A.1.1, no misdeclaration is evident. Moreover, the noticee has made no admission of engaging in any misdeclaration. As such, the goods cannot be confiscated under the provisions of Section 111(m) of the Customs Act, 1962.

With respect to the goods covered by Bill of Entry No. 5656835 dated 18.09.2024, the Noticee has unequivocally contested the DYCC test report and requested retesting by the Textiles Committee. Given that the SCN silent on any retesting, the alleged misdeclaration of these goods remains unverified. As a result, the liability of these goods for confiscation under Section 111(m) of the Customs Act, 1962, is not definitively established.

B.2 Section 111(f) of the Customs Act 1962 Reads as.

**111. Confiscation of improperly imported goods, etc.**

- The following goods brought from a place outside India shall be liable to confiscation:-

(f) any dutiable or prohibited goods required to be mentioned under the regulations in an arrival import manifest or import manifest or import report which are not so mentioned;

The SCN alleges.

It appears that the importer had not mentioned the actual description of the goods in IGM/Bill of Lading and in connivance with foreign supplier tried to hide the true nature of the fabric being imported. Hence, it appears that the subject goods are also liable for confiscation under Section 111(f) of the Customs Act.

The Noticee argues that the bills of entry are filed by them, as per best of their knowledge, in accordance with their description of the goods. However in case of Bill of lading, is created by the shipping lines/agents/companies based on the information provided by the supplier. Crucially, no evidence has been presented to indicate any connivance or instruction from the Noticee to the supplier to furnish an incorrect description. Secondly it is not a case that that the goods were not mentioned in the IGM /bill of Lading ,the whole case rests on improper CTI .As long as the goods are mentioned in IGM there is no violation of 111(f) .

Therefore, in the absence of such evidence, the goods cannot be deemed liable for confiscation under Section 111(f) of the Customs Act, 1962.

**D. Penalty under 112(a) &112(b)**

D.1 Confiscation of the goods is sine qua non for imposing any penalty under section 112(a) of Customs act 1962. As submitted in earlier para the the goods are not liable for confiscation no penalty can be imposed.

**D.2** Section 112(b) deals with acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, with a prior knowledge that goods are liable for confiscation. The noticee is nowhere related to a position of carrying or removing or depositing etc. as prescribed in section 112(b) of custom Act, 1962.

**E. Penalty under section 114AA of the Customs act 1962.**

**E.1** The penalty under 114AA can be imposed only in the cases of Exports The

provision of penalty under section 114AA was brought as a measure to curb the fraudulent exports which were in the paper only without physically exporting the goods. As the fraudsters were taking benefit of export-based incentive only on the basis of forged documents of exports where goods were not physically present. In order to avoid this modus operandi where only forged documents are presented, the provisions of section 114AA was brought in on the basis of Twenty Seventh Report Standing Committee On Finance (2005-2006) (Fourteenth Lok Sabha) The Taxation Laws(Amendment) Bill, 2005. The relevant paras read as:

62. Clause 24 of the Bill reads as follows: After section 114A of the Customs Act, the following section shall be inserted, namely:— “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.”

63. The information furnished by the Ministry states as follows on the proposed provision: “Section 114 provides for penalty for improper exportation of goods. However, there have been instances where export was on paper only and no goods had ever crossed the border. Such serious manipulators could escape penal action even when no goods were actually exported. The lacuna has an added dimension because of various export incentive schemes. To provide for penalty in such cases of false and incorrect declaration of material particulars and for giving false statements, declarations, etc. for the purpose of transaction of business under the Customs Act, it is proposed to provide expressly the power to levy penalty up to 5 times the value of goods. A new section 114 AA is proposed to be inserted after section 114A.” 25

64. It was inter-alia expressed before the Committee by the representatives of trade that the proposed provisions were very harsh, which might lead to harassment of industries, by way of summoning an importer to give a ‘false statement’ etc. Questioned on these concerns, the Ministry in their reply stated as under: “The enhanced penalty provision has been proposed considering the serious frauds being committed as no goods are being exported but papers are being created for availing the benefits under various export promotion schemes. The apprehension that an importer can be summoned under section 108 to give a statement that the declaration of value made at the time of import was false etc., is misplaced because person summoned under Section 108 are required to state the truth upon any subject respecting which they are being examined and to produce such documents and other things as may be required in the inquiry. No person summoned under Section 108 can be coerced into stating that which is not corroborated by the documentary and other evidence in an offence case.”

65. The Ministry also informed as under: “The new Section 114AA has been proposed consequent to the detection of several cases of fraudulent exports where the exports were shown only on paper and no goods crossed the Indian border. The enhanced penalty provision has been proposed considering the serious frauds being committed as no goods are being exported, but papers are being created for availing the number of benefits under various export promotion schemes.” 66. The Committee observe that owing to the increased instances of wilful fraudulent usage



*of export promotion schemes, the provision for levying of penalty upto five times the value of goods has been proposed. The proposal appears to be in the right direction as the offences involve criminal intent which cannot be treated at par with other instances of evasion of duty. The Committee, however, advise the Government to monitor the implementation of the provision with due diligence and care so as to ensure that it does not result in undue harassment.*

Present case pertains to imports and and therefore penalty under Section 114AA cannot be imposed.

The Noticee relies upon following decisions

- 2019 (4) TMI 37 - CESTAT Chennai

Shri. M.A. Dhandapani, Managing Director Of M/S. Onkyo Sight & Sound India Pvt. Ltd., Chennai Versus Commissioner of Customs, Custom House, Chennai

-2018 (7) TMI 867 - CESTAT Chennai

Commissioner of Customs, Sea, Chennai Versus M/S. Sri Krishna Sounds and Lightings

-022 (11) TMI 108 - CESTAT Mumbai

M/S Food World And M/S Authentic Stuff General Versus Commissioner of Customs (Preventive), Mumbai

**E.** The Noticee emphatically submits that they have not engaged in any activity whatsoever pertaining to forgery or any similar illicit practices. Consequently, given their complete absence of involvement in such activities, the imposition of a penalty under Section 114AA of the Customs Act, 1962, is unwarranted and legally unsustainable. The foundational premise for invoking Section 114AA, which pertains to acts of forgery or the use of false and incorrect documents, is entirely absent in the present case with respect to the Noticee.

**F.** In their final and earnest submission, the Noticee unequivocally states that they are conducting their business with utmost genuineness and integrity. Regarding the present import, the goods were procured and declared based on their limited internal knowledge, and they respectfully highlight their lack of specialized expertise in the intricate domain of customs classification. It is pertinent to note that the consignment arrived in October 2024 and remains unreleased to date, resulting in a substantial accrual of demurrage and detention charges amounting to Rupees Ninety Lakhs. Furthermore, the protracted storage of these fabrics within warehouses poses a significant risk of deterioration in their quality and marketability. Considering these compelling circumstances, the imposition of a substantial duty liability would be unduly burdensome and financially unsustainable for the Noticee. As a final recourse, should their primary appeal not find favor with the esteemed Department, the Noticee humbly requests the compassionate consideration of allowing the re-export of the subject goods to their original supplier, thereby mitigating further losses and resolving this protracted matter.

## **10.2 M/s SRV Shipping filed their written submission dated 13.06.2025.**

In the defence submission the noticee No. 2 has stated/contended that:-

The Noticee submits that it is a law-abiding entity that has consistently conducted all business activities in compliance with applicable laws. The Noticee further states that it has extended full cooperation to the investigating authorities by providing all requested information and documentation and has cooperated fully with the department throughout the

proceedings, offering its complete support to the investigation process.

**B .** In response to the allegations in the Show Cause Notice, M/s SRV Shipping emphatically denies any involvement in the alleged forging/fabrication of Bills of Lading or any intention to assist in concealment or mis-declaration for the purpose of evading applicable customs duty; the assertion that M/s SRV Shipping "uploaded forged/fabricated Bills of Lading with different CTH" is categorically false and unsubstantiated, as the discrepancy in CTH declarations originated from the shipping lines themselves, with M/s SRV Shipping acting in good faith and relying on the documents provided to them at the time; it is important to note that M/s SRV Shipping's role, as a Customs Broker, is limited to filing Bills of Entry based on the information provided, and there is no evidence to suggest any manipulation or alteration of the Bills of Lading by M/s SRV Shipping; the claim that "Shri Rajesh Kumar Jain of M/s SRV Shipping...digitally signed and uploaded Bills of Lading...authenticating the truthfulness of the information" is a standard procedural practice and does not imply any knowledge or endorsement of any underlying misrepresentation by other parties; furthermore, the allegation that M/s SRV Shipping was authorized to collect Delivery Orders (DO) and endorsed Bills of Lading without verifying IGM details does not equate to malfeasance, as the primary responsibility for the accuracy of CTH declarations rests with the importer and the shipping lines; M/s SRV Shipping maintains that it has acted with due diligence and in accordance with industry best practices, and that the discrepancies in CTH declarations were beyond its control or knowledge.

### **C. Penalty under 112(a) &112(b)**

**C . 1** As a co-noticee, the imposition of a penalty under Section 112 is contingent upon the fulfilment of two critical conditions: first, it must be unequivocally established that the actions of the Noticee directly resulted in the goods becoming liable for confiscation; and second, the presence of *mens rea*, or a guilty intention, with respect to such activity must be conclusively demonstrated.

The entirety of the department's case rests fundamentally upon the alleged misdeclaration of the description of the imported goods in relation to their Central Tariff Item (CTI) classification. However, the investigation conducted has failed to adduce even a scintilla of evidence to suggest, let alone establish, that the Noticee possessed any awareness whatsoever of this alleged misdeclaration or had any form of participation, direct or indirect, in bringing about such alleged misdeclaration. Furthermore, with respect to the alleged manipulation of the Bill of Lading, the investigation has similarly yielded no evidence implicating the Noticee in any manner. Notably, the Noticee's own statement, duly recorded under the provisions of Section 108 of the Customs Act, 1962, along with the statements of other co-noticees also recorded during the course of the investigation, are conspicuously devoid of any indication or admission that the Noticee engaged in any activity, overt or covert, related to the alleged misdeclaration of the goods. In essence, the investigative findings, including the testimonial evidence gathered, provide no basis to connect the Noticee to the central allegation of misdeclaration that forms the sole foundation of the department's case.

### **C.2 PENALTY UNDER 112(a) NOT IMPOSABLE.**

Section 112 reads as:

*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, harboring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111, shall be liable,*

**A.2** The penalty under 112 is imposable upon a person only if the **person in relation to any goods**, does or omits to do an act which would render the goods liable for confiscation. Thus, imposition of this penalty requires the identification of a person who has actively engaged in or neglected to perform an action that would result in the confiscation of goods. In this present case, the investigation has failed to uncover any such involvement by the noticee that would warrant the confiscation of goods.

Noticee says that the purported misclassification did not result in any benefit accruing to them. **Moreover, the SCN is devoid of any averments substantiating a claim that the Noticee derived benefit from the said misdeclaration.** Not even an iota of evidence of the involvement of the Noticee was brought on record. The full Bench of Hon'ble Bombay High Court in case of **- AMRITLAKSHMI MACHINE WORK Vs. COMMR (Import), 2016 (335) ELT 225 (Bom.)**, Held that for imposition of penalty in respect of the cases falling under Section 112(a) of the Act, '*mens-rea*' may not be required to be proved as condition precedent, however when it comes to imposition of the penalty on an abettor, it is necessary to show that the said essential element/ingredient is present therefore no penalty can be imposed on Noticee under Section 112(a) of the Customs Act, 1962.

### **C.3.1. Mens Rea**

The fundamental principle of law dictates that a penalty cannot be imposed on a co-noticee without establishing *mens rea* (guilty mind) *mens rea* is a crucial element that must be conclusively proven before any punitive action can be taken. The department failed to make any specific findings regarding the existence of *mens rea*. **No evidence has been presented to demonstrate any intentional wrongdoing or criminal intent.** The order lacks proper examination and analysis of the material element required for imposing penalties, which are:

a) Financial Benefit:

The SCN fails to demonstrate how the Noticee derived any benefit from the alleged misdeclaration. No monetary advantage or gain has been established or quantified

b) Testimonial Evidence:

No statement from the importer exists that implicates the Noticee in any wrong doing The Noticee has made no admission or statement accepting culpability in fact no statement of the noticee is recorded. No corroborative evidence links the Noticee to the allegation made in SCN. The SCN is conspicuously silent on the aspect of criminal intent. Documents fail to establish the essential elements required for penalty imposition

In the absence of established *mens rea*, any penalty imposed would be legally untenable. The lack of evidence regarding criminal intent makes the

penalty proceedings fundamentally flawed.

### **C.3.2 Abetment.**

The SCN charges the noticee of Abatement, without having either any investigation or any finding by the department as to how the noticee abated with Shri Vipin Gupta. The SCN fails to provide any evidence of the Noticee's active **involvement**, a crucial element for establishing abetment.

**A.3.3** Abetment, a serious offense, necessitates specific actions, such as instigating, conspiring, or intentionally aiding another person in committing a crime. Mere awareness or presence at the scene of a crime is insufficient to establish abetment. Active participation or encouragement, coupled with a guilty mind or *mens rea*, is essential. This *mens rea* involves intentional facilitation, knowledge of potential consequences, and conscious involvement in the criminal act.

The SCN failed to establish the necessary *mens rea* or guilty intent. There is no evidence of active participation, direct benefit derived, or any supporting witness testimony or circumstantial evidence presented in the SCN. The burden of proof lies with the department, who must prove all elements of the offense.

While dealing with the meaning and scope of the word abetment qua section 112(a) of the Customs Act in detail, the Hon'ble High Court Delhi in Custom Appeal no. CUSAA 3/2021 in case of **RAJEEV KHATRI VERSUS COMMISSIONER OF CUSTOMS (EXPORT)** held that in the context of Section 112(a) of the Customs Act, by definition, the expression 'abet' means instigating, conspiring, intentionally aiding the acts of commission or omission that render the goods liable for confiscation.

The question of law before the Hon'ble Court was

*"Whether, given the finding that no case of connivance is made out by the appellant and he had no knowledge of the import of prohibited goods, penalty under Section 112(a) of the Customs Act for abetting their illegal import of prohibited goods, can be imposed on the appellant?"*

The Hon'ble Court observed:

31. *The use of the expression 'abet' in Section 112(a) of the Customs Act, makes it implicit that the person charged, who is alleged to have abetted the acts of omission or commission, has knowledge and is aware of the said acts. A plain meaning of the word 'abet' means instigation, aid, encouragement of an offence [Simpson, J. A., & C., W. E. S. (1989). The oxford English dictionary (2nd ed., Vol. 1). Clarendon Press.]. It necessarily involves the knowledge that the act being abetted is wrong*

32. *The Black's Law Dictionary ["Abet." Black's Law Dictionary, 10th Edition, edited by Bryan A. Garner, 10th ed., West, 2014, pp. 4-4.] defines the expression 'abet' as under:*

*"1. To aid, encourage, or assist (someone), esp. in the commission of a crime.*

*2. To support (a crime) by active assistance"*

33. *In Queen v Coney & Ors. (1882) 8 Q.B.D. 534: the Court for Crowned Cases Reserved held as under:*

*"To constitute an aider or abettor, some active steps must be taken, by word or action, with intent to instigate the principal or principals. Encouragement does not, or necessity, amount to aiding and*

*abetting. It may be intentional or unintentional. A man may unwittingly encourage another in fact by his presence, by misinterpreted gestures, or by his silence or non-interference – or he may encourage intentionally by expressions, gestures, or actions, intended to signify approval. In the latter case, he aids and abets; in the former he does not. It is no criminal offence to stand by a mere passive spectator of a crime, even of a murder. Noninterference to prevent a crime is not itself a crime. But the fact that a person was voluntarily and purposely present witnessing the commission of a crime, and offered no opposition to it, though he might reasonably be expected to present it, and had the power so to do or at least to express his dissent, might, under some circumstances, afford cogent evidence upon which a jury would be justified in finding that he wilfully encouraged, and so aided and abetted. But it would be purely a question for the jury whether he did so or not.”*

34. Section 3(1) of the General Clauses Act, 1897 expressly provides that the expression ‘abet’<sup>1</sup> would have the same meaning as in the Indian Penal Code, 1860 (hereafter ‘the IPC’).

35. Section 107 of the IPC explains the meaning of the expression ‘abetment of a thing’. The said Section of the IPC reads as under:

**“107. Abetment of a thing.** —A person abets the doing of a thing, who—

**First.** —Instigates any person to do that thing; or

**Secondly.** —Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

**Thirdly.** —Intentionally aids, by any act or illegal omission, the doing of that thing.

**Explanation 1.** —A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

**Illustration** A, a public officer, is authorised by a warrant from a Court of Justice to apprehend Z, B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

**Explanation 2.** —Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.”

36. Thus, in the context of Section 112(a) of the Customs Act, by definition, the expression ‘abet’ means instigating, conspiring, intentionally aiding the acts of commission or omission that render the goods liable for confiscation.

(underline supplied)

The Hon’ble Delhi High Court specifically **observed that mere knowledge is**

**not sufficient but the intention, conspiracy is must for abetment.** In the present case there is no evidence that Noticee's had the knowledge.

(bold supplied)

Further in case of HIM LOGISTICS PVT. LTD. Versus COMMISSIONER OF CUSTOMS, NEW DELHI reported in 2016 (340) E.L.T. 388 (Tri. - Del.) the Hon'ble Court held;

*"From the impugned order, it appears that the original authority has levelled the penalty only on the ground that the appellant has failed to exercise due diligence to ascertain the correctness of the information as regards the correct classification of the goods being imported by his client. The appellant is mainly a CHA and the issue of classification is of complex nature. It cannot be said that the CHA should have information that the goods were 'Food Supplements' and not 'Medicaments'. It is for the Customs Department to classify the goods. Under these circumstances, the levy of the penalty is not justified. By following the earlier decision of the Tribunal dated 28-4-2016, we find no reason to sustain the penalty and, therefore, set aside the impugned order. The appeal stands disposed of accordingly."*

The Noticee additionally cite the following precedents in support of their contention

-2021 (377) E.L.T. 615 (Tri. - Chan.)

M.S. EXIM SERVICES Versus C.C., LUDHIANA

-2018 (363) E.L.T. 644 (Tri. - Bang.)

N.S. MAHESH Versus COMMISSIONER OF CUSTOMS, COCHIN

-2017 (4) TMI 601 - CESTAT NEW DELHI

BRIJESH INTERNATIONAL Versus COMM. OF CUS. (IMPORT & GENERAL), NEW DELHI

**A.4** Section 112(b) deals with acquires possession of or is in any way concerned in carrying, removing, depositing, harboring, keeping, concealing, selling or purchasing, with a prior knowledge that goods are liable for confiscation. The showcase notice fails to allege any allegation on the noticee that he has prior knowledge or intimation that goods are liable for confiscation. Section 112(b) deals with acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, with a prior knowledge that goods are liable for confiscation. The noticee is nowhere related to a position of carrying or removing or depositing etc. as prescribed in section 112(b) of custom Act 1962.

The noticee is a co noticee and main noticee being importer/exporter. The absence of any allegation regarding the co-noticee's benefit conclusively demonstrates the lack of *mens rea*, a critical element for imposing a penalty. In simpler terms, without evidence of the co-noticee's intent or knowledge of wrongdoing, a penalty cannot be justified

#### **D. Penalty under section 114AA of the Customs act 1962.**

**D.1** The show cause also proposes for imposition of Penalty under Section 114AA of Customs Act 1962 - of Customs Act 1962, which reads as;

*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.*

With respect to the present matter, the Noticee affirms that they possessed neither knowledge nor intention with regard to the purported misdeclaration. It is further submitted that no false or incorrect information was furnished by the Noticee. It is noteworthy that the SCN is devoid of any investigative details or explicit articulation of the grounds upon which an alleged violation of Section 114AA of the Customs Act 1962 is predicated

**D.2** The penalty under 114AA can be imposed only in the cases of Exports. The show cause also proposes for imposition of Penalty under Section 114AA of Customs Act 1962 - of Customs Act 1962, which reads as;

*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.*

With respect to the present matter, the Noticee affirms that they possessed neither knowledge nor intention with regard to the purported misdeclaration. It is further submitted that no false or incorrect information was furnished by the Noticee. It is noteworthy that the SCN is devoid of any investigative details or explicit articulation of the grounds upon which an alleged violation of Section 114AA of the Customs Act 1962 is predicated

Section 114AA of Customs act 1962 was brought as a measure to curb the fraudulent exports which were in the paper only without physically exporting the goods. As the fraudsters were taking benefit of export-based incentive only on the basis of forged documents of exports where goods were not physically present. In order to avoid this modus operandi where only forged documents are presented, the provisions of section 114AA was brought in on the basis of Twenty Seventh Report Standing Committee On Finance (2005-2006) (Fourteenth Lok Sabha) The Taxation Laws(Amendment) Bill, 2005. The relevant paras read as:

62. Clause 24 of the Bill reads as follows: After section 114A of the Customs Act, the following section shall be inserted, namely:— “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.”

63. The information furnished by the Ministry states as follows on the proposed provision: “Section 114 provides for penalty for improper exportation of goods. However, there have been instances where export was on paper only and no goods had ever crossed the border. Such serious manipulators could escape penal action even when no goods were actually exported. The lacuna has an added dimension because of various export incentive schemes. To provide for penalty in such cases of false and incorrect declaration of material particulars and for giving

false statements, declarations, etc. for the purpose of transaction of business under the Customs Act, it is proposed to provide expressly the power to levy penalty up to 5 times the value of goods. A new section 114 AA is proposed to be inserted after section 114A.” 25

64. It was inter-alia expressed before the Committee by the representatives of trade that the proposed provisions were very harsh, which might lead to harassment of industries, by way of summoning an importer to give a ‘false statement’ etc. Questioned on these concerns, the Ministry in their reply stated as under: “The enhanced penalty provision has been proposed considering the serious frauds being committed as no goods are being exported but papers are being created for availing the benefits under various export promotion schemes. The apprehension that an importer can be summoned under section 108 to give a statement that the declaration of value made at the time of import was false etc., is misplaced because person summoned under Section 108 are required to state the truth upon any subject respecting which they are being examined and to produce such documents and other things as may be required in the inquiry. No person summoned under Section 108 can be coerced into stating that which is not corroborated by the documentary and other evidence in an offence case.”

65. The Ministry also informed as under: “The new Section 114AA has been proposed consequent to the detection of several cases of fraudulent exports where the exports were shown only on paper and no goods crossed the Indian border. The enhanced penalty provision has been proposed considering the serious frauds being committed as no goods are being exported, but papers are being created for availing the number of benefits under various export promotion schemes.” 66. The Committee observe that owing to the increased instances of wilful fraudulent usage of export promotion schemes, the provision for levying of penalty upto five times the value of goods has been proposed. The proposal appears to be in the right direction as the offences involve criminal intent which cannot be treated at par with other instances of evasion of duty. The Committee, however, advise the Government to monitor the implementation of the provision with due diligence and care so as to ensure that it does not result in undue harassment.

Present case pertains to imports and and therefore penalty under Section 114AA cannot be imposed.

The Noticee relies upon following decisions

- 2019 (4) TMI 37 - CESTAT Chennai

Shri. M.A. Dhandapani, Managing Director Of M/S. Onkyo Sight & Sound India Pvt. Ltd., Chennai Versus Commissioner of Customs, Custom House, Chennai

-2018 (7) TMI 867 - CESTAT Chennai

Commissioner of Customs, Sea, Chennai Versus M/S. Sri Krishna Sounds and Lightings

-022 (11) TMI 108 - CESTAT Mumbai

M/S Food World And M/S Authentic Stuff General Versus Commissioner of Customs (Preventive), Mumbai

**D.3.** The Noticee emphatically submits that they have not engaged in any activity whatsoever pertaining to forgery or any similar illicit practices.



Consequently, given their complete absence of involvement in such activities, the imposition of a penalty under Section 114AA of the Customs Act, 1962, is unwarranted and legally unsustainable. The foundational premise for invoking Section 114AA, which pertains to acts of forgery or the use of false and incorrect documents, is entirely absent in the present case with respect to the Noticee.

**Without prejudice to the above:**

**E.** The Show Cause Notice (SCN) heavily emphasizes and centers its allegation on the purported discrepancy in the Customs Tariff Item (CTI), submitted by the Customs Broker at the time of filing the Bill of Entry. In response to this central contention, the Noticee submits that the Bill of Entry is fundamentally generated based on the comprehensive description of the imported goods and the corresponding CTI identified by the importer or their authorized representative. In stark contrast, the Bill of Lading, primarily a shipping document that serves as a receipt for goods and a contract of carriage between the shipper and the carrier, carries negligible weight in customs classification, particularly concerning the CTI. Its core function lies in facilitating the transportation and delivery of goods, not in providing precise tariff classification details. Consequently, it frequently omits the CTI altogether. Even when a description of the goods is included in the Bill of Lading, it typically provides only a generic overview, lacking the specificity and granularity required for accurate tariff classification under the Harmonized System of Nomenclature (HSN), which demands a level of detail that the Bill of Lading, in its commercial context, simply does not provide. This distinction is crucial: the Bill of Lading is geared towards logistical and commercial shipping needs, while the Bill of Entry is tailored to the specific requirements of customs authorities for revenue collection and regulatory compliance. Moreover, the declaration made by the Customs Broker or the importer at the time of filing the Bill of Entry is by no means considered sacrosanct or the final word on classification. This declaration is inherently subject to the thorough scrutiny and verification processes mandated by Section 17 of the Customs Act, 1962. While there is no dispute regarding the emphasis placed on self-declaration under Section 46 of the Act, and it is equally acknowledged that the era of self-assessment underscores the importer's initial responsibility in determining the correct classification, it is crucial to understand the limitations and subsequent verification mechanisms inherent in this system. Section 17 of the Customs Act 1962 stipulates that a self-assessment is done under subsection (1) by importer/exporter, but the said self-assessment is to be verified by proper officer under sub section (2) and for this purpose he may examine or test the goods. In case of Textile goods the subsection (3) says that for verification of self-assessment the proper officer may call for documents and where it is found that self-assessment is not done correctly the proper officer may re assess such self-assessment under subsection (4) of section 17 of Customs act 1962. Therefore, a self-assessment by importer is not sacrosanct and the self-assessment is subject to verification and examination by proper officer under sub section (2) and (3) of Customs Act 1962. An assessment is final only after it crosses the rigors of sub-section (2) and (3) of Section 17 of Customs act 1962. Therefore, filing a Bill of lading with incorrect CTI would have no effect on the classification of the goods and it is immaterial even if a bill of lading with incorrect CTI (though not admitted is submitted at the time of filing the bill of entry.

**10.3 M/s DSR Shipping filed their written submission dated 18.06.2025.** In the defence submission the noticee No. 3 has stated/contended that

The Show Cause Notice alleges that M/s. DSR Logistics improperly lent its Customs Broker license to M/s. Alpen Logistics, thereby violating the Customs Brokers Licensing Regulations, 2018. [cite: 243, 295, 296]

\* We submit that this allegation is a distortion of the commercial arrangement that existed between M/s. DSR Logistics and M/s. Alpen Logistics.

\* Shri Sreekumar Narayanan Nair, the F-Card holder of M/s. DSR Logistics, in his statement dated 31.01.2025, has clearly explained the nature of this arrangement.

\* It is crucial to understand that M/s. DSR Logistics did not relinquish control or responsibility over its license. The arrangement was purely operational, aimed at streamlining the handling of documentation and customs clearance procedures.

\* There is a common industry practice where customs brokers engage the services of third-party firms to assist with logistical and administrative tasks. Such arrangements enhance efficiency and do not constitute an illegal transfer of the license.

\* To equate this operational arrangement with an unauthorized lending of a license is a gross mischaracterization and ignores the practical realities of the customs brokerage business.

\* We respectfully submit that the Customs Brokers Licensing Regulations, 2018, do not explicitly prohibit such operational arrangements. The regulations primarily seek to prevent the complete transfer of a license to an unqualified party, which is not the case here.

\* M/s. DSR Logistics remained fully accountable for all transactions conducted under its license and exercised due diligence in supervising the activities of M/s. Alpen Logistics personnel.

## 2.2 Allegation of Failure to Verify Genuineness/KYC Details of the Importer

\* The Show Cause Notice further alleges that M/s. DSR Logistics failed to adequately verify the genuineness and KYC (Know Your Customer) details of the importer, M/s. Tapisserie Homes Private Limited.

\* This allegation is factually incorrect and overlooks the documentation that was indeed received and processed.

\* Shri Sreekumar Narayanan Nair's statement clearly indicates that KYC documents, checklists, Bills of Entry, Bills of Lading, Commercial Invoices, and Packing Lists were submitted in relation to the Bills of Entry in question.

\* While the physical scrutiny of these documents may have been delegated to M/s. Alpen Logistics personnel, the receipt and processing of these documents were under the overall responsibility of M/s. DSR Logistics.

\* Customs brokers are not required to conduct an exhaustive investigation into the authenticity of every document provided by an importer. We are entitled to rely on the documents provided unless there are obvious and compelling reasons to suspect their veracity.

\* In this case, there were no red flags or inconsistencies that would have prompted M/s. DSR Logistics to doubt the genuineness of the documents.

\* To impose an unrealistic burden of verification on customs brokers would be impractical and would significantly impede the smooth flow of trade.

## 2.3 Allegation of Knowingly Being Concerned in the Mis-declaration of Goods

\* The most serious allegation in the Show Cause Notice is that M/s. DSR Logistics was knowingly concerned in the mis-declaration of the description, classification, and value of the imported goods.

\* M/s. DSR Logistics categorically and unequivocally denies this allegation. There is no evidence whatsoever to suggest that we had any knowledge of, or involvement in, any deliberate mis-declaration or undervaluation of the goods.

\* The role of a customs broker is clearly defined in the Customs Act, 1962, and the Customs Brokers Licensing Regulations, 2018. Our primary responsibility is to facilitate the clearance of goods based on the information and documents provided by the importer.

\* Customs brokers are not experts in the technical classification of goods, particularly specialized items like fabrics. We rely on the importer to provide accurate descriptions and classifications.

\* In this case, M/s. DSR Logistics acted in good faith based on the information provided by the importer and their representatives. Any discrepancies that were subsequently discovered are solely attributable to the importer.

\* It is important to emphasize that customs brokers do not have the resources or expertise to independently verify the technical specifications or composition of imported goods.

\* To hold customs brokers liable for the importer's mis-declarations would create an unfair and untenable situation, exposing them to liabilities that they are not equipped to handle.

\* M/s. DSR Logistics did not derive any benefit from the alleged mis-declaration. We acted solely in our capacity as a service provider, facilitating the clearance of goods on behalf of the importer.

### 3. The Limitations Inherent in the Role of a Customs Broker

3.1 It is imperative to acknowledge the inherent limitations in the role of a Customs Broker to provide proper context to the allegations in the Show Cause Notice.

3.2 A Customs Broker's functions, while crucial to the import/export process, are circumscribed by practical and regulatory boundaries:

\* **Documentation and Filing:** The core function revolves around the accurate preparation and filing of necessary documentation, including Bills of Entry, shipping bills, and related forms, as per the information furnished by the importer or exporter.

\* **Procedural Compliance:** Ensuring adherence to the procedural formalities mandated by the Customs Act, 1962, and related regulations. This includes facilitating inspections, examinations, and other Customs interventions.

\* **Liaison and Communication:** Acting as a channel between the importer/exporter and the Customs authorities, conveying information, responding to queries, and expediting the clearance process.

3.3 Conversely, a Customs Broker's role does not typically extend to:

\* **Technical Classification:** Possessing specialized knowledge to independently determine the precise classification of goods, especially those involving complex technical specifications (e.g., textiles, chemicals, machinery). This often necessitates expert opinions or laboratory analysis.

\* **Valuation Verification:** Conducting in-depth audits or forensic

investigations to ascertain the accuracy of declared values. Customs Brokers rely on the transactional documents provided by the importer/exporter.

\* \*\*Due Diligence Beyond Reasonableness:\*\* Undertaking exhaustive inquiries into the genuineness of every document or representation made by the importer/exporter, absent clear and compelling indications of fraud.

3.4 In the present case, the Show Cause Notice appears to conflate the responsibilities of the importer with those of the Customs Broker. It seeks to attribute liability to M/s. DSR Logistics for actions and omissions that fall outside the scope of our professional duties.

#### 4. Absence of Intent to Participate in Duty Evasion

4.1 M/s. DSR Logistics categorically asserts that it had no intention to participate in any scheme to evade customs duty. Our actions were driven by a bona fide belief in the accuracy of the information provided to us.

4.2 There is a complete absence of evidence to suggest that M/s. DSR Logistics stood to gain in any manner from the alleged mis-declaration or undervaluation. Our fees are fixed and commensurate with the services rendered, and are not contingent on the value or classification of the goods.

4.3 The suggestion that M/s. DSR Logistics would jeopardize its professional reputation and license for a marginal or non-existent gain is inherently implausible.

#### 5. Request for Personal Hearing

5.1 M/s. DSR Logistics respectfully requests the opportunity to appear for a personal hearing before the adjudicating authority. This will enable us to elaborate on our submissions, address any remaining concerns, and present further evidence in support of our defense.

5.2 We believe that a personal hearing is crucial to ensure that the principles of natural justice are upheld and that a fair and reasoned decision is reached.

#### 6. Noticee finally submits:

6.1 In summation, M/s. DSR Logistics maintains that the allegations contained in the Show Cause Notice are wholly unsubstantiated and devoid of merit.

6.2 We have acted with utmost diligence, integrity, and in strict compliance with the applicable legal and regulatory framework.

6.3 We urge the Additional/Joint Commissioner of Customs to carefully consider our submissions, appreciate the limitations of a Customs Broker's role, and exonerate M/s. DSR Logistics from all charges.

6.4 We reiterate our commitment to upholding the highest standards of professional conduct and our readiness to cooperate fully with the authorities in any further inquiry.

**10.4 M/s. Freight Link Logistics filed his written submission dated 13.06.2025.** In the defence submission the noticee No. 4 has stated/contended that:-

( i ) M/s. Freight Link Logistics is a licensed Customs Broker with an unblemished record of professional conduct and strict adherence to all applicable laws and regulations. We categorically deny any involvement in, or knowledge of, any intentional mis-declaration or fraudulent activity as alleged in the Show Cause Notice.

1.2 We wish to emphatically state that our role as Customs Brokers is clearly

defined and circumscribed. We are facilitators, acting on behalf of importers to ensure the accurate and compliant filing of documents and smooth customs clearance. Our actions are predicated on the information and documents provided to us by the Importer or their authorized representatives. We are not the principals in the transaction and cannot be held liable for discrepancies arising from information not within our direct knowledge or control.

(ii) Allegation of Mis-declaration in Bill of Entry No. 6223557 dated 19.10.2024:- The Noticee reiterate that Bill of Entry No. 6223557 was filed based solely on the documents and information provided to us by the Importer or their authorized representative. As previously stated by Shri Deepak Singh, Manager of M/s. Freight Link Logistics, the discrepancy in the CTI was an inadvertent oversight, devoid of any deliberate intent to mis-declare. It is standard industry practice for Customs Brokers that they rely much on invoice as per its description. There is no mandate to declare CTI in the Bill of lading. The mention of CTI in the Bill of lading is of no significance our actions were based on the information supplied to us.

The Rajeev Khatri case [2023 (7) TMI 218 - DELHI HIGH COURT] provides a crucial legal framework for this issue. The case underscores the importance of "abetment" under Section 112(a) of the Customs Act, 1962, and establishes that abetment necessitates knowledge of the offending act.

In Rajeev Khatri, the Delhi High Court explicitly stated, "*The use of the expression 'abet' in Section 112(a) of the Customs Act, makes it implicit that the person charged, who is alleged to have abetted the acts of omission or commission, has knowledge and is aware of the said acts.*"

Applying this legal principle, there is no evidence to suggest that M/s. Freight Link Logistics possessed any knowledge of the alleged mis-declaration. The discrepancy, if any, was an unintentional error, lacking the requisite "mens rea" or mal intent on our part. The Rajeev Khatri case further clarifies a critical distinction: while mens rea may not be a prerequisite for imposing penalties on those directly involved in acts or omissions leading to confiscation, it is an indispensable element when imposing penalties on those accused of "abetting" such acts.

M/s. Freight Link Logistics's role, confined to the act of filing the Bill of Entry based on provided documents, does not equate to the level of involvement necessary to constitute abetment. We respectfully submit that the facts of our case align with the legal principles enunciated in the Rajeev Khatri case. The absence of evidence demonstrating active involvement or knowledge on our part precludes the imposition of penalties for abetment under Section 112(a) of the Customs Act.

(iii) M/s. Freight Link Logistics derived no benefit from the CTI discrepancy, and there is a complete lack of evidence to substantiate any collusion or intent to evade duty. Furthermore, the decision in Trinetra Impex Pvt. Ltd. [2020 (372) E.L.T. 332 (Del.)] reinforces this position. The Delhi High Court in this case emphasized that

when imposing penalties on a Customs House Agent (CHA), it is essential to establish mens rea or conscious knowledge. The court observed that if the CHA acted bona fide and merely facilitated imports based on the documents provided by the importer, penalties may not be warranted.

(iv) Allegation of Knowledge of Forged/Fabricated Bills of Lading"- The Noticee categorically deny this allegation. M/s. Freight Link Logistics operated under the presumption of good faith and had no reason to suspect that the documents provided by the Importer were anything but authentic. Customs Brokers are not forensic document examiners. Our responsibility lies in diligently processing the documents provided, and we fulfilled this responsibility to the best of our ability.

We undertook reasonable due diligence within the scope of our duties as Customs Brokers. The Rajeev Khatri case is highly relevant here. It clearly establishes that "abetment" requires knowledge of the wrongful act. There is a complete absence of evidence indicating that M/s. Freight Link Logistics had any knowledge of any forgery.

As highlighted in the Amritlakshmi Machine Works [2016 (335) E.LT. 225 (Bom.)] case, imposing penalties on a party for "abetment" necessitates demonstrating that the party acted with knowledge. The Bombay High Court cautioned against penalizing "innocent facilitation," which accurately describes M/s. Freight Link Logistics's actions.

(v) Allegation of Violation of Section 112 (a) and 112 (b) of the Customs Act, 1962:- Section 112 of the Customs Act, 1962, pertains to penalties for the "improper importation of goods." M/s. Freight Link Logistics, in our capacity as Customs Brokers, did not "import" the goods. Our role was limited to facilitating the legal clearance of goods on behalf of the importer. To reiterate, Section 112(a) applies to those who "do or omit 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". M/s. Freight Link Logistics did not engage in any act or omission that would render the goods liable for confiscation under Section 111. Our actions were confined to the accurate filing of documents based on the information provided to us.

The Rajeev Khatri case provides the governing legal principles for interpreting "abetment" under Section 112(a). It unequivocally establishes that abetment requires knowledge of the wrongful act.

The Delhi High Court in Rajeev Khatri articulated, "It is apparent from the above that the knowledge of a wrongful act of omission or commission, which rendered the goods liable for confiscation under Section 111 of the Customs Act, is a necessary element for the offence of abetting the doing of such an act."

There is a complete lack of evidence to suggest that M/s. Freight Link Logistics had the requisite knowledge of any mis-declaration or fraudulent intent.

Consequently, the charge of abetment under Section 112(a) is legally unsustainable.

Section 112(b) is similarly inapplicable to our case. This section penalizes those who "acquire possession of or are in any way concerned in carrying, removing, depositing, harboring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111", M/s. Freight Link Logistics, as Customs Brokers, did not engage in any of these activities. Our role was strictly limited to the facilitation of legal clearance, and we had no control over

the physical possession or disposal of the goods.

Therefore, the imposition of penalties under Section 112(a) and 112(b) is legally untenable and factually unjustified. Furthermore, the decision in *Trinetra Impex Pvt. Ltd.* [2020 (372) E.L.T. 332 (Del.)] is highly persuasive. The Delhi High Court in this case clearly stated that for imposing penalties under Section 112(a), especially on an abettor like a CHA, mens rea or conscious knowledge must be demonstrated. In our case, there is no such demonstration.

(vi) Due Diligence and Good Faith:- M/s. Freight Link Logistics possesses an impeccable record of compliance and ethical conduct. We have consistently invested in rigorous training for our staff and implemented robust internal control procedures to ensure the highest standards of accuracy and compliance in all our customs clearance operations. We acted in complete good faith, relying on the information and documents provided by the Importer. The alleged discrepancy was wholly unintentional and devoid of any motive for duty evasion.

For the detailed legal and factual reasons articulated above, M/s. Freight Link Logistics respectfully submits that the allegations in the Show Cause Notice are wholly unfounded and lack any legal or factual basis. We have consistently acted with diligence, integrity, and in full compliance with all applicable regulations.

The Noticee implore the Customs Authorities to carefully consider our response, acknowledge the pertinent legal principles established in the cited case law, and drop the proposed penalties.

**10.5 Sh. Dhirendra Shukla alias Sonu Shukla filed his written submission dated 13.06.2025.** In the defence submission the noticee No. 5 has stated/contended that:-

“in our preliminary submissions, as Shri Dhirendra Shukla, a law-abiding citizen who has consistently conducted all business activities within the bounds of the law and who has extended full cooperation to the investigating authorities by providing all requested information and documentation. The Noticee emphatically maintain that their innocence and assert that they have not engaged in any action that could be construed as evasion of customs duty or mis-declaration of goods; the allegations presented within the Show Cause Notice (SCN), they contend, arise from a fundamental misunderstanding of the factual matrix and a misinterpretation of his role in the specific import transactions under scrutiny. Furthermore, the noticee preliminary objections grounded in the violation of natural justice, specifically the conspicuous absence of any statement recorded from the Noticee under Section 108 of the Customs Act, 1962, a blatant disregard for the sacrosanct principle of audi alteram partem which dictates that no individual should be condemned without being heard, a deficiency that severely prejudices our ability to mount a comprehensive defense, as the recorded statements of other parties, while noted, cannot serve as a substitute for the Noticee’s own direct account, particularly when the allegations are specifically directed towards the Noticee; additionally, we object to the lack of any discernible evidence or establishment of a clear and direct causal link between the alleged mis-declaration or undervaluation and any specific actions or discernible intentions attributable to the importer, rendering the charges within the SCN as seemingly speculative and devoid of the tangible connection required to impute wrongdoing to the Importer, emphasizing the legal maxim “Ei incumbit probatio qui dicit, non qui

negat”, placing the onus of proof squarely upon the department to substantiate its assertions rather than requiring the Importer to disprove them; finally, we object to the non-applicability of the charges levied, as critically, none of the individuals whose statements were recorded under Section 108 have implicated the noticee in any manner concerning the specific charges articulated within the SCN, further underscoring the absence of a foundational basis for the accusations against the Importer, reinforcing the legal principle of “Actori incumbit onus probandi”, where the burden of proof rests upon the Customs authorities, acting as the ‘plaintiff’ in this context, to convincingly substantiate their claims. Turning to the specific allegations, while acknowledging a discrepancy between the declared Customs Tariff Heading (CTH) and the test result in a single Bill of Entry, we highlight that in the remaining three Bills of Entry, the goods conformed to the declared CTH, a fact that significantly undermines any assertion of a consistent and deliberate attempt to mis-declare; lastly, regarding the proposed confiscation of goods, we emphasize that no specific role or action has been attributed to the Noticee in the alleged acts that purportedly led to the proposed confiscation, and there exists no evidence to suggest the Noticee’s direct involvement or mens rea in any act warranting confiscation under Section 111 of the Customs Act, 1962, as confiscation is a severe penalty that cannot be imposed vicariously without establishing direct involvement or a guilty intention on the part of the Noticee”.

## **B. PENALTY UNDER 112(a) NOT IMPOSABLE.**

Section 112 reads as:

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, harboring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111, shall be liable,

The penalty under 112(a) is imposable upon a person only if the person in relation to any goods, does or omits to do an act which would render the goods liable for confiscation. In the present case the investigation has not figured out any such role by the Noticee for which goods are liable for confiscation.

The penalty under 112 is imposable upon a person only if the **person in relation to any goods**, does or omits to do an act which would render the goods liable for confiscation. Thus, imposition of this penalty requires the identification of a person who has actively engaged in or neglected to perform an action that would result in the confiscation of goods. In this present case, the investigation has failed to uncover any such involvement by the noticee that would warrant the confiscation of goods.

**B.1** It is submitted by the Noticee that the purported misclassification did not result in any benefit accruing to them. **Moreover, the SCN (SCN) is devoid of any averments substantiating a claim that the Noticee derived benefit from the said misdeclaration.** Not even an iota of evidence of the involvement of the Noticee was brought on record. The full Bench of Hon’ble Bombay High Court in case of - **AMRITLAKSHMI MACHINE WORK Vs. COMMR (Import)**,



**2016 (335) ELT 225 (Bom.),** Held that for imposition of penalty in respect of the cases falling under Section 112(a) of the Act, 'mens-rea' may not be required to be proved as condition precedent, however when it comes to imposition of the penalty on an abettor, it is necessary to show that the said essential element/ingredient is present therefore no penalty can be imposed on Noticee under Section 112(a) of the Customs Act, 1962.

## **B.2. Mens Rea**

The fundamental principle of law dictates that a penalty cannot be imposed on a co-noticee without establishing mens rea (guilty mind) mens rea is a crucial element that must be conclusively proven before any punitive action can be taken. The department failed to make any specific findings regarding the existence of mens rea. **No evidence has been presented to demonstrate any intentional wrongdoing or criminal intent.** The order lacks proper examination and analysis of the material element required for imposing penalties, which are:

### a) Financial Benefit:

The SCN fails to demonstrate how the Noticee derived any benefit from the alleged misdeclaration No monetary advantage or gain has been established or quantified

### b) Testimonial Evidence:

No statement from the importer exists that implicates the Noticee in any wrong doing The Noticee has made no admission or statement accepting culpability in fact no statement of the noticee is recorded. No corroborative evidence links the Noticee to the allegation made in SCN. The SCN is conspicuously silent on the aspect of criminal intent. Documents fail to establish the essential elements required for penalty imposition

In the absence of established mens rea, any penalty imposed would be legally untenable. The lack of evidence regarding criminal intent makes the penalty proceedings fundamentally flawed.

## **B.3 Abetment.**

The SCN charges the noticee of Abatement, without having either any investigation or any finding by the department as to how the noticee abated with Shri Vipin Gupta. The SCN fails to provide any evidence of the Noticee's active **involvement**, a crucial element for establishing abetment.

**B.3.1** Abetment, a serious offense, necessitates specific actions, such as instigating, conspiring, or intentionally aiding another person in committing a crime. Mere awareness or presence at the scene of a crime is insufficient to establish abetment. Active participation or encouragement, coupled with a guilty mind or mens rea, is essential. This mens rea involves intentional facilitation, knowledge of potential consequences, and conscious involvement in the criminal act.

The SCN failed to establish the necessary mens rea or guilty intent. There is no evidence of active participation, direct benefit derived, or any supporting witness testimony or circumstantial evidence presented in the SCN. The burden of proof lies with the department, who must prove all elements of the offense.

While dealing with the meaning and scope of the word abetment qua section 112(a) of the Customs Act in detail, the Hon'ble High Court Delhi in Custom Appeal no. CUSAA 3/2021 in case of **RAJEEV KHATRI VERSUS**

**COMMISSIONER OF CUSTOMS (EXPORT) held that** in the context of Section 112(a) of the Customs Act, by definition, the expression ‘abet’ means instigating, conspiring, intentionally aiding the acts of commission or omission that render the goods liable for confiscation.

The question of law before the Hon’ble Court was

“Whether, given the finding that no case of connivance is made out by the appellant and he had no knowledge of the import of prohibited goods, penalty under Section 112(a) of the Customs Act for abetting their illegal import of prohibited goods, can be imposed on the appellant?”

The Hon’ble Court observed:

31. The use of the expression ‘abet’ in Section 112(a) of the Customs Act, makes it implicit that the person charged, who is alleged to have abetted the acts of omission or commission, has knowledge and is aware of the said acts. A plain meaning of the word ‘abet’ means instigation, aid, encouragement of an offence [**Simpson, J. A., & C., W. E. S. (1989). The oxford English dictionary (2nd ed., Vol. 1). Clarendon Press.**]. It necessarily involves the knowledge that the act being abetted is wrong.

32. The Black’s Law Dictionary [**“Abet.” Black’s Law Dictionary, 10th Edition, edited by Bryan A. Garner, 10th ed., West, 2014, pp. 4–4.**] defines the expression ‘abet’ as under:

“1. To aid, encourage, or assist (someone), esp. in the commission of a crime.

2. To support (a crime) by active assistance.”

33. In **Queen v Coney & Ors. (1882) 8 Q.B.D. 534**: the Court for Crowned Cases Reserved held as under:

“To constitute an aider or abettor, some active steps must be taken, by word or action, with intent to instigate the principal or principals. Encouragement does not, or necessity, amount to aiding and abetting. It may be intentional or unintentional. A man may unwittingly encourage another in fact by his presence, by misinterpreted gestures, or by his silence or non-interference – or he may encourage intentionally by expressions, gestures, or actions, intended to signify approval. In the latter case, he aids and abets; in the former he does not. It is no criminal offence to stand by a mere passive spectator of a crime, even of a murder. Noninterference to prevent a crime is not itself a crime. But the fact that a person was voluntarily and purposely present witnessing the commission of a crime, and offered no opposition to it, though he might reasonably be expected to present it, and had the power so to do or at least to express his dissent, might, under some circumstances, afford cogent evidence upon which a jury would be justified in finding that he wilfully encouraged, and so aided and abetted. But it would be purely a question for the jury whether he did so or not.”

34. Section 3(1) of the General Clauses Act, 1897 expressly provides that the expression ‘abet’<sup>1</sup> would have the same meaning as in the Indian Penal Code, 1860 (hereafter ‘the IPC’).

35. Section 107 of the IPC explains the meaning of the expression ‘abetment of a thing’. The said Section of the IPC reads as under:

**“107. Abetment of a thing.** —A person abets the doing of a thing, who—

**First.** —Instigates any person to do that thing; or

**Secondly.** —Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

**Thirdly.** —Intentionally aids, by any act or illegal omission, the doing of that thing.

**Explanation 1.** —A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

**Illustration** A, a public officer, is authorised by a warrant from a Court of Justice to apprehend Z, B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

**Explanation 2.** —Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.”

36. Thus, in the context of Section 112(a) of the Customs Act, by definition, the expression ‘abet’ means instigating, conspiring, intentionally aiding the acts of commission or omission that render the goods liable for confiscation.

(underline supplied)

The Hon’ble Delhi High Court specifically **observed that mere knowledge is not sufficient but the intention, conspiracy is must for abetment.** In the present case there is no evidence that Noticee’s had the knowledge.

(bold supplied)

Further in case of HIM LOGISTICS PVT. LTD. Versus COMMISSIONER OF CUSTOMS, NEW DELHI reported in 2016 (340) E.L.T. 388 (Tri. - Del.) the Hon’ble Court held;

“From the impugned order, it appears that the original authority has levelled the penalty only on the ground that the appellant has failed to exercise due diligence to ascertain the correctness of the information as regards the correct classification of the goods being imported by his client. The appellant is mainly a CHA and the issue of classification is of complex nature. It cannot be said that the CHA should have information that the goods were ‘Food Supplements’ and not ‘Medicaments’. It is for the Customs Department to classify the goods. Under these circumstances, the levy of the penalty is not justified. By following the earlier decision of the Tribunal dated 28-4-2016, we find no reason to sustain the penalty and, therefore, set aside the impugned order. The appeal stands disposed of accordingly.”

The Noticee additionally cite the following precedents in support of their

contention

-2021 (377) E.L.T. 615 (Tri. - Chan.) M.S. EXIM SERVICES Versus C.C., LUDHIANA

-2018 (363) E.L.T. 644 (Tri. - Bang.)

N.S. MAHESH Versus COMMISSIONER OF CUSTOMS, COCHIN

-2017 (4) TMI 601 - CESTAT NEW DELHI

BRIJESH INTERNATIONAL Versus COMM. OF CUS. (IMPORT & GENERAL), NEW DELHI

**C.** Section 112(b) deals with acquires possession of or is in any way concerned in carrying, removing, depositing, harboring, keeping, concealing, selling or purchasing, with a prior knowledge that goods are liable for confiscation. The showcase notice fails to allege any allegation on the noticee that he has prior knowledge or intimation that goods are liable for confiscation. Section 112(b) deals with acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, with a prior knowledge that goods are liable for confiscation. The noticee is nowhere related to a position of carrying or removing or depositing etc. as prescribed in section 112(b) of custom Act 1962.

The noticee is a co noticee and main noticee being importer/exporter. The absence of any allegation regarding the co-noticee's benefit conclusively demonstrates the lack of mens rea, a critical element for imposing a penalty. In simpler terms, without evidence of the co-noticee's intent or knowledge of wrongdoing, a penalty cannot be justified

#### **D. Penalty under section 114AA of the Customs act 1962.**

**D.1** The show cause also proposes for imposition of Penalty under Section 114AA of Customs Act 1962 - of Customs Act 1962, which reads as;

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.

With respect to the present matter, the Noticee affirms that they possessed neither knowledge nor intention with regard to the purported misdeclaration. It is further submitted that no false or incorrect information was furnished by the Noticee. It is noteworthy that the SCN is devoid of any investigative details or explicit articulation of the grounds upon which an alleged violation of Section 114AA of the Customs Act 1962 is predicated

**D.2** The penalty under 114AA can be imposed only in the cases of Exports The provision of penalty under section 114AA was brought as a measure to curb the fraudulent exports which were in the paper only without physically exporting the goods. As the fraudsters were taking benefit of export-based incentive only on the basis of forged documents of exports where goods were not physically present. In order to avoid this modus operandi where only forged documents are presented, the provisions of section 114AA was brought in on the basis of Twenty Seventh Report Standing Committee On Finance (2005-2006) (Fourteenth Lok Sabha) The Taxation Laws(Amendment) Bill, 2005. The relevant paras read as:

62. Clause 24 of the Bill reads as follows: After section 114A of the Customs Act, the following section shall be inserted, namely:— “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.”

63. The information furnished by the Ministry states as follows on the proposed provision: “Section 114 provides for penalty for improper exportation of goods. However, there have been instances where export was on paper only and no goods had ever crossed the border. Such serious manipulators could escape penal action even when no goods were actually exported. The lacuna has an added dimension because of various export incentive schemes. To provide for penalty in such cases of false and incorrect declaration of material particulars and for giving false statements, declarations, etc. for the purpose of transaction of business under the Customs Act, it is proposed to provide expressly the power to levy penalty up to 5 times the value of goods. A new section 114 AA is proposed to be inserted after section 114A.” 25

64. It was inter-alia expressed before the Committee by the representatives of trade that the proposed provisions were very harsh, which might lead to harassment of industries, by way of summoning an importer to give a ‘false statement’ etc. Questioned on these concerns, the Ministry in their reply stated as under: “The enhanced penalty provision has been proposed considering the serious frauds being committed as no goods are being exported but papers are being created for availing the benefits under various export promotion schemes. The apprehension that an importer can be summoned under section 108 to give a statement that the declaration of value made at the time of import was false etc., is misplaced because person summoned under Section 108 are required to state the truth upon any subject respecting which they are being examined and to produce such documents and other things as may be required in the inquiry. No person summoned under Section 108 can be coerced into stating that which is not corroborated by the documentary and other evidence in an offence case.”

65. The Ministry also informed as under: “The new Section 114AA has been proposed consequent to the detection of several cases of fraudulent exports where the exports were shown only on paper and no goods crossed the Indian border. The enhanced penalty provision has been proposed considering the serious frauds being committed as no goods are being exported, but papers are being created for availing the number of benefits under various export promotion schemes.” 66. The Committee observe that owing to the increased instances of wilful fraudulent usage of export promotion schemes, the provision for levying of penalty upto five times the value of goods has been proposed. The proposal appears to be in the right direction as the offences involve criminal intent which cannot be treated at par with other instances of evasion of duty. The Committee, however, advise the Government to monitor the implementation of the provision with due diligence and care so as to ensure that it does not result in undue harassment.

Present case pertains to imports and and therefore penalty under Section 114AA cannot be imposed.

The Noticee relies upon following decisions

- 2019 (4) TMI 37 - CESTAT Chennai

Shri. M.A. Dhandapani, Managing Director Of M/S. Onkyo Sight & Sound India Pvt. Ltd., Chennai Versus Commissioner of Customs, Custom House, Chennai

-2018 (7) TMI 867 - CESTAT Chennai

Commissioner of Customs, Sea, Chennai Versus M/S. Sri Krishna Sounds and Lightings

-022 (11) TMI 108 - CESTAT Mumbai

M/S Food World And M/S Authentic Stuff General Versus Commissioner of Customs (Preventive), Mumbai

**D.3.** The Noticee emphatically submits that they have not engaged in any activity whatsoever pertaining to forgery or any similar illicit practices. Consequently, given their complete absence of involvement in such activities, the imposition of a penalty under Section 114AA of the Customs Act, 1962, is unwarranted and legally unsustainable. The foundational premise for invoking Section 114AA, which pertains to acts of forgery or the use of false and incorrect documents, is entirely absent in the present case with respect to the Noticee.

**10.6 Sh. Krishna Nand Shahi filed his written submission dated 13.06.2025.** In the defence submission, the noticee No. 6 has stated/contended that:-

#### 1. Preliminary Submissions

1.1 I, Shri Krishna Nand Shahi, hereby assert, with the utmost emphasis, that the allegations levelled against me in the Show Cause Notice are wholly unfounded, unsupported by credible evidence, and represent a fundamental mischaracterization of my role and actions. I categorically deny any involvement in any activity aimed at evading customs duties or violating any provisions of the Customs Act, 1962.

1.2 I maintain that the Show Cause Notice presents a distorted and incomplete portrayal of the events in question, unfairly attributing culpability to me without a proper and nuanced understanding of the complex dynamics of the import transactions, the division of responsibilities among the various parties involved, and the inherent limitations of my designated role.

1.3 I affirm my unwavering commitment to cooperating fully and transparently with the authorities in this matter. I am prepared to provide all necessary clarifications, documentation, and any other form of assistance that may be required to establish my innocence and demonstrate that I have acted in a professional, ethical, and legally compliant manner throughout the transactions under scrutiny.

#### 2. Response to Specific Allegations

##### 2.1 Allegation of Being an Accomplice to the Importer and the Customs Broker

The Show Cause Notice alleges that I, Shri Krishna Nand Shahi, acted as an "accomplice" to the importer, M/s. Tapisserie Homes Private Limited, and the Customs Broker in providing false information and documentation to the Customs authorities, thereby facilitating the evasion of customs duties.

I emphatically deny this allegation, which I contend is a gross misrepresentation of my actual role and responsibilities. My involvement in the

import transactions was strictly limited to facilitating the logistical and operational aspects of the clearance process, and I operated solely under the instructions and on behalf of M/s. SRL Shipping.

My primary responsibilities encompassed coordinating the physical movement of goods, assisting with the preparation and submission of necessary documentation, and acting as a liaison between M/s. SRL Shipping and the Customs officials for the purpose of facilitating examinations, inspections, and the overall clearance of the consignments.

I reiterate that I did not possess the authority, the expertise, or the mandate to make determinations regarding the absolute classification or accurate valuation of the imported goods. These are highly specialized areas that fall squarely within the purview of the importer and officers of Customs the Customs Broker. To characterize my actions as those of an "accomplice" is a severe and unwarranted exaggeration that fundamentally distorts the nature of my duties and responsibilities. It ignores the clear division of labour in the import process and unfairly imputes a level of culpability that is entirely unjustified.

## 2.2 Allegation of Involvement in Preparing/Procuring/Supplying Forged/Fabricated Documents

The Show Cause Notice further alleges that I, Shri Krishna Nand Shahi, was actively involved in the preparation, procurement, or supply of forged or fabricated documents, including Bills of Lading, Commercial Invoices, and Packing Lists, with the intention of deceiving the Customs authorities and facilitating the illicit clearance of goods.

I vehemently and unequivocally deny this allegation, which I consider to be a grave and defamatory accusation. I categorically assert that I did not, at any time, prepare, procure, or supply any forged or fabricated documents. The documents that I handled in the course of my duties were provided to M/s. SRL Shipping by the importer or their authorized representatives. I had no reason or basis to doubt the authenticity or accuracy of these documents at the time of handling them.

It is crucial to emphasize that it is not within my responsibility or capacity to conduct a forensic-level examination or in-depth audit of every document to independently verify its accuracy and authenticity. I acted in good faith, relying on the documents provided to me by the parties involved in the transaction.

If, in retrospect, any of the documents were found to be inaccurate, altered, or forged, I was completely unaware of it. I did not participate in, collude with, or have any prior knowledge of any such activities. Attributing such actions to me is a gross injustice and a complete disregard for the facts of the matter.

## 2.3 Allegation of Deceiving Customs Authorities and Managing Faster and Hassle-Free Clearances

The Show Cause Notice also alleges that I, Shri Krishna Nand Shahi, engaged in activities aimed at deceiving the Customs authorities, manipulating the self-assessment process, improperly influencing the Risk Management System (RMS) to secure green channel clearances, and managing faster and "hassle-free" clearances through illicit means.

I categorically deny this allegation, which is a baseless and unsubstantiated attempt to tarnish my professional reputation and integrity. My interactions with Customs authorities were consistently professional, transparent, and in

strict adherence to established procedures and regulations.

I facilitated the clearance of goods in a diligent and efficient manner, but always within the boundaries of the law and without resorting to any illicit or improper practices.

It is essential to clarify that the Risk Management System (RMS) is an automated system implemented by the Customs authorities to facilitate trade while maintaining effective control. The selection of consignments for the green channel is determined by the system's pre-programmed algorithms and risk parameters, and not by any individual's intervention or manipulation.

My role was to expedite the logistical flow of the clearance process and ensure the timely movement of goods, but this was always done within the framework of the law and in accordance with the prescribed procedures. Any suggestion that I engaged in illicit activities to secure "faster and hassle-free" clearances is a gross misrepresentation of my actions and a complete distortion of the truth.

### 3. Comprehensive Clarification of My Role and Responsibilities

3.1 To provide a comprehensive and unambiguous understanding of my involvement in the import transactions, it is crucial to delineate my specific roles and responsibilities with utmost clarity:

**Logistical Coordination:** My primary responsibility was to coordinate the physical movement of goods from the port or point of entry to the importer's designated premises. This involved arranging transportation, liaising with stevedores and transporters, and ensuring the smooth and efficient flow of cargo.

**Documentation Assistance:** I provided assistance in the preparation and submission of necessary documentation, including but not limited to, shipping documents, delivery orders, and other related paperwork. However, I acted solely as a facilitator, and the ultimate responsibility for the accuracy and completeness of the documentation rested with the importer and the Customs Broker.

**Customs Liaison:** I served as a liaison between M/s. SRL Shipping and the Customs officials, facilitating communication, responding to queries, and assisting with procedural formalities such as examinations, inspections, and other regulatory requirements. However, my interactions were always professional and transparent, and I did not engage in any activities aimed at influencing or obstructing the Customs process.

3.2 It is equally important to emphasize what my role did not include, in order to dispel any misconceptions or misinterpretations:

**Classification of Goods:** I did not possess the technical expertise or the authority to determine the correct classification of imported goods, particularly those involving complex technical specifications or specialized knowledge (e.g., textiles, chemicals, machinery). This is a highly specialized area that requires expert knowledge and often necessitates laboratory analysis or consultation with technical experts.

**Valuation of Goods:** I was not responsible for ascertaining or verifying the accuracy of the declared value of the imported goods.

**Authenticity Verification Beyond Reasonableness:** I was not required or expected to conduct an exhaustive and forensic-level investigation into the genuineness and authenticity of every document or representation made by the importer or other parties involved in the transaction, absent clear and



compelling indications of fraud or wrongdoing.

3.3 The Show Cause Notice incorrectly assumes that I had a far broader role and wielded significantly greater authority than I actually possessed. It unfairly seeks to hold me accountable for actions and omissions that were clearly beyond my control, outside the defined scope of my responsibilities, and not in accordance with the established division of labor in the import process.

#### 4. Unequivocal Assertion of Absence of Intent to Evade Duty

4.1 I unequivocally and emphatically assert that I had absolutely no intention, direct or indirect, to participate in any scheme or activity aimed at evading customs duty. My actions throughout the transactions in question were motivated solely by a desire to perform my assigned duties in an efficient, diligent, and professional manner, in full compliance with all applicable laws and regulations.

4.2 There is a complete and utter absence of any credible evidence to suggest that I personally benefited, either financially or otherwise, from any alleged misdeclaration or undervaluation of the imported goods. My compensation was determined solely by my designated role and responsibilities within M/s. SRL Shipping, and it was in no way contingent upon the value, classification, or duty payable on the imported consignments.

4.3 It is inherently illogical and implausible to assume that I would deliberately risk my professional career, my personal reputation, and my legal standing by engaging in illegal or unethical activities for a marginal or non-existent personal gain. Such an assumption is not only unfounded but also deeply offensive to my integrity and professional ethics.

#### 5. Reinforced and Emphatic Request for a Personal Hearing

5.1 I respectfully and emphatically reiterate my request for the opportunity to appear in person for a personal hearing before the adjudicating authority. This is not merely a procedural formality but a fundamental right that I wish to exercise to ensure that my perspective is fully and accurately considered.

5.2 A personal hearing is of paramount importance in this case, as it will provide me with the platform to:

Elaborate on my submissions in a comprehensive and detailed manner.

Address any specific questions or concerns that the adjudicating authority may have.

Present any additional evidence or documentation that may be required to further substantiate my claims.

Ensure that the principles of natural justice are upheld, and that a fair, impartial, and reasoned decision is reached based on a complete and accurate understanding of the facts.

5.3 I firmly believe that a personal hearing is indispensable to ensure that justice is served and that I am not unfairly penalized based on misinterpretations or incomplete information.

#### 6. Comprehensive and Resolute Conclusion

6.1 In conclusion, I, Shri Krishna Nand Shahi, assert with the utmost conviction and clarity that the allegations contained in the Show Cause Notice are wholly unsubstantiated, devoid of any credible evidence, and based on a fundamental misunderstanding and misrepresentation of my role,

responsibilities, and actions.

6.2 I have consistently acted with the utmost honesty, diligence, and professionalism, and I have strictly adhered to the scope of my assigned duties and the applicable legal and regulatory framework.

6.3 I respectfully and earnestly urge the Additional/Joint Commissioner of Customs to carefully and objectively consider my submissions, appreciate the inherent limitations of my role in the import process, and exonerate me from all charges, recognizing that I have acted in good faith and without any intention to violate customs laws or regulations.

6.4 I reiterate my unwavering commitment to upholding the highest standards of professional conduct and my readiness to cooperate fully and transparently with the authorities in any further inquiry, confident that a fair and impartial examination of the evidence will unequivocally establish my innocence.

**10.7 Sh. Sanatan Jha filed his written submission dated 13.06.2025.** In the defence submission, the noticee No. 7 has stated/contended that:-

**A. Penalty under 112(a)&112(b)**

A.1 As per the show cause notice, the allegations against the noticee are as under

**8.7 Role of Shri Sanatan Jha :**

During the course of investigation, it was revealed by Shri Sanatan Jha that M/s. SRL Shipping used to send all the related documents of import consignments in respect of importer M/s. Tapisserie Homes Private Limited through mail id - import.srl@gmail.com to mail id - sjlogisticsgdm@gmail.com who in turn used to forward to mail id srvshipping@gmail.com of M/s. SRV Shipping for further documentation and filing of the Bills of Entry pertaining to consignments of M/s Tapisserie Homes Private Limited. Also, it was revealed that Shri Krishna Nand Shahi was actively involved in handling the work related to examination, getting out of charge from customs as well as handling loading/unloading and logistics of the import consignment. Shri Sanatan Jha had previously worked with M/s SRV Shipping (Customs Broker) and was very well aware of the Customs procedure. He was also aware that no other person except the authorized employees of Customs Broker is allowed to handle examination and clearance of imported cargo. Despite knowing the same, the same was being handled by unauthorized persons. Shri Sanatan Jha had not provided any supportive claim i.e. e-mail correspondences etc. evidencing that he used to get approval of importer before filing of Bill of Entry.

**A.2** As a co-noticee, the imposition of a penalty under Section 112 is contingent upon the fulfilment of two critical conditions: first, it must be unequivocally established that the actions of the Noticee directly resulted in the goods becoming liable for confiscation; and second, the presence of mens rea, or a guilty intention, with respect to such activity must be conclusively demonstrated.

The entirety of the department's case rests fundamentally upon the alleged misdeclaration of the description of the imported goods in relation to their Central Tariff Item (CTI) classification. However, the investigation conducted has failed to adduce even a scintilla of evidence to suggest, let alone establish, that the Noticee possessed any awareness whatsoever of this alleged misdeclaration or had any form of participation, direct or indirect, in bringing

about such alleged misdeclaration. Furthermore, with respect to the alleged manipulation of the Bill of Lading, the investigation has similarly yielded no evidence implicating the Noticee in any manner. Notably, the Noticee's own statement, duly recorded under the provisions of Section 108 of the Customs Act, 1962, along with the statements of other co-noticees also recorded during the course of the investigation, are conspicuously devoid of any indication or admission that the Noticee engaged in any activity, overt or covert, related to the alleged misdeclaration of the goods. In essence, the investigative findings, including the testimonial evidence gathered, provide no basis to connect the Noticee to the central allegation of misdeclaration that forms the sole foundation of the department's case.

### **A.3 PENALTY UNDER 112(a) NOT IMPOSABLE.**

Section 112 reads as:

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, harboring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111, shall be liable,

**A.4** The penalty under 112 is imposable upon a person only if the **person in relation to any goods**, does or omits to do an act which would render the goods liable for confiscation. Thus, imposition of this penalty requires the identification of a person who has actively engaged in or neglected to perform an action that would result in the confiscation of goods. In this present case, the investigation has failed to uncover any such involvement by the noticee that would warrant the confiscation of goods.

Noticee says that the purported misclassification did not result in any benefit accruing to them. **Moreover, the SCN is devoid of any averments substantiating a claim that the Noticee derived benefit from the said misdeclaration.** Not even an iota of evidence of the involvement of the Noticee was brought on record. The full Bench of Hon'ble Bombay High Court in case of - **AMRITLAKSHMI MACHINE WORK Vs. COMMR (Import), 2016 (335) ELT 225 (Bom.)**,Held that for imposition of penalty in respect of the cases falling under Section 112(a) of the Act, 'mens-rea' may not be required to be proved as condition precedent, however when it comes to imposition of the penalty on an abettor, it is necessary to show that the said essential element/ingredient is present therefore no penalty can be imposed on Noticee under Section 112(a) of the Customs Act, 1962.

#### **A.4.1. Mens Rea**

The fundamental principle of law dictates that a penalty cannot be imposed on a co-noticee without establishing mens rea (guilty mind) mens rea is a crucial element that must be conclusively proven before any punitive action can be taken. The department failed to make any specific findings regarding the existence of mens rea. **No evidence has been presented to demonstrate any intentional wrongdoing or criminal intent.** The order lacks proper examination and analysis of the material element required for imposing

penalties, which are:

a) Financial Benefit:

The SCN fails to demonstrate how the Noticee derived any benefit from the alleged misdeclaration. No monetary advantage or gain has been established or quantified.

b) Testimonial Evidence:

No statement from the importer exists that implicates the Noticee in any wrong doing. The Noticee has made no admission or statement accepting culpability. In fact, no statement of the noticee is recorded. No corroborative evidence links the Noticee to the allegation made in SCN. The SCN is conspicuously silent on the aspect of criminal intent. Documents fail to establish the essential elements required for penalty imposition.

In the absence of established mens rea, any penalty imposed would be legally untenable. The lack of evidence regarding criminal intent makes the penalty proceedings fundamentally flawed.

#### **A.4.2 Abetment.**

The SCN charges the noticee of Abatement, without having either any investigation or any finding by the department as to how the noticee abated with Shri Vipin Gupta. The SCN fails to provide any evidence of the Noticee's active **involvement**, a crucial element for establishing abetment.

**A.4.3** Abetment, a serious offense, necessitates specific actions, such as instigating, conspiring, or intentionally aiding another person in committing a crime. Mere awareness or presence at the scene of a crime is insufficient to establish abetment. Active participation or encouragement, coupled with a guilty mind or mens rea, is essential. This mens rea involves intentional facilitation, knowledge of potential consequences, and conscious involvement in the criminal act.

The SCN failed to establish the necessary mens rea or guilty intent. There is no evidence of active participation, direct benefit derived, or any supporting witness testimony or circumstantial evidence presented in the SCN. The burden of proof lies with the department, who must prove all elements of the offense.

While dealing with the meaning and scope of the word abetment under section 112(a) of the Customs Act in detail, the Hon'ble High Court Delhi in Custom Appeal no. CUSAA 3/2021 in case of **RAJEEV KHATRI VERSUS COMMISSIONER OF CUSTOMS (EXPORT)** held that in the context of Section 112(a) of the Customs Act, by definition, the expression 'abet' means instigating, conspiring, intentionally aiding the acts of commission or omission that render the goods liable for confiscation.

The question of law before the Hon'ble Court was

"Whether, given the finding that no case of connivance is made out by the appellant and he had no knowledge of the import of prohibited goods, penalty under Section 112(a) of the Customs Act for abetting their illegal import of prohibited goods, can be imposed on the appellant?"

The Hon'ble Court observed:

31. The use of the expression 'abet' in Section 112(a) of the Customs Act, makes it implicit that the person charged, who is alleged to have abetted the acts of omission or commission, has knowledge and is aware of the

said acts. A plain meaning of the word 'abet' means instigation, aid, encouragement of an offence [Simpson, J. A., & C., W. E. S. (1989). **The oxford English dictionary** (2nd ed., Vol. 1). Clarendon Press.]. It necessarily involves the knowledge that the act being abetted is wrong.

32. The Black's Law Dictionary [**"Abet."** **Black's Law Dictionary, 10th Edition, edited by Bryan A. Garner, 10th ed., West, 2014, pp. 4-4.**] defines the expression 'abet' as under:

"1. To aid, encourage, or assist (someone), esp. in the commission of a crime.

2. To support (a crime) by active assistance."

33. In **Queen v Coney & Ors. (1882) 8 Q.B.D. 534**: the Court for Crowned Cases Reserved held as under:

"To constitute an aider or abettor, some active steps must be taken, by word or action, with intent to instigate the principal or principals. Encouragement does not, or necessity, amount to aiding and abetting. It may be intentional or unintentional. A man may unwittingly encourage another in fact by his presence, by misinterpreted gestures, or by his silence or non-interference – or he may encourage intentionally by expressions, gestures, or actions, intended to signify approval. In the latter case, he aids and abets; in the former he does not. It is no criminal offence to stand by a mere passive spectator of a crime, even of a murder. Noninterference to prevent a crime is not itself a crime. But the fact that a person was voluntarily and purposely present witnessing the commission of a crime, and offered no opposition to it, though he might reasonably be expected to present it, and had the power so to do or at least to express his dissent, might, under some circumstances, afford cogent evidence upon which a jury would be justified in finding that he wilfully encouraged, and so aided and abetted. But it would be purely a question for the jury whether he did so or not."

34. Section 3(1) of the General Clauses Act, 1897 expressly provides that the expression 'abet'<sup>1</sup> would have the same meaning as in the Indian Penal Code, 1860 (hereafter 'the IPC').

35. Section 107 of the IPC explains the meaning of the expression 'abetment of a thing'. The said Section of the IPC reads as under:

**"107. Abetment of a thing.** —A person abets the doing of a thing, who—

**First.** —Instigates any person to do that thing; or

**Secondly.** —Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

**Thirdly.** —Intentionally aids, by any act or illegal omission, the doing of that thing.

**Explanation 1.** —A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a

thing to be done, is said to instigate the doing of that thing.

**Illustration** A, a public officer, is authorised by a warrant from a Court of Justice to apprehend Z, B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

**Explanation 2.** —Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.”

36. Thus, in the context of Section 112(a) of the Customs Act, by definition, the expression ‘abet’ means instigating, conspiring, intentionally aiding the acts of commission or omission that render the goods liable for confiscation.

(underline supplied)

The Hon’ble Delhi High Court specifically **observed that mere knowledge is not sufficient but the intention, conspiracy is must for abetment.** In the present case there is no evidence that Noticee’s had the knowledge.

(bold supplied)

Further in case of HIM LOGISTICS PVT. LTD. Versus COMMISSIONER OF CUSTOMS, NEW DELHI reported in 2016 (340) E.L.T. 388 (Tri. - Del.) the Hon’ble Court held;

“From the impugned order, it appears that the original authority has levelled the penalty only on the ground that the appellant has failed to exercise due diligence to ascertain the correctness of the information as regards the correct classification of the goods being imported by his client. The appellant is mainly a CHA and the issue of classification is of complex nature. It cannot be said that the CHA should have information that the goods were ‘Food Supplements’ and not ‘Medicaments’. It is for the Customs Department to classify the goods. Under these circumstances, the levy of the penalty is not justified. By following the earlier decision of the Tribunal dated 28-4-2016, we find no reason to sustain the penalty and, therefore, set aside the impugned order. The appeal stands disposed of accordingly.”

The Noticee additionally cite the following precedents in support of their contention

-2021 (377) E.L.T. 615 (Tri. - Chan.)

M.S. EXIM SERVICES Versus C.C., LUDHIANA

-2018 (363) E.L.T. 644 (Tri. - Bang.)

N.S. MAHESH Versus COMMISSIONER OF CUSTOMS, COCHIN

-2017 (4) TMI 601 - CESTAT NEW DELHI

BRIJESH INTERNATIONAL Versus COMM. OF CUS. (IMPORT & GENERAL), NEW DELHI

**A.6** Section 112(b) deals with acquires possession of or is in any way concerned in carrying, removing, depositing, harboring, keeping, concealing, selling or purchasing, with a prior knowledge that goods are liable for

confiscation .The showcase notice fails to allege any allegation on the noticee that he has prior knowledge or intimation that goods are liable for confiscation. Section 112(b) deals with acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, with a prior knowledge that goods are liable for confiscation. The noticee is nowhere related to a position of carrying or removing or depositing etc. as prescribed in section 112(b) of custom Act 1962.

The noticee is a co noticee and main noticee being importer/exporter. The absence of any allegation regarding the co-noticee's benefit conclusively demonstrates the lack of mens rea, a critical element for imposing a penalty. In simpler terms, without evidence of the co-noticee's intent or knowledge of wrongdoing, a penalty cannot be justified

#### **E. Penalty under section 114AA of the Customs act 1962.**

E.1 The show cause also proposes for imposition of Penalty under Section 114AA of Customs Act 1962 - of Customs Act 1962, which reads as;

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.

With respect to the present matter, the Noticee affirms that they possessed neither knowledge nor intention with regard to the purported misdeclaration. It is further submitted that no false or incorrect information was furnished by the Noticee. It is noteworthy that the SCN is devoid of any investigative details or explicit articulation of the grounds upon which an alleged violation of Section 114AA of the Customs Act 1962 is predicated

**E.2** The penalty under 114AA can be imposed only in the cases of Exports The provision of penalty under sec The show cause also proposes for imposition of Penalty under Section 114AA of Customs Act 1962 - of Customs Act 1962, which reads as;

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.

With respect to the present matter, the Noticee affirms that they possessed neither knowledge nor intention with regard to the purported misdeclaration. It is further submitted that no false or incorrect information was furnished by the Noticee. It is noteworthy that the SCN is devoid of any investigative details or explicit articulation of the grounds upon which an alleged violation of Section 114AA of the Customs Act 1962 is predicated

Section 114AA of Customs act 1962 was brought as a measure to curb the fraudulent exports which were in the paper only without physically exporting the goods. As the fraudsters were taking benefit of export-based incentive only on the basis of forged documents of exports where goods were not physically present. In order to avoid this modus operandi where only forged documents are presented, the provisions of section 114AA was brought in on the basis of Twenty Seventh Report Standing Committee On Finance (2005-

2006) (Fourteenth Lok Sabha) The Taxation Laws(Amendment) Bill, 2005. The relevant paras read as:

62. Clause 24 of the Bill reads as follows: After section 114A of the Customs Act, the following section shall be inserted, namely:— “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.”

63. The information furnished by the Ministry states as follows on the proposed provision: “Section 114 provides for penalty for improper exportation of goods. However, there have been instances where export was on paper only and no goods had ever crossed the border. Such serious manipulators could escape penal action even when no goods were actually exported. The lacuna has an added dimension because of various export incentive schemes. To provide for penalty in such cases of false and incorrect declaration of material particulars and for giving false statements, declarations, etc. for the purpose of transaction of business under the Customs Act, it is proposed to provide expressly the power to levy penalty up to 5 times the value of goods. A new section 114 AA is proposed to be inserted after section 114A.” 25

64. It was inter-alia expressed before the Committee by the representatives of trade that the proposed provisions were very harsh, which might lead to harassment of industries, by way of summoning an importer to give a ‘false statement’ etc. Questioned on these concerns, the Ministry in their reply stated as under: “The enhanced penalty provision has been proposed considering the serious frauds being committed as no goods are being exported but papers are being created for availing the benefits under various export promotion schemes. The apprehension that an importer can be summoned under section 108 to give a statement that the declaration of value made at the time of import was false etc., is misplaced because person summoned under Section 108 are required to state the truth upon any subject respecting which they are being examined and to produce such documents and other things as may be required in the inquiry. No person summoned under Section 108 can be coerced into stating that which is not corroborated by the documentary and other evidence in an offence case.”

65. The Ministry also informed as under: “The new Section 114AA has been proposed consequent to the detection of several cases of fraudulent exports where the exports were shown only on paper and no goods crossed the Indian border. The enhanced penalty provision has been proposed considering the serious frauds being committed as no goods are being exported, but papers are being created for availing the number of benefits under various export promotion schemes.” 66. The Committee observe that owing to the increased instances of wilful fraudulent usage of export promotion schemes, the provision for levying of penalty upto five times the value of goods has been proposed. The proposal appears to be in the right direction as the offences involve criminal intent which cannot be treated at par with other instances of evasion of duty. The Committee, however, advise the Government to monitor the implementation of the provision with due diligence and care so as to ensure that it does not result in undue harassment. Present



case pertains to imports and and therefore penalty under Section 114AA cannot be imposed. The Noticee relies upon following decisions

- 2019 (4) TMI 37 - CESTAT Chennai

Shri. M.A. Dhandapani, Managing Director Of M/S. Onkyo Sight & Sound India Pvt. Ltd., Chennai Versus Commissioner of Customs, Custom House, Chennai

-2018 (7) TMI 867 - CESTAT Chennai

Commissioner of Customs, Sea, Chennai Versus M/S. Sri Krishna Sounds and Lightings

-022 (11) TMI 108 - CESTAT Mumbai

M/S Food World And M/S Authentic Stuff General Versus Commissioner of Customs (Preventive), Mumbai

**E.** The Noticee emphatically submits that they have not engaged in any activity whatsoever pertaining to forgery or any similar illicit practices. Consequently, given their complete absence of involvement in such activities, the imposition of a penalty under Section 114AA of the Customs Act, 1962, is unwarranted and legally unsustainable. The foundational premise for invoking Section 114AA, which pertains to acts of forgery or the use of false and incorrect documents, is entirely absent in the present case with respect to the Noticee.

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### **PERSONAL HEARING**

**11.** “Audi alteram partem” is an essential principle of natural justice that dictates to hear the other side before passing any order. Therefore, the opportunity to be heard in person was granted to the noticee(s) to appear for a personal hearing (i.e. PH) in virtual mode on 18.06.2025.

**11.1.** Sh. Rajkumar Maji, Advocate authorized representative of the Noticee and all co-noticees attended the virtual PH and re-iterated their written submission and contested the enhancement of value as per Chartered Engineer’s Report. Further. Sh. Maji requested for re-export of the goods covered under the said SCN and lenient view while imposing fine and penalties on the basis of their respective submissions.

### **DISCUSSION AND FINDINGS**

**12.** I have carefully gone through the records of the case, the documents relied upon, the defense submissions, the arguments made by the noticee(s) during the personal hearing, and the applicable legal provisions. I find that in the present case the principle of natural justice as provided in Section 122A of the Customs Act, 1962 have been complied with and therefore, I proceed to decide the case on the basis of written submissions and documentary evidences available on record.

**13.** In the instant case, I find that the following main issues are required to be decided at the stage of adjudication:

- i. Whether the declared description of import goods declared as “Pile Fabrics” under CTH ‘60011020’ in Bill of Entry No. 5656835 dated 18.09.2024, should be rejected as per Column No. (10 & 11) of Table E and re-classified under CTH ‘60019200’ as per Column No. (7) of Table F having declared assessable value Rs. 17,51,429/- (CIF);

- ii. Since the goods mentioned in subject import consignment covered under Bill of Entry No. 5656835 dated 18.09.2024 found mis declared in respect of value thereof, therefore the declared assessable value Rs. 17,51,429/- (CIF) as per Column No. (14) of Table E should be rejected and re-determined as Rs. 1,49,60,125/- as per Column No. (9) of Table F under Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, or otherwise;
- iii. Whether the goods covered under Bill of Entry No. 5656835 dated 18.09.2024 having declared assessable value Rs. 17,51,429/- (CIF) should be confiscated under Section 111(m) and 111 (f) of the Customs Act, 1962 or otherwise;
- iv. Since the quantity found mis-declared, the total value declared in Bills of Entry No. 5902231 dated 01.10.2024, 5901128 dated 01.10.2024 and 6223557 dated 19.10.2024 as Rs. 47,46,343/- as per Column No. (14) of Table E should be rejected and re determined/re-assessed as Rs. 2,38,48,701/- as per Column No. (9) of Table F under Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, or otherwise;
- v. Whether the goods covered under Bills of Entry No. 5902231 dated 01.10.2024 and 5901128 dated 01.10.2024 and 6223557 dated 19.10.2024 having total declared assessable value of Rs. 47,46,343/- (CIF) should be confiscated under Section 111(m) and 111 (f) of the Customs Act, 1962 or otherwise;
- vi. Whether penalty should be imposed on the noticees under Section 112 (a), Section 112(b), Section 114AA and Section 117 of the Customs Act, 1962 as proposed in the impugned Notice;

**14.** I find that M/s Tapisserie Homes Private Limited filed four Bills of Entry as mentioned in Table-A above. During investigation it was noticed that different CTH were declared by the respective shipping lines while filing IGM in respect of import consignments as mentioned in Table-B above and accordingly the copies of Bill of Ladings were called for and it was found that corresponding Bills of Lading contained that CTHs as '6001 9200/6001 1020'. However, during examination, the concerned CBs i.e M/s SRV Shipping and M/s Freight Link Logistics had produced copies of Bills of Lading containing the different CTH declared as '6001 1020/6001 9200' and same CTHs were declared while filing corresponding Bills of Entry.

**15.** I find that investigation was initiated by DRI with respect to live consignments (as mentioned in Table-A above) pending for clearance at Mundra Custom House. I find that Bill of Entry at Sr. No. 1 of Table-A hereinabove, was examined under panchnama dated 12.11.2024 drawn at M/s. Seabird Marine Services (Gujarat) Pvt. Ltd, Sr. No. 2 & 4 of Table-A hereinabove, were examined under panchnama dated 18.10.2024 and 07.11.2024 respectively drawn at Container Freight Station of M/s Saurashtra Freight Pvt. Ltd., Mundra Sr. No. 3 of Table-A hereinabove, were examined under panchnama dated 09.11.2024 drawn at M/s. Landmark CFS (P) Ltd. I find that different CTH were declared by the respective shipping lines while filing of IGM in respect of import consignments as mentioned in Table-B above and accordingly the copies of Bills of Lading were called for and it was found that corresponding Bills of Lading contains the CTH as "60019200/60011020" and same CTH was declared while filing of IGM. Further, I find that during the examination of the said import consignments by DRI, the concerned CHAs i.e. M/s. SRV Shipping and M/s.

Freight Link Logistics have produced copies of Bills of Lading containing the different CTH declared as "60011020/60019200" and same CTH was declared while filing corresponding Bills of Entry in respect of Bill of Entry at Sr. No. 1 & 4 of Table-B hereinabove.

**16.** Further, I find that in order to verify the composition, and other aspects investigating agency i.e DRI, GRU drew RSS vide Test Memo No. 474-484/2024, and 488-494/2024 all dated. 09.12.2024. The test reports were received against the said Test Memos vide letter dated 12.12.2024, 01.01.2025, 10.01.2025 and 17.01.2025.

On analyzing the test reports, it came to notice that goods imported vide Bill of Entry mentioned at Sr. No. 01 of Table-A were mis-declared in terms of description, CTH etc. On perusal of the test reports, it appeared that the declared description and classification are liable to be rejected.

Further, it was also noticed that goods mentioned at Sr No. 02, 03 and 04 of Table-A above were mis-declared in terms of quantity. Further, the goods imported vide Bill of Entry mentioned at Sr No. 04 of Table-A were found to be mis-declared in Bill of Lading/IGM. Therefore, the goods covered under four Bills of Entry were placed under Seizure under Section 110 (1) vide Memo dated. 15.01.2025 and 19.02.2025.

**17.** I find on perusal of the test reports issued by the CRCL, Kandla, it has come to notice that goods covered under all four Bills of Entry were mis-declared in terms of description, CTH, quantity etc. by the importer. Further, it is also observed that the goods were mis-declared in the Bills of Lading/IGM Entries and forged/fabricated Bills of Lading were submitted before Customs during assessment as well as during examination of the import goods by DRI in r/o B/E No. 5656835 dated. 18.09.2025 and 6223557 dated. 19.10.2024.

I find that the goods covered under BE No. 5656835 dated. 18.09.2024 were declared as 'PILE FABRIC' under CTH 6001 1020, however, the result of the test report confirms the description of the goods as 'POLYESTER KNITTED DYED BONDED FABRIC HAVING CUT PILE ON ONE SIDE' and the same are classifiable under CTH 6001 9200 instead of 6001 1020. Therefore, the goods under the said BE has been found mis-declared in terms of description and classification.

**18.** I find that the goods covered under BE No. 5902231 dated. 01.10.2024, 5901128 dated. 01.10.2024 and 6223557 dated. 19.10.2024 were declared as '**POLYESTER KNITTED CUT PILE FABRIC**' under CTH 6001 9200, however, the result of the test report confirms the description of the goods as '**POLYESTER KNITTED DYED BONDED FABRIC HAVING CUT PILE ON ONE SIDE**' in respect of BE No. 5902231 dated. 01.10.2024, 5901128 dated. 01.10.2024 and description of the BE No. 6223557 dated. 19.10.2024 has been found as '**POLYESTER KNITTED DYED BONDED FABRIC HAVING CUT PILE PU COATED ON ONE SIDE**'. Therefore, the goods under the said Bills of Entry have been found mis-declared in terms of description and classification.

**19.** From the investigation carried out, I also find that the concerned shipping lines M/s. Parekh Marine Services Pvt. Ltd. submitted the copy of Bill of Lading SNKO03K240800974 dated 24-08-2024 wherein declared CTH is mentioned as "60019200" and description was mentioned as "Fabrics"; however same Bill of Lading but with different CTH declared as "60011020" which was digitally signed on 17.09.2024 by Shri Rajesh Kumar Jain, Partner of M/s. SRV Shipping and was submitted to Customs and uploaded in systems by the CHA while filing of Bill of Entry No. 5656835 dated 18-09-2024 (Sr. No. 1 of Table-B

above) for assessment as well as during examination of the import goods by DRI. Further, the shipping line - M/s. Multiport Cargo Logistics Private Limited also submitted the copy of Bill of Lading No. YSNBF24090559 dated 17-09-2024 wherein declared CTH is mentioned as "60011020" and description was mentioned as "Fabrics", however same Bill of Lading with different CTH declared as "60019200" was submitted by CHA before Customs while filing of Bill of Entry No. 6223557 dated 19-10-2024 (Sr. No. 4 of Table-B above) for assessment as well as during examination of the import goods by DRI.

## **20. VALUATION**

**20.1** I find that for the Bills of Entry mentioned at Sr. No. 1 in Table C, the actual goods covered under the import consignments of M/s Tapisserie Homes Private Limited was different from the declared one. For the Bills of Entry as mentioned in at Sr. No. 2, 3 & 4 in Table C, the goods differed in quantity. Hence, the value declared in the Bills of Entry cannot be considered as true assessable value when the nature of goods declared in the Bills of Entry and Bills of Lading are itself wrong. Hence the declared value of the consignment is liable to be rejected as per Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

**20.2.** I find that the value declared by the importer in the corresponding Bill of Entry and invoices did not appear to be the true transaction value under the provisions of Section 14 of the Customs Act, 1962 read with the provisions of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and thus the same are liable to be rejected in terms of Rule 12 of CVR, 2007. The value is required to be re-determined by sequentially proceeding in terms of **Rules 4 to 9 of CVR, 2007.**

**20.3** Further, I find as per Rule 3(4) & 12(1) of CVR, 2007, if the value cannot be determined under the provisions of sub-rule (1), the value of the imported goods is required to be determined by proceeding sequentially through Rule 4 to 9 of the CVR, 2007. From the plain reading of Rule 4, it is evident that the said Rule provides for the determination of transaction value of the imported goods by comparing the declared value with the contemporaneous imports 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. I find that the importer has declared an assessable value of ₹64,97,772/- in respect of the four Bills of Entry viz. No. 5656835 dated 18.09.2024, 5902231 dated 01.10.2024, 5901128 dated 01.10.2024 and 6223557 dated 19.10.2024. The importer, in their bills of entry, had mentioned description of goods as pile Fabric and Polyester knitted cut pile fabric. The value of the fabric depends upon their constituents, width, thickness, GSM finish, design etc. It was only after testing/examination, the actual type of fabric were known. During examination different types of fabrics were found in the containers and the lab tests confirmed that the fabrics so found had different constituents in terms of description, CTH etc. therefore, it is not feasible to identify the identical goods imported by the other importers during contemporaneous time for comparing the value declared by the other importers vis a vis value declared by the instant importer. Since data of import of identical goods is not available hence value of the goods cannot be determined using Rule 4 of Customs Valuation Rules 2007. Subsequently Rule 5 of Customs Valuation Rules 2007 is to be applied to arrive at the correct value of the subject consignment.

**20.4** Further, I find that Rule 5 of the CVR 2007 provides for the determination of the transaction value of the imported goods by comparing the declared transaction value of the similar goods imported by other importer(s) at or around the same time and goods which can be considered as similar goods are specified in Rule 2(f) of the CVR, 2007. Subsequently Rule 5 of Customs Valuation Rules 2007 is to be applied to arrive at the correct value of the subject consignment.

I find that the subject import consignments have been imported from China by M/s Tapisserie Homes Private Limited. As appeared from contemporary data of import of the said fabrics, it is noticed that some importers have imported similar type of fabric having similar thickness, description, nature etc. during the month of August 2024 to October 2024 vide Bills of Entry filed at Indian ports/Air Cargo Centers with one such example as Bill of Entry No. 5993605 dated 07.10.2024 filed at INSBI6. On going through the details available, relevant unit price has been taken and considering the quantity found during examination of goods covered under all 04 (Four) Bills of Entry No. 5656835 dated 18.09.2024, 5902231 dated 01.10.2024, 5901128 dated 01.10.2024 and 6223557 dated 19.10.2024, Table E & F has been prepared which shows the amount of duty intended to be evaded through mis-declaration. The said Table E & F contains declared value and new ascertained value on the basis of contemporary imports. Therefore, the importer M/s Tapisserie Homes Private Limited have deliberately mis-declared the assessable value of the subject 04 consignments as **Rs. 64,97,772/-** on which declared total customs duty comes to **Rs. 16,10,740/-** whereas considering the valuation based on contemporary imports, the appropriate assessable value comes to **Rs. 3,88,08,826/-** on which total customs duties comes to **Rs. 1,08,94,041/-**.

**20.5** In the view of the above discussion, I find that the declared transaction value of **Rs. 64,97,772/-** declared by the importer while filing the 04 Bills of Entry as mentioned in the Table-A above is liable to be rejected under Rule 12 of Customs Valuation Rules 2007. Since the declared value of the subject goods is liable to be rejected under Rule 12 of the Customs Valuation (Determination of value of imported goods) Rules, 2007, therefore, the same is required to be re-determined under Section 14 of the Customs Act, 1962 read with Rule 5 Customs Valuation (Determination of value of imported goods) Rules, 2007 as **Rs. 3,88,08,826/-**. The re-determined new value for individual Bill of Entry considering correct CTH and rate is also mentioned in Table- E & F mentioned above

## **21. Liability to Confiscation:**

**21.1** I find that that M/s. Tapisserie Homes Private Limited mis-declared the description and classification of the goods in their bills of entry. The quantity of various types of fabric actually found during examination was also different from those mentioned in the Bills of Entry. By resorting to this fraud, the importer also managed to declare very low value in the Bills of Entry and attempted to fraudulently evade the payment of applicable customs duty. On the basis of facts discussed above, I find that the assessable value of the 04 Bills of Entry has been declared as Rs. 64,97,772/-, whereas, the appropriate assessable value of the subject import consignments comes to Rs.

3,88,08,826/-During investigation, the appropriate value of the subject import consignments of M/s. Tapisserie Homes Private Limited covered under total 04 Bills of Entry comes to Rs. 3,88,08,826/-. Therefore, the declared assessable value of the goods as Rs. 64,97,772/- cannot be considered the actual transaction value for the subject import consignments. The same appeared to have grossly been mis-declared with clear intention of evasion of appropriate Customs duty applicable thereon.

21.2 Further, on analyzing the test reports, I find that the subject goods are not only mis-declared in respect of description of the goods but also mis-declared in respect of classification thereof. The declared classification and actual classification of the subject import consignment is mentioned under Table-C for Bills of Entry No. 5656835 dated 18.09.2024. Further, I also find that goods covered under Bill of Entry No. 5656835 dated 18.09.2024 mentioned at Serial No 1 of Table C, the importer had imported "Bonded Polyester Knitted Cut Pile Fabric" having CTH 60019200 by way of concealment and declared as "Pile Fabrics" with CTH declared as "60011020". Moreover, in case of Bills of Entry No. 6223557 dated 19.10.2024, which were filed by importer after initiation of investigation by DRI, CTH in Bills of Entry were deliberately changed against the CTH mentioned in the corresponding Bills of Lading. Further, investigation also revealed that for consignments covered under Bill of Entry No. 6223557 dated 19.10.2024 mentioned at Serial No 4 of Table C, the importer had imported "Bonded Polyester Knitted Cut Pile Fabric" having CTH 60019200 and also declared as "Polyester Knitted Cut Pile Fabrics" with CTH declared as "60019200" but concerned shipping line has submitted parallel BL with containing different CTH declared as "60011020".

21.3 It is apparent from the above that the importer has mis-declared the description, CTH and value in the import documents. Hence, I find that the goods covered under 04 Bills of Entry are actually classifiable under CTH mentioned in Column No. (07) of Table F instead of declared CTH and description as mentioned in Column No. (10) and Column No. (11) of Table-E having declared total assessable value Rs. 64,97,772/- and re-determined total amount as Rs. 3,88,08,826/-are liable for confiscation under Section 111(m) of the Customs Act, 1962.

21.4 In view of above, I find also find that in the IGM/Bills of lading for these consignments, the description of the goods was not correct. It is noticed that the importer had not mentioned the actual description of the goods in IGM/Bill of Lading in connivance with foreign supplier in order to hide the true nature of the fabric being imported. Hence, the subject goods are also liable for confiscation under Section 111(f) of the Customs Act.

## **22. Imposition of Redemption Fine**

As the impugned goods are found to be liable for confiscation under Section 111(f) and 111(m) of the Customs Act, 1962, I find that it is necessary to consider as to whether redemption fine under Section 125 of Customs Act, 1962, is liable to be imposed in lieu of confiscation in respect of the impugned goods as alleged vide subject SCN dated 22.03.2025. The Section 125 ibid reads as under: -

**"Section 125.** *Option to pay fine in lieu of confiscation.*-(1) *Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may,*

*in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods 1[or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit."*

A plain reading of the above provision shows that imposition of redemption fine is an option in lieu of confiscation. It provides for an opportunity to owner of confiscated goods for release of confiscated goods by paying redemption fine where there is no restriction on policy provision for domestic clearance. The importer through his authorized representative in personal hearing has requested for permission for re-export of the goods. I find that the Importer is involved in mis-declaration of goods in terms of quantity, description, CTH and valuation. However, the importer's request for re-export of the goods to the source destination can be considered on payment of redemption fine under section 125(1) of the customs act, 1962.

### **23. Imposition of penalty on Importer M/s Tapisserie Homes Private Limited:-**

**23.1** I find that after introduction of the Self-Assessment scheme, the onus is on the importer to comply with the various laws, determine his tax liability correctly and discharge the same. The importers are required to declare the correct description, value, classification, notification number, if any, and themselves assess the Customs duty leviable, if any, on the imported goods. Thus, with the introduction of the self-assessment it is an added and enhanced responsibility of the importer to declare the correct description, value, notifications etc., and to correctly classify, determine and pay the duty applicable in respect of the imported goods. The importer is squarely responsible for Self-Assessment of duty on imported goods and for filing all declarations and related documents and confirming these are true, correct and complete. Self-Assessment can result in assured facilitation for compliant importers. However, delinquent importers would face penal action on account of wrong Self-Assessment made with intent to evade duty or avoid compliance of conditions of notifications, Foreign Trade Policy or any other provision under the Customs Act, 1962 or the Allied Acts.

**23.2.** As per sub-section (4) of Section 46 of the Customs Act, 1962, 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. However, I find that the importer in the instant case has failed to fulfil its obligation, suppressed correct information in respect to the classification of the goods, has given mis-statements and, thus, contravened provisions of the Customs Act, 1962 and thereby he is liable to be penalized under Custom Act, 1962.

**23.3.** From the investigations carried out, I find that the importer, **M/s Tapisserie Homes Private Limited** imported goods and intentionally **mis-declared** the same in the Bills of Entry (serial numbers 1 to 4 of Table-A). The importer **mis-declared the description, classification and value of the goods** in the import documents, in violation of the provisions of **Section 46 of the Customs Act, 1962**. In particular, the importer has violated the provisions of **Section 46(2)**. Furthermore, they have violated **Section 46(4A)**, as the **true**

**description, classification and valuation** of the imported goods were **not declared** in any of the 04 consignments.

**23.4** It is also evident that the importer **mis-declared the description, CTH, quantity and value** in the Bills of Entry, thereby rendering the goods covered under the said **04 Bills of Entry**, having a declared total assessable value of **Rs. 64,97,772/-**, and a **re-determined value of Rs. 3,88,08,826/-**, **liable for confiscation under Section 111(m)** of the Customs Act, 1962. Moreover, by **not mentioning the actual description of the goods** in the IGM/Bills of Lading in connivance with the foreign supplier in order to conceal the true nature of the goods, the importer has rendered the subject goods further **liable for confiscation under Section 111(f)** of the said Act.

**23.5** With regards to imposition of penalty under Section 112 of the Customs Act, 1962, I find that it is well settled that mens-rea is not required for invoking penalty in civil cases. Further mens-rea is not required to be proved for invocation of penalty under section 112(a). It has been held in case of Imperial Trading LLC V. CC (Import), Nhava-Sheva, 2005 (181) E L T 29 at Para 32 (Tri. Mumbai) that "*Mens rea is not a necessary ingredient for imposing a penalty under section 112(a)*".

**23.6** Further, I find that the noticee contended that penalty under Section 112(a) / 112(b) is not applicable since their acts have not rendered the goods liable for confiscation under Section 111.

**23.6.1** From the foregoing discussion, it is clearly established the ingredient of mens rea in their attempt to evade the Customs duty. Even though, I find that it is well settled law that in case of taxing statute, various penal provisions are in the nature of civil obligations and do not require any mens rea or wilful intention until and unless the relevant provision provides for the same. Hon'ble Supreme Court in the case of UOI vs Dharmendra Textile Processors - 2008 (231) ELT3 (SC) observed that mens rea is not essential ingredient in a civil liability. Further, the Apex Court in the case of Chairman, SEBI v. Shriram Mutual Fund [(2006) 5 S.C.C. 361] held as under:-

*"Mens rea is not an essential ingredient for contravention of the provisions of a civil Act. Unless the language of the statute indicates the need to establish the element of mens rea, it is generally sufficient to prove that a default in complying with the statute has occurred and it is wholly unnecessary to ascertain whether such a violation was intentional or not. The breach of a civil obligation which attracts a penalty under the provisions of an Act would immediately attract the levy of penalty irrespective of the fact whether the contravention was made by the defaulter with any guilty intention or not."*

**23.6.2** I find that Confiscation of goods in terms of Section 111(m) is invited when any goods which do not correspond in respect of value or in any other particular with the entry made under this Act. I find that the importer has mis-declared the imported goods in terms of description, CTH etc. in respect of Bill of Entry mentioned at Sr. No. 1 of Table-A hereinabove. Furthermore, in Bills of Entry mentioned at Sr. No. 2, 3 & 4 of Table-A hereinabove, the importer mis-declared in terms of quantity in order to evade the payment of Customs duty. Therefore, their omission or commission has rendered the impugned goods liable for confiscation. Penalty under Section 112 is corollary to confiscation under Section 111.

**23.7** In view of above discussion, I hold that M/s. Tapisserie Homes Private Limited, in connivance with their Custom House Agent deliberately mis-declared the description, classification, quantity and value of the imported consignments



covered under the four Bills of Entry referred to above, with the clear intention of evading payment of applicable Customs duties. The mis-declaration of the description and classification of the goods as well as manipulation of the Bills of Lading constitutes wilful suppression of material facts and results in gross undervaluation of the goods. Accordingly, I find that omission and commission on part of M/s Tapisserie have rendered the goods liable for confiscation under Section 111(m) and Section 111(f) of the Customs Act, 1962.

In view of the above discussions, I find that the importer is **liable for penal action under Sections 112(a)(ii)** of the Customs Act, 1962.

**23.8** I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty on importer **M/s** Tapisserie Homes Private Limited under Section 112(b) of the Act wherever, penalty under Section 112(a) of the Customs Act, 1962, is to be imposed.

**23.9** In the instant case from the facts brought on record and the findings discussed hereinabove, I find that the concerned shipping lines M/s. Parekh Marine Services Pvt. Ltd. submitted the copy of Bill of Lading SNKO03K240800974 dated 24-08-2024 wherein declared CTH is mentioned as "60019200" and description was mentioned as "Fabrics"; however same Bill of Lading but with different CTH declared as "60011020" which was digitally signed on 17.09.2024 by Shri Rajesh Kumar Jain, Partner of M/s. SRV Shipping and was submitted to Customs and uploaded in systems by the CHA while filing of Bill of Entry No. 5656835 dated 18-09-2024 (Sr. No. 1 of Table-B above) for assessment as well as during examination of the import goods by DRI. Further, M/s. Multiport Cargo Logistics Private Limited also submitted the copy of Bills of Lading No. YSNBF24090559 dated 17-09-2024 wherein declared CTH is mentioned as "60011020" and description was mentioned as "Fabrics", however same Bill of Lading with different CTH declared as "60019200" was submitted by CHA before Customs while filing of Bill of Entry No. 6223557 dated 19-10-2024 for assessment as well as during examination of the import goods by DRI. Accordingly, I find that the importer M/s. Tapisserie Homes Private Limited (IEC: AAHCT3015C) has knowingly and wilfully mis-declared the description, classification and value of the subject import consignments with the clear intention of evading payment of applicable Customs duty. By manipulating and forging Bills of Lading in collusion with their customs broker and by filing import documents which were false and incorrect in material particulars. Accordingly, it is evident that **M / s** Tapisserie Homes Private Limited **knowingly and intentionally made, signed, used and/or caused to be made, signed or used** import documents and related papers that were **false or incorrect in material particulars** for the purpose of illegally importing the subject goods. Therefore, I find that importer is also liable for **penal action under Section 114AA** of the Customs Act, 1962.

## **24. Imposition of penalty on Customs Broker M/s SRV Shipping**

**24.1** The investigations discussed in the foregoing paragraphs reveal that M/s. SRV Shipping (Customs Broker, CB Code: **ADLFS0369JCH001**) was directly involved in the fabrication and uploading of forged Bills of Lading in the ICES system for the purpose of filing Bills of Entry relating to the subject import consignments. It is evident from the statements of the concerned shipping lines and the documentary evidence available on record that two different sets of Bills of Lading were available with M/s. SRV Shipping – the genuine set, issued by the shipping lines, bearing the correct description and classification (CTH

60019200), and the fabricated/altered set displaying a different CTH (60011020), which was uploaded and used by the Customs Broker at the time of filing Bill of Entry No. 5656835 dated 18-09-2024.

I find that the partner of M/s. SRV Shipping, Shri Rajesh Kumar Jain, had digitally signed and uploaded the said forged Bills of Lading in the ICES system, thereby certifying the correctness and authenticity of the information submitted to Customs. Further, the Customs Broker, despite being authorised only for obtaining Delivery Orders in respect of the consignments, had actively endorsed and submitted Bills of Lading without verifying the IGM details available on ICEGATE and knowingly assisted the importer in suppressing the correct classification and nature of the goods. This establishes their clear intention to abet the mis-declaration and facilitate evasion of Customs duties. In view of above, thus clearly shows the involvement and intention of the CHA to assist the importer in resultant concealment and mis-declaration in order to evade the applicable customs duty.

Further, the test reports from Customs House Laboratory, Kandla, have confirmed that the goods covered under the abovementioned Bill of Entry no. 5656835 dated 18.09.2024 were grossly mis-declared. By knowingly filing import documents containing false and incorrect particulars and by rendering themselves concerned in the mis-declaration of the description, classification and value of the goods, M/s. SRV Shipping has committed acts attracting penal liability under **Section 112(a)(ii)** of the Customs Act, 1962.

**24.2** I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty on importer M/s SRV Shipping under Section 112(b) of the Act whereever, penalty under Section 112(a) of the Customs Act, 1962, is to be imposed.

**24.3** Further, During the course of investigation, it was found that the concerned shipping lines M/s. Parekh Marine Services Pvt. Ltd. submitted the copy of Bill of Lading SNKO03K240800974 dated 24-08-2024 wherein declared CTH is mentioned as "60019200" and description was mentioned as "Fabrics"; however same Bill of Lading but with different CTH declared as "60011020" which was digitally signed on 17.09.2024 by Shri Rajesh Kumar Jain, Partner of M/s. SRV Shipping and was submitted to Customs and uploaded in systems by the CHA while filing of Bill of Entry No. 5656835 dated 18-09-2024 (Sr. No. 1 of Table-B above) for assessment as well as during examination of the import goods by DRI. From the above, I find that both the importer and customs broker were involved in forging/fabricating the Bills of Lading by not declaring the correct CTH and mis-declaring the CTH having low customs duty implications in order to evade applicable custom duties.

From the above facts, it is evident that M/s SRV Shipping was knowingly and intentionally involved in forging or altering import documents, including Bills of Lading, mis-declaring the Customs Tariff Heading (CTH) to benefit from lower customs duty, submitting such documents to Customs in the course of clearance to mislead authorities and evade lawful levies. Accordingly, I find that M/s SRV Shipping is liable for penalty under Section 114AA of the Customs Act, 1962, in addition to penalties already attracted under 112(a), for knowingly using false and incorrect documents in the course of Customs clearance.

## **25. Role of M/s DSR Logistics**

**25.1** The foregoing findings clearly bring out that M/s. DSR Logistics (Customs Broker, CB Code AANFD4685MCH001) knowingly assisted the importer in the mis-declaration of the goods covered under Bills of Entry No. 5902231 dated 01.10.2024 and 5901128 dated 01.10.2024. Even though these Bills of Entry were filed with the correct description and CTH after initiation of proceedings by the Directorate of Revenue Intelligence, the facts and circumstances clearly indicate that the Customs Broker was fully aware of the earlier manipulation and mis-declaration by way of forged/fabricated Bills of Lading, and only upon initiation of enquiry refrained from using those forged documents.

Further, I find that M/s. DSR Logistics did not exercise the due diligence expected of a licensed Customs Broker and had in fact allowed **M/s. Alpen Logistics** to use its Customs Broker license without any authority. They also failed to conduct proper KYC verification of the importer, as mandated under the Customs Brokers Licensing Regulations, 2018. These omissions and commissions clearly show that the Customs Broker had full knowledge of the irregularities and nevertheless facilitated the filing of the Bills of Entry and the clearance of the consignments, thereby abetting the attempt at evasion of Customs duty.

In view of the above, I hold that **M/s. DSR Logistics** was knowingly concerned in the mis-declaration of the description, classification and value of the goods and has thereby rendered itself liable to penalty under **Section 112(a)(ii)** of the Customs Act, 1962.

**25.2** I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty on importer M/s. DSR Logistics under Section 112(b) of the Act wherever, penalty under Section 112(a) of the Customs Act, 1962, is to be imposed.

## **26. Role of M/s Freight Link Logistics**

**26.1** I find that it has been clearly established that M/s. Freight Link Logistics (Customs Broker, CB Code: AEXPM7049ECH003) had knowingly facilitated and abetted the mis-declaration committed by the importer in respect of the subject consignments. Even after initiation of enquiry, the Customs Broker, in connivance with the importer, deliberately altered the classification of the goods in Bill of Entry No. 6223557 dated 19-10-2024 so as to reflect a CTH different from that declared in the corresponding Bill of Lading. Such deliberate alteration in the import declaration clearly indicates prior knowledge of the mis-declaration and conscious involvement in the falsification of import documents. I also find that the Customs Broker, despite being fully aware of the actual classification shown in the Bills of Lading, intentionally chose to declare a different CTH in the Bill of Entry, thereby facilitating the evasion of legitimate Customs duty. This clearly amounts to an act of abetment and renders the Customs Broker liable for penal action.

In view of the above facts and circumstances, I hold that M/s. Freight Link Logistics was knowingly concerned in the mis-declaration of the description, classification and value of the goods imported by M/s. Tapisserie Homes Private Limited. Accordingly, M/s Freight Link Logistics is liable to penalty under Section 112(a)(ii) of the Customs Act, 1962.

**26.2** I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty on importer M/s Freight Link Logistics under Section 112(b) of the Act wherever, penalty under Section 112(a) of the Customs Act, 1962, is to be imposed.

## **27. Role of Sh. Dharendra Shukla alias Sonu Shukla**

**27.1** I find that the investigation has clearly brought out that **Shri Dharendra Shukla alias Sonu Shukla**, one of the Directors of **M/s. SRL Shipping**, was directly involved in the preparation, procurement and supply of forged/fabricated import documents in respect of the consignments imported by **M/s. Tapisserie Homes Private Limited**. I find that M/s. SRL Shipping used to send all the related documents of import consignments in respect of importer M/s. Tapisserie Homes Private Limited through mail id import.srl@gmail.com to official mail id – sjlogistics@gmail.com of M/s. S J Logistics (Forwarder) who in turn used to forward to official mail id srvshipping@gmail.com of M/s. SRV Shipping for further documentation and filing of Bills of Entry. It has been revealed that he was working in active connivance with the importer as well as with the Customs Broker **M/s. SRV Shipping** and the overseas supplier/shipper. The evidence on record shows that forged Bills of Lading, Commercial Invoices and Packing Lists were prepared and arranged by him and routed through the mail chain between **M/s. SRL Shipping**, **M/s. S J Logistics** (Forwarder) and **M/s. SRV Shipping** for the purpose of filing Bills of Entry.

It is also evident from the recovered correspondence that **draft checklists** were prepared and exchanged among **M/s. SRL Shipping**, **M/s. S J Logistics** and **M/s. SRV Shipping** for final approval before filing of the respective Bills of Entry, which clearly establishes that **Shri Dharendra Shukla** was not only fully aware of the mis-declaration of the consignments but had also approved the same. Further, it has come on record that once such documents were finalized and approved, M/s. SRV Shipping filed the relevant Bills of Entry on the basis of such forged documentation. He was, therefore, not a passive or peripheral participant, but a key facilitator who actively assisted the importer in suppressing the true nature and classification of the goods and in availing the RMS green channel for faster clearance of the consignments at Mundra Port.

By knowingly preparing, supplying and using false and forged Bills of Lading and other import documents and by actively abetting the mis-declaration of the goods, **Shri Dharendra Shukla** has rendered the goods liable for confiscation and has thereby made himself liable to penalty under **Section 112(a)(ii)** of the Customs Act, 1962.

**27.2** I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty on importer Shri Dharendra Shukla under Section 112(b) of the Act wherever, penalty under Section 112(a) of the Customs Act, 1962, is to be imposed.

**27.3** It has also been revealed during the investigation that Shri Dharendra Shukla alias Sonu Shukla, knowingly and intentionally, made, signed, used and/or caused to be made, signed, or used import documents and related records that were false or incorrect in material particulars, with the

intention of facilitating the unauthorized and illegal import of the subject goods. Such actions were undertaken to misrepresent the true nature and ownership of the consignments, thereby violating the provisions of the Customs Act. Accordingly, by wilfully submitting or causing the submission of falsified documents in connection with the import of goods, Shri Dharendra Shukla alias Sonu Shukla has rendered himself liable for penal action under Section 114AA of the Customs Act, 1962, which provides for a penalty in cases where any person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document that is false or incorrect in any material particular in the transaction of any business relating to customs. Accordingly, I hold that Shri Dharendra Shukla is liable for penalty under section 114AA of the Customs Act, 1962 in addition to penalties already attracted under 112(a), for knowingly using false and incorrect documents in the course of Customs clearance.

## **28. Role of Shri Krishna Nand Shai alias Shri Krishna Shahi**

**28.1** I find that **Shri Krishna Nand Shai alias Shri Krishna Shahi**, associated with **M/s. SRL Shipping**, played a crucial role in the preparation, procurement and supply of forged/fabricated Bills of Lading, Commercial Invoices, Packing Lists and other import related documents in respect of the consignments imported by **M/s. Tapisserie Homes Private Limited**. The documentary evidence and correspondence recovered during the course of investigation establish that he acted in close coordination with the importer, the Customs Broker and the overseas shipper to intentionally mis-declare the description, classification and value of the subject consignments so as to facilitate evasion of Customs duty.

It has also been revealed that **draft checklists** containing the manipulated particulars of the consignments were prepared and exchanged between **M/s. SRL Shipping**, **M/s. S J Logistics** and **M/s. SRV Shipping** and that only after approval of such falsified checklist from **M/s. SRL Shipping/importer**, the Bills of Entry were filed. This clearly shows that Shri Krishna Shahi had full knowledge of the mis-declaration and actively abetted the same. Furthermore, the investigation has established that he was actively involved in the clearance of the consignments under the RMS green channel by misleading the Customs authorities and obtaining *Out-of-Charge* for the consignments without detection of the true nature of the goods.

By knowingly providing and using forged Bills of Lading and other import documents and by facilitating the submission of false declarations to Customs, **Shri Krishna Shahi** has rendered the goods liable to confiscation and thereby made himself liable to penalty under **Section 112(a)(ii)** of the Customs Act, 1962.

**28.2** I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty on Shri Krishna Shahi under Section 112(b) of the Act wherever, penalty under Section 112(a) of the Customs Act, 1962, is to be imposed.

**28.3** I find that Shri Krishna Shahi, knowingly and intentionally, made, signed, used and/or caused to be made, signed, or used import documents and related records that were false or incorrect in material particulars, with the intention of facilitating the unauthorized and illegal import of the subject goods.

Such actions were undertaken to misrepresent the true nature and ownership of the consignments, thereby violating the provisions of the Customs Act. Accordingly, by wilfully submitting or causing the submission of falsified documents in connection with the import of goods, Shri Krishna Shahi has rendered himself liable for penal action under Section 114AA of the Customs Act, 1962, which provides for a penalty in cases where any person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document that is false or incorrect in any material particular in the transaction of any business relating to customs. Accordingly, I hold that Shri Krishna Shahi is liable for penalty under section 114AA of the Customs Act, 1962 in addition to penalties already attracted under 112(a), for knowingly using false and incorrect documents in the course of Customs clearance.

## **29. Role of Shri Sanatan Jha**

**29.1** I find that **Shri Sanatan Jha** was actively associated with **M/s. SRL Shipping, M/s. S J Logistics** and **M/s. SRV Shipping** in the preparation and routing of forged/fabricated import documents relating to the consignments imported by **M/s. Tapisserie Homes Private Limited**. The evidence on record clearly shows that import related documents such as forged Bills of Lading, Commercial Invoices and Packing Lists were routinely transmitted through e-mail from the ID *import.srl@gmail.com* to *sjlogisticsgdm@gmail.com*, and subsequently to *srvshipping@gmail.com* for preparation and filing of the Bills of Entry. Further, investigation has revealed that **Shri Sanatan Jha**, who had previously been associated with **M/s. SRV Shipping** and was fully conversant with the Customs procedures, not only assisted in routing the forged/fabricated documents but also handled the physical customs clearance activities such as coordination of examination, obtaining *Out-of-Charge* and managing loading/unloading of the consignments – despite knowing very well that only authorized employees of a licensed Customs Broker are permitted to undertake such activities. Further, despite claiming that import documentation was sent only after approval of the importer, **Shri Sanatan Jha** has not produced any supporting e-mail correspondence or documentary evidence to substantiate his claim. This clearly indicates his conscious and wilful involvement in the preparation and use of forged documents and in the mis-declaration of the subject consignments with an intent to facilitate evasion of Customs duty.

By knowingly assisting the importer and the Customs Broker in the submission of false and forged import documents containing incorrect description and classification of the goods, **Shri Sanatan Jha** has abetted the mis-declaration and thereby rendered the goods liable to confiscation under the Customs Act. Accordingly, I hold that he is liable for penal action under **Section 112(a)(ii)** of the Customs Act, 1962.

**29.2** I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty on Shri Sanatan Jha under Section 112(b) of the Act wherever, penalty under Section 112(a) of the Customs Act, 1962, is to be imposed.

**29.3** I find that Shri Sanatan Jha, knowingly and intentionally, made, signed, used and/or caused to be made, signed, or used import documents and related records that were false or incorrect in material particulars, with the intention of facilitating the unauthorized and illegal import of the subject goods.

Such actions were undertaken to misrepresent the true nature and ownership of the consignments, thereby violating the provisions of the Customs Act. Accordingly, by wilfully submitting or causing the submission of falsified documents in connection with the import of goods, Shri Sanatan Jha has rendered himself liable for penal action under Section 114AA of the Customs Act, 1962, which provides for a penalty in cases where any person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document that is false or incorrect in any material particular in the transaction of any business relating to customs. Accordingly, I hold that Shri Sanatan Jha is liable for penalty under section 114AA of the Customs Act, 1962.

**29.4** I also find that Shri Sanatan Jha failed to produce any corroborative evidence of his claim regarding correspondence on e-mails from import.srl@gmail.com to srvshipping@gmail.com. His failure to comply with the statutory obligations and his acts of omission in this regard attract penal action under Section 117 of the Customs Act, 1962. Accordingly, I hold that Shri Sanatan Jha is liable for penalty under Section 117 of The Customs Act, 1962 also.

**30.** In view of above, I pass the following order:-

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**ORDER**  
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- i. I order to reject the declared description of import goods as "Pile Fabrics" under CTH '60011020' in Bill of Entry No. 5656835 dated 18.09.2024, as per Column No. (10 & 11) of Table-E to this Order and order to re-classify under CTH '60019200' as per Column No. (7) of Table-F to this order.
- ii. I order to reject the declared value of the goods mentioned in subject import consignment covered under Bill of Entry No. 5656835 dated 18.09.2024 as Rs. 17,51,429/- (CIF) (Rupees Seventeen Lakh Fifty One Thousand four hundred twenty nine only) as per Column No. (14) of Table-E and order to re-determine as Rs. 1,49,60,125/- (Rupees One Crore forty nine lakh sixty thousand one hundred twenty five Only) as per Column No. (9) of Table-F to this order under Rule 5 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.
- iii. I order to confiscate the goods covered under Bill of Entry No. 5656835 dated 18.09.2024 having declared value as Rs. 17,51,429/- and re-determined value as Rs. 1,49,60,125/- under Section 111(m) and 111 (f) of the Customs Act, 1962. However, as per the request of importer, I give an option to M/s Tapisserie Homes Private Limited to redeem the goods for re-export purpose only on payment of Rs. 14,00,000/- (Rupees Fourteen Lakh Only) as per the provisions of the Section 125 of the Customs Act, 1962. The re-export to be made within 120 days from the date of receipt of this order unless an appeal against this order is pending.
- iv. I order to reject the declared value of the goods mentioned in subject import consignment covered under Bills of Entry No. 5902231 dated 01.10.2024 as Rs. 13,03,060/-, 5901128 dated 01.10.2024 as Rs. 18,77,653/- and 6223557 dated 19.10.2024 as Rs. 15,65,630/- and order to re-determine the value as Rs. 1,15,95,719, Rs. 80,50,679 and Rs. 42,02,303/- respectively/- as per Column No. (9) of Table-F above to this order under Rule 5 of Customs

Valuation (Determination of Value of Imported Goods) Rules, 2007.

- v. I order to confiscate the goods covered under Bills of Entry No. 5902231 dated 01.10.2024 and 5901128 dated 01.10.2024 and 6223557 dated 19.10.2024 having declared assessable value of Rs. 47,46,343/- (Rupees Forty Seven Lakh forty six thousand three hundred forty three only) and re-determined assessable value of Rs. 2,38,48,701/- (Rupees Two Crore thirty eight lakh forty eight thousand seven hundred one only) under Section 111(m) and 111 (f) of the Customs Act, 1962. However, as per the request of importer, I give an option to M/s Tapisserie Homes Private Limited to redeem the goods for re-export purpose only on payment of Rs. 20,00,000/- (Rupees Twenty Lakh Only ).as per the provisions of the Section 125 of the Customs Act, 1962. The re-export to be made within 120 days from the date of receipt of this order unless an appeal against this order is pending.
- vi. I impose penalty of Rs. 6,00,000/- ( Rupees Six Lakh Only ) on M/s Tapisserie Homes Private Limited under Section 112 a (ii) of The Customs Act, 1962 in respect of all four Bills of Entry No. 5656835 dated 18-09-2024, 5902231 dated 01-10-2024, 5901128 dated 01-10-2024 and 6223557 dated 19-10-2024.
- vii. I impose penalty of Rs. 4,00,000/- (Rupees Four Lakh Only) on **M/s Tapisserie Homes Private Limited** under Section 114AA of The Customs Act, 1962 in respect of all four Bills of Entry No. 5656835 dated 18-09-2024, 5902231 dated 01-10-2024, 5901128 dated 01-10-2024 and 6223557 dated 19-10-2024.
- viii. I impose penalty of Rs. 1,00,000/- (Rupees One Lakh Only) on **M/s. SRV Shipping** under Section 112a(ii) of the Customs Act, 1962 in respect of Bill of Entry No. 5656835 dated 18-09-2024.
- ix. I impose penalty of Rs. 50,000/- (Rupees Fifty Thousand Only ) on **M/s. SRV Shipping** under Section 114AA of the Customs Act, 1962 in respect of Bill of Entry No. 5656835 dated 18-09-2024.
- x. I impose penalty of Rs. 2,00,000/- (Rupees Two Lakh Only ) on **M/s. DSR Logistics** under Section 112a(ii) of the Customs Act, 1962 in respect of Bills of Entry No. 5902231 dated 01-10-2024 and 5901128 dated 01-10-2024.
- xi. I impose penalty of Rs. 50,000/- (Rupees Fifty Thousand Only ) on **M/s. Freight Link Logistics** under Section 112 a(ii) of the Customs Act, 1962 in respect of Bill of Entry No. 6223557 dated 19-10-2024.
- xii. I impose penalty of Rs. 2,00,000/- (Rupees Two Lakh Only) on **Sh. Dharendra Shukla** alias Sonu Shukla under Section 112 a(ii) of the Customs Act, 1962 in respect of all four Bills of Entry mentioned in Table-F above.
- xiii. I impose penalty of Rs. 1,00,000/- (Rupees One Lakh Only) on **Sh. Dharendra Shukla** alias Sonu Shukla under Section 114AA of the Customs Act, 1962 in respect of all four Bills of Entry mentioned in Table-F above.
- xiv. I impose penalty of Rs. 2,00,000/- (Rupees Two Lakh Only) on **Sh. Krishna Nand Shahi** alias Krishna Shahi under Section 112 a(ii) of the Customs Act, 1962 in respect of all four Bills of Entry mentioned in Table-F above.
- xv. I impose penalty of Rs. 1,00,000/- (Rupees One Lakh Only) on **Sh. Krishna Nand Shahi** alias Krishna Shahi under Section 114AA of the Customs Act, 1962 in respect of all four Bills of Entry mentioned in Table-F above.
- xvi. I impose penalty of Rs. 1,00,000/- (Rupees One Lakh Only) on **Sh. Sanatan Jha** under Section 112 a (ii) of the Customs Act, 1962 in respect of all four Bills of Entry mentioned in Table-F above.
- xvii. I impose penalty of Rs. 1,00,000/- (Rupees One Lakh Only) on **Sh. Sanatan Jha** under Section 114AA of the Customs Act, 1962 in respect of all four Bills of Entry mentioned in Table-F above.



- xviii. I impose penalty of Rs. 50,000/- (Rupees Fifty Thousand Only ) on **Sh. Sanatan Jha** under Section 117 of the Customs Act, 1962 in respect of all four Bills of Entry mentioned in Table-F above.
- xix. I refrain from imposing penalty on M/s Tapisserie Homes Private Limited, M/s SRV Shipping, M/s. DSR Logistics, M/s. Freight Link Logistics, Shri Dharendra Shukla alias Sonu Shukla, Shri Krishna Nand Shahi alias Shri Krishna Shahi, Shri Sanatan Jha under Section 112(b) of the Customs Act, 1962

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

**32.** The Show Cause Notice issued vide F. No. GEN/ADJ/ADC/737/2025-Adjn. dated 21.03.2025 is hereby disposed off on above terms.

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**Zala Dipakbhai Chimanbhai**

**ADDITIONAL COMMISSIONER**

**ADC/JC-III-O/o Pr Commissioner-customs-mundra**

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**By Speed Post/Regd. Post/E-mail/Hand Delivery**

**To,**

1. M/s Tapisserie Homes Private Limited (IEC: AAHCT3015C), 482, Phase II, HSIIDC, Barhi Industrial, Sonipat, Haryana – 131101 (**email id:** purchase@tapisserie.co.in/accounts@tapisserie.co.in)
2. M/s SRV Shipping (Customs Broker), Bunglow No. 42, Navratan Dreams, Behind Club Holiday Resorts, Meghpar Borichi, Kachchh, Gujarat – 370110. (**email id:** srvshipping@gmail.com)
3. M/s. DSR Logistics (Customs Broker), Ward-7A, Plot No. 115/116, Gurukul Road, Gandhidham, Kutch, Gujarat – 370201. (**email-id:** dsrlogist@gmail.com)
4. M/s. Freight Link Logistics (Customs Broker), having address at Second Floor, office No. 8, Plot No. 69, Sector-9C, Gandhidham, Kachchh, Gujarat – 370201. (**email id:** freightlinkkandla@gmail.com)
5. Shri Dharendra Shukla alias Sonu Shukla having address as Flat No. 303, 3<sup>rd</sup> Floor, Sal Kutir CHS Ltd., Plot No. 184, Sector-17, Ulwe, Panvel, Raigarh, Maharashtra-410206 (**email :** **dhirendrakshukla7379@gmail.com**)
6. Shri Krishna Nand Shahi alias Shri Krishna Shahi having address as Pappu Arcade, Room No. 47, Baroi Road, Mundra – 370421 (**email :** **krishnanandshahi@gmail.com**)
7. Shri Sanatan Jha, having address as House No. 21, Bageshree Township-06, LS No. 476/1, Varsamedi, Anjar, Kutch, Gujarat-370110 (**email :** sjlogisticsgdm@gmail.com and sanatanjha87@gmail.com)

**Copy to:**

1. The Additional Director General, DRI, Ahmedabad
2. The Additional Director, Directorate of Revenue Intelligence, Regional Unit, Gandhidham (Kutch).
3. The Dy./Asstt. Commissioner (RRA/TRC), Customs House, Mundra.
4. The Dy./Asstt. Commissioner (EDI), Customs House, Mundra... *(with the direction to upload on the official website immediately).*
5. Guard File.