
	OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS CUSTOMS HOUSE, MP & SEZ MUNDRA, KUTCH-GUJARAT -370421 PHONE : 02838-271426/271428 FAX :02838-271425	
A FILE NO. फाइल संख्या	CUS/APR/INV/612/2025-Gr 2-O/o Pr Commr-Cus-Mundra	
B OIO NO. आदेश संख्या	MCH/ADC/ZDC/426/2025-26	
C PASSED BY जारीकर्ता	Dipak Zala, Additional Commissioner of Customs/अपर आयुक्त सीमा शुल्क, Custom House, Mundra/कस्टम हाउस, मुंद्रा।	
D DATE OF ORDER आदेश की तारीख	10.12.2025	
E DATE OF ISSUE जारी करने की तिथि	10.12.2025	
F SCN No. & Date कारण बताओ नोटिस क्रमांक	Waived.	
G NOTICEE/ PARTY/ IMPORTER नोटिसकर्ता/पार्टी/आयातक	M/s Aryavarta International (IEC: ABRFA4532D)	
H DIN/ दस्तावेज पहचान संख्या	20251271MO0000020697	

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

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

2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 129A(1) के अंतर्गत प्रपत्र सीए3-में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

Any person aggrieved by this Order - in - Original may file an appeal under Section 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

सीमा शुल्क आयुक्त (अपील),
 चौथी मंजिल, हुडको बिल्डिंग, ईश्वर भुवन रोड,
 नवरंगपुरा, अहमदाबाद-380 009
THE COMMISSIONER OF CUSTOMS (APPEALS),
4th Floor, HUDCO Building, Ishwar Bhuvan Road,
Navrangpura, Ahmedabad-380 009

3. उक्त अपील यह आदेश भेजने की दिनांक से तीन माह के भीतर दाखिल की जानी चाहिए।
Appeal shall be filed within three months from the date of communication of this order.
4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5 -/रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए -
Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must accompanied by –
5. उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मदसं-6 के तहत निर्धारित 0.50 पैसे की एक न्यायालय शुल्क स्टाम्प वहन करना चाहिए।
The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paise only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.
6. अपील ज्ञापन के साथ ड्यूटी/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।
Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.
7. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और सीमा शुल्क अधिनियम, 1962 के सभी मामलों में पालन किया जाना चाहिए।
While submitting the appeal, the Customs (Appeals) Rules, 1982 and the Customs Act, 1962 should be adhered to in all respects.
8. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (Appeals) के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।
An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

M/s Aryavarta International, Godown No. 5, Plot No. 1, Paikee Survey, At Vajepar, Morbi-363641, Gujarat (holder of IEC No. ABRFA4532D) (hereinafter also referred to as “the importer”/”the Noticee”) has filled Bill of Entry no. 5298985 dated 28.08.2024 through their CHA for the import of PVC Regrind (CTH 39041090) at Mundra Port by availing the benefit of country of origin certificate under Sr. No. 296 of 69/2011-Customs dated 29.07.2011, as amended. The details of the Bill of entry

are as under:-

TABLE -I

Sr. No	Bill of entry No. and Date	Container No.	Description of goods	Value of goods (in Rs.)	Duty (in Rs.)
1	5298985 dated 28.08.2024	KKFU7600617, TGHU6613645	PVC Regrind (CTH 39041090)	26,30,140/-	4,73,425/-

2. ISSUE IN BRIEF/EXAMINATION:

2.1. Based on NCTC Alert 1465/IMP/2024-25, the consignment imported by M/s Aryavarta International vide Bill of Entry No. 5298985 dated 28.08.2024 had been put on hold for SIIB examination. The BE has been filed to import "PVC Regrind" by classifying the same under CTH 39041090. Generally, The CTH 3904 covers Polymers of Vinyl chloride or of other halogenated olefins, in primary forms. CTH 39041090 is for Other Poly (Vinly Chhloride), not mixed with any other substances. The examination of the goods is carried out in Adani Exim Yard CFS, Mundra in the presence of CHA representative. As per weighment slip provided by the representative of CFS, Mundra, the weight of containers no. KKFU7600617, TGHU6613645 is 51,630 KGs against the declared weight of 49,996 KGs i.e. **excess weight of 1,634 KGs**. The container scanning reports of the containers are clean. It is found that the containers number/seal number tallies with the import documents. Therefore, after cutting seal and on opening of the containers, it is found that the goods are stuffed in the Jumbo Bags. The total quantity of the jumbo bags is found as declared in the BE/import documents.

2.2. Further, in order to determine the characteristics and types of cargo/goods, representative samples have been drawn and sent for testing to CRCL Kandla vide Test Memo Nos. 109 dated 18.09.2024. The test results have been received back vide Test report No. 5793-SIIB/19.09.2024 dated 24.09.2024 [**RUD-1**], as mentioned below:-

Test Report-CRCL Kandla

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Nature:	The Sample as received is in the form of greyish plastic cut pieces of irregular shape and sizes along with few plastic films of pink, blue and green colours.
Composition:	Greyish plastic cut pieces is composed of compounded Polyvinyl chloride (PVC- 99.78 % by wt.) and plastic film of pink, blue and green colour is composed of Polyethylene (LDPE -0.22 %by wt.)
Note/ comments:	On the basis of physical appearance, form of the sample and analytical finding, it may not be considered as regrind.
	Sealed remnant sample returned herewith.

2.3. The report received from CRCL Kandla was shared with the importer via email dated 04.10.2024. This communication included the analytical findings from CRCL Kandla regarding the classification of the goods in question. Following this, an email was sent on 09.10.2024 to CRCL Kandla, seeking further clarification. The inquiry focused on understanding the appropriate classification of the goods, specifically asking what should be considered if the goods are not regrind plastic. In response, CRCL Kandla provided clarification on the same day, 09.10.2024, via email [RUD-2] that ***“based on the analytical findings, the goods could not be considered regrind plastic. Instead, they should be classified as plastic waste/scrap.”***

2.3. Further, summons dated 10.10.2024 has been issued to the importer to record statement under Section 108 of the Customs Act, 1962. In response to the summons, Shri Hamza Lakdawala, Partner of M/s. Aryavarta International has appeared for recording statement on 15.10.2024 wherein he has inter alia stated that:-

- i. As per their knowledge if the composition the PVC is 99.78% by wt. in the imported consignment, it is to be considered as PVC regrind. The comments in the lab test report that “On the basis of physical appearance, form of the sample and analytical finding, it may not be considered as regrind” is not correct and therefore they do not agree with the lab test results. They believe that if retesting of the sample is done, the results will be in their favor.

2.4. Further, a letter dated 15.10.2024 has also been received from the importer under which they have shown their disagreement with the test

results provided by the CRCL Kandla in respect of Bill of entry no. 5298985 dated 28.08.2024. They informed that they have identified several discrepancies and concerns that warrant further investigation. Further, they requested that the samples be re-evaluated by a different, independent and accredited laboratory to ensure the accuracy and reliability of the test results. Therefore, as per Circular No. 30/2017-Cus dated 08.07.2017 issued by the Central Board of Excise & Custom regarding detailed guidelines for re-testing of samples, the remnant samples has been sent for re-testing to CRCL Delhi vide letter dated 04.11.2024. The importer has paid the applicable charges for re-testing vide challan no. 5191 dated 30.10.2024.

2.5. Whereas, the re-test report has been received from the CRCL Delhi vide letter F. No. 26-CUS/C-118/2023-24 dated 14.02.2025 **[RUD-3]** as mentioned below:-

Test Report-CRCL New Delhi

“The Sample is in the form of heterogeneous mixture of transparent, off-white, greyish, bluish, light blue and greyish black coloured broken cut pieces of sheet, turning having irregular shape and sizes. It is mainly composed of compounded PolyVinyl Chloride (PVC) based polymer along with small amount of Polyethylene, Polymethylmethacrylate and Acrylonitrile butadiene styrene based polymeric material.

It has following % composition:-

Compounded Polyvinyl Chloride (PVC) % by mass = 91.9

Polyethylene (% by mass) = 4.0

Polymethylmethacrylate (% by mass) = 2.20

Acrylonitrile butadiene styrene (% by mass) = balance

Ash Content as such (% by mass) = 3.76

On the basis of physical appearance, the sample u/r is scrape/ waste containing more than one thermoplastic material.

Sealed remnant sample returned separately.”

2.6. As per the report of re-testing received from CRCL Delhi, the goods

are found mis-declared as PVC regrind, therefore, another summon dated 12.03.2025 has been issued to the importer for recording of statement. However, the importer has not appeared in response to the summons. The importer vide letter dated 21.07.2025 received under email dated 22.07.2025 [RUD-4] has requested for waiver of SCN/PH and to decide the case on merit.

2.7. In light of the above correspondence and the clarifications provided, it appears that the importer has not accurately classified the goods, as they were mis-declared under the category of 'Plastic Regrind'. Based on the test results provided by CRCL Kandla, it has been determined that the imported goods are, in fact, 'Waste/Scrap containing more than one thermoplastic material'.

3. INVESTIGATION

3.1. I take note of the Chapter Note 7 to the CTH 39 of the Customs Tariff Act, 1975, which reads as under:

".....7. Heading 3915 does not apply to waste, parings and scrap of a single thermoplastic material, transformed into primary forms (headings 3901 to 3914)."

3.2. Whereas, the CRCL Kandla and CRCL Delhi test reports, ibid transpires that the cargo put on hold is a mixed plastics rather than a single thermoplastic material. As such, the imported goods should more appropriately be classified under Customs Tariff Heading (CTH) 39159090, which covers plastic waste and scrap containing multiple types of thermoplastic materials. This is in contrast to the declared CTH 39041090, which refers to regrind plastic, and is therefore not applicable in this case.

3.3. I further take note of the Public Notice No. 392/92-97, issued by the Directorate General of Foreign Trade (DGFT) on 1 January 1997, which lays down guidelines and conditions for the import of plastic waste/scrap into India. It forms part of the DGFT's regulatory framework under the Foreign Trade (Development & Regulation) Act, 1992, especially dealing with licensing and restrictions for imports of plastic scrap/waste (except

certain exceptions such as PET bottle waste/scrap).

3.4. The goods imported by the importer are Plastic Waste/Scrap containing more than one thermoplastic material. Thus, the imported goods are not covered under S. No. (i) and (ii) of DGFT Public Notice No. 392/92-97 dated 01.01.1997. Therefore, the goods falls under Sr. No. (iii) of the said circular and their import is not permitted. Additionally, as per Rule 12(6) of the Hazardous and Other Wastes Rules, 2016, the import of wastes listed in Schedule VI is also prohibited.

3.5. Therefore, it seems that the importer has made false declaration in the Bill of Entry and thus by doing so they have contravened the provisions of section 46 of the Customs Act and thereby rendered the goods liable for confiscation under Section 111(d), 111(f), 111(m) and 111(q) of the Customs Act 1962.

Section 111(d), (f), (m) and (q) of the Customs Act, 1962, deal with confiscation of improperly imported goods:

- 111(d): Goods imported in violation of any prohibition under the Customs Act or any other law.
- 111(f): Goods that have been concealed to avoid customs duties or restrictions.
- 111(m): Goods that have been mis-declared in terms of value, description, or quantity.
- 111(q): Goods that have imported on a claim of preferential rate of duty which contravenes any provision of Chapter VAA or nay rule made thereunder.

4 . **Legal Provisions:** The following legal provisions are in general applicable in the present case. The list given herein is indicative and not exhaustive, as the context of legal provisions may otherwise require reference of other legal provisions, reference of which are also to be invited, as and when required:

4.1 **The Customs Act, 1962:**

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

Section 2(33): "import", with its grammatical variations and cognate

expressions, means bringing into India from a place outside India.

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

Section 11: Power to prohibit importation or exportation of goods.-

(1) If the Central Government is satisfied that it is necessary so to do for any of the purposes specified in sub-section (2), it may, by notification in the Official Gazette, prohibit either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be specified in the notification, the import or export of goods of any specified description.

Section 11A(a) :“illegal import” means the import of any goods in contravention of the provisions of this Act or any other law for the time being in force

Section 46. Entry of goods on importation:

(1) The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting electronically on the customs automated system to the proper officer a bill of entry for home consumption or warehousing in such form and manner as may be prescribed:

Provided further that if the importer makes and subscribes to a declaration before the proper officer, to the effect that he is unable for want of full information to furnish all the particulars of the goods required under this sub-section, the proper officer may, pending the production of such information, permit him, previous to the entry thereof (a) to examine the goods in the presence of an officer of customs, or (b) to deposit the goods in a public warehouse appointed under section 57 without warehousing the same.

(2) 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.

(3) The importer shall present the bill of entry under sub-section (1) before the end of the day (including holidays) preceding the day on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home

consumption or warehousing:

Provided that the Board may, in such cases as it may deem fit, prescribe different time limits for presentation of the bill of entry, which shall not be later than the end of the day of such arrival:

Provided further that] a bill of entry may be presented 9[at any time not exceeding thirty days prior to] the expected arrival of the aircraft or vessel or vehicle by which the goods have been shipped for importation into India:

Provided also that where the bill of entry is not presented within the time so specified and the proper officer is satisfied that there was no sufficient cause for such delay, the importer shall pay such charges for late presentation of the bill of entry as may be prescribed.

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

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

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

(5) If the proper officer is satisfied that the interests of revenue are not prejudicially affected and that there was no fraudulent intention, he may permit substitution of a bill of entry for home consumption for a bill of entry for warehousing or vice versa.

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

(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;;

(f) any dutiable or prohibited goods required to be mentioned under the regulations in an[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;

(q) any goods imported on a claim of preferential rate of duty which contravenes any provisions of Chapter VAA or any rule made thereunder.

Section 112. Penalty for improper importation of goods, etc. Any person,-

- a. who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or
- b. who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111, shall be liable,-
 - i. 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:

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.

4.2 The Foreign Trade (Development and Regulation) Act, 1992. Section 11 of FTDR Act, 1992.

4.3 The Foreign Trade (Regulation) Rules, 1993 Rule 11 of the Foreign Trade (Regulation) Rules, 1993. Rule 14 of the Foreign Trade (Regulation) Rules, 1993.

4.4 Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016.

4.5 Public Notice No. 392/92-97 dated 01.01.1997 issued by DGFT.

5. CONCLUSION/ FINDINGS:

5.1. Whereas, the investigation has revealed that the imported goods in question are Plastic Waste/Scrap, and not PVC Regrind as declared under CTH 39041090 in the Bill of Entry. Given that the goods are properly classifiable under CTH 39159090, which covers Plastic Waste/Scrap, it appears that the importer has mis-declared the nature of the goods in the Bill of Entry.

5.2. Whereas, as per the test report received from CRCL Kandla and CRCL Delhi the said goods are waste and scrap **containing more than one thermoplastic material**. Accordingly, the said goods appear to fall under Basel No. B3010 of Schedule VI of Hazardous and Other Wastes

(Management and Transboundary Movement) Rules, 2016. Further, as per Rule 12 (6) of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, import of the hazardous and other wastes specified in Schedule VI is not permitted.

5.3. Whereas, the DGFT Public Notice No. 392/92-97 dated 01.01.1997 states that:

“(i) Import of plastic waste/scrap (except PET bottle waste/scrap) shall be permitted only against a license. The description/definition of the plastic waste/scrap for this purpose would be:

"Plastic scrap/waste constitute those fractions generated by various plastic processing operations or those fractions generated in the production process of plastics in a plant, which have not been put to any use whatsoever and as such can be termed as virgin or new material which can be recycled into viable commercial products using standard plastic processing techniques but without involving any process of cleaning, whereby effluents are generated".

- ii. Such virgin/new Plastic scrap/waste shall be permitted for import in the following forms i.e. compressed, films in cut condition, cut tape soft waste, flakes, powders, pieces of irregular shape (not exceeding the size of 3"x3")
- iii. Any other category of plastic scrap/wastes which are not covered by the description/definition as given in sub-para (i) and (ii) above shall not ordinarily be permitted.”

5.4. As per the investigation, the goods in question, which appear to be Plastic Waste/Scrap, do not fall under S. No. (i) and S. No. (ii) of DGFT Public Notice No. 392/92-97 dated 01.01.1997. Therefore, in accordance with S. No. (iii) of the same notice, the import of these goods appears to be prohibited. Additionally, since the importer lacks authorization from DGFT, the goods are classified as prohibited goods.

5.5. As per above paras, the import of subject goods appear to be not permitted/prohibited, accordingly, the said goods appear to fall under the ambit of "prohibited goods" as defined under Section 2(33) of the Customs Act, 1962.

5.6. In view of the above facts and circumstances, it appears that the importer has purposefully and intentionally mis-declared the goods in their Bill of Entry and attempted to import the Plastic Waste and Scrap in the guise of PVC Regrind, thereby, circumventing the restrictions/prohibitions imposed through Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, Import Policy as stipulated by DGFT.

5.7. Whereas, from the above facts it appears that by adopting the above modus operandi the said importer attempted to import the subject consignment by mis-declaring the goods by willful misstatement and suppression of facts, thereby contravening the provisions of the Section 46 of the Customs Act, 1962 read with Section 11 of the Foreign Trade (Development and Regulation) Act, 1992 and Rule 11 & 14 of the Foreign Trade (Regulation) Rules, 1993.

5.8. Whereas, in terms of Section 11A (a) of the Customs Act, 1962 the act amounts to "**Illegal import**" by them in as much as the importer have attempted to import the goods in contravention of the various legal provisions as mentioned in above paras.

5.9. Whereas, in terms of Section 2(39), the act also amounts to "smuggling" of the goods by them in as much as they attempted to import prohibited goods as discussed above.

5.10. Whereas, it is noted that the declared weight of the imported consignment is 49,996 KGs whereas, during examination the weight of the goods as per the weighment slip is found as 51,630 KGs i.e. **excess weight of 1,634 KGs** which is more than 2%. Thus, the importer has also not declared the actual/correct quantity of the goods and issue is also required to be adjudicated for weight difference as per Public Notice No. 1/2019-20 dated 12.04.2019. The importer has declared the assessable value of the consignment as Rs. 26,30,140 /- which is liable to be rejected as excess goods found. As per the declared rate, the re-determined value of the consignment is **Rs. 27,16,100/-** (for 51,630 KGs of goods) under Rule 4 of the CVR, 2007.

5.11 Further, it is also noticed that the importer had availed the Country

of Origin based exemption on declared goods, i.e. "PVC Regrind", from applicable Customs duty as per Sr. No. 296 of Notification No. 69/2011-Customs dated 29.07.2011, as amended. The Section 28DA of the Customs Act, 1962 read with Notification No. 81/2020-Customs (N.T.) dated 21.08.2020 and Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020 provides for procedure regarding claim of preferential rate of duty. The relevant provisions of the Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020 are reproduced below:-

Rule 4. "Origin related information to be possessed by importer.-

The importer claiming preferential rate of duty shall-

(c) exercise reasonable care to ensure the accuracy and truthfulness of the aforesaid information and documents."

Rule 8. "Miscellaneous. -

(2) Where it is established that an importer has suppressed the facts, made wilful mis-statement or colluded with the seller or any other person, with the intention to avail undue benefit of a trade agreement, his claim of preferential rate of duty shall be disallowed and he shall be liable to penal action under the Act or any other law for the time being in force."

As per reports of CRCL Kandla & CRCL New Delhi, supra, the goods have been found to be mis-declared, wherein it is mentioned that the goods are plastic waste/scrap of CTH 39159090 import of which is restricted and only allowed with a valid authorization from DGFT. The importer is not having any such authorization, thus, the goods becomes prohibited goods. Therefore, the importer has mis-declared the goods & suppressed the facts to evade the applicable Customs duty to avail undue benefit of a trade agreement. Accordingly, it appears that the benefit of preferential rate of duty is liable to be disallowed on the said imported goods under Section 28DA of the Customs Act, 1962.

5.12. Whereas, the contraventions of various legal provisions, as outlined in the preceding paragraphs, appear to have rendered the said goods liable to confiscation under Sections 111(d), 111(f), 111(m), and 111(q) of the

Customs Act, 1962.

5.13. Whereas, M/s Aryavarta International has been found to be involved in the import of prohibited goods, in violation of the provisions of the Customs Act, 1962, thereby rendering the goods liable for confiscation under Section 111 of the Act, and liable for a penalty under **Section 112(a)(i)** of the Customs Act, 1962.

5.14. Whereas, M/s Aryavarta International has been found to have knowingly or intentionally made, signed, or used a declaration, statement, or document that is false or incorrect in any material particular in relation to the import of prohibited goods, thereby rendering themselves liable for a penalty under Section 114AA of the Customs Act, 1962.

5.15. The importer has importer vide letter dated 21.07.2025 received under email dated 22.07.2025 has requested for waiver of SCN/PH and to decide the case on merit.

6. In view of the above, it appears that:-

- i. The classification of the imported goods declared as “PVC Regrind” in the Bill of Entry no. 5298985 dated 28.08.2024 under Customs Tariff Item 39041090 of the Customs Tariff Act, 1975, should be rejected and instead re-classified as “Plastic Waste/Scrap” under Customs Tariff item 3915 9090.
- ii. The declared quantity of 49,996 KGs is liable to be rejected and actual quantity 51630 KGs is required to be loaded in the BE.
- iii. The benefit of Country of Origin based exemption on declared goods, from applicable Customs duty as per Notification No. 69/2011-Customs dated 29.07.2011, as amended, is liable to be denied/rejected as under Section 28DA of the Customs Act, 1962 read with Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020.
- iv. The assessable value of Rs. 26,30,140/- the BE is also liable to be rejected as undeclared excess goods are found. The re-determined value is Rs. 27,16,100/-under Rule 4 of the CVR, 2007.
- v. The BE should is required to be re-assessed as per the provisions of Section 17(4) of the Customs Act, 1962.

- vi. The goods mentioned in Bill of Entry no. 5298985 dated 28.08.2024 having assessable value of Rs. 27,16,100/- (Rupees Twenty Seven Lakhs Sixteen Thousand One Hundred Only) above are held liable for confiscation under section 111(d), 111(f), 111(m) and 111(q) of the Customs Act, 1962;
- vii. Penalty under Section 112(a)(i) of the Customs Act, 1962 should be imposed on them for reasons as discussed above.
- viii. Penalty under Section 114AA of the Customs Act, 1962 should be imposed on them for reasons as discussed above.

DISCUSSION AND FINDINGS:

7. I have carefully gone through the facts of the case, Investigation Report and noticees submissions. I observed that the Importer during the investigation already waived the right of Show Cause Notice and personal hearing. I find that the condition of Principles of Natural Justice under Section 122A of the Customs Act, 1962 has been complied. Considering this scenario, I find it appropriate to proceed with the adjudication proceedings in terms of merit of the case.

8. I find that M/s. Aryavarta International, (IEC No. ABRFA4532D) has filled Bill of Entry no. 5298985 dated 28.08.2024 through their CHA for the import of PVC Regrind (CTH 39041090) at Mundra Port by availing the benefit of county of origin certificate under Sr. No. 296 of 69/2011-Customs dated 29.07.2011, as amended. The details of the Bill of entry are mentioned above in Table-I.

9. I find that based on NCTC Alert 1465/IMP/2024-25, the consignment imported by M/s Aryavarta International vide Bill of Entry No. 5298985 dated 28.08.2024 had been put on hold for SIIB examination. The BE has been filed to import "PVC Regrind" by classifying the same under CTH 39041090. Generally, The CTH 3904 covers Polymers of Vinyl chloride or of other halogenated olefins, in primary forms. CTH 39041090 is for Other Poly (Vinly Chhloride), not mixed with any other substances. The examination of the goods is carried out in Adani Exim Yard CFS, Mundra in the presence of CHA representative. As per weighment slip provided by the representative of CFS, Mundra, the

weight of containers no. KKFU7600617, TGHU6613645 is 51,630 KGs against the declared weight of 49,996 KGs i.e. excess weight of 1,634 KGs. The container scanning reports of the containers are clean. It is found that the containers number/seal number tallies with the import documents. Therefore, after cutting seal and on opening of the containers, it is found that the goods are stuffed in the Jumbo Bags. The total quantity of the jumbo bags is found as declared in the BE/import documents.

9.1. I find that in order to determine the characteristics and types of cargo/goods, representative samples have been drawn and sent for testing to CRCL Kandla vide Test Memo Nos. 109 dated 18.09.2024. The test results have been received back vide Test report No. 5793-SIIB/19.09.2024 dated 24.09.2024, as mentioned below:-

Test Report-CRCL Kandla

Nature:	The Sample as received is in the form of greyish plastic cut pieces of irregular shape and sizes along with few plastic films of pink, blue and green colours.
Composition	Greyish plastic cut pieces is composed of compounded Polyvinyl chloride (PVC- 99.78 % by wt.) and plastic film of pink, blue and green colour is composed of Polyethylene (LDPE -0.22 %by wt.)
Note/ comments:	On the basis of physical appearance, form of the sample and analytical finding, it may not be considered as regrind.
	Sealed remnant sample returned herewith.

9.2 I find that the report received from CRCL Kandla was shared with the importer via email dated 04.10.2024. This communication included the analytical findings from CRCL Kandla regarding the classification of the goods in question. Following this, an email was sent on 09.10.2024 to CRCL Kandla, seeking further clarification. The inquiry focused on understanding the appropriate classification of the goods, specifically asking what should be considered if the goods are not regrind plastic. In response, CRCL Kandla provided clarification on the same day, 09.10.2024, via email that “based on the analytical findings, the goods could not be considered regrind plastic. Instead, they should be classified

as plastic waste/scrap.”

9.3. I find that summons dated 10.10.2024 has been issued to the importer to record statement under Section 108 of the Customs Act, 1962. In response to the summons, Shri Hamza Lakdawala, Partner of M/s. Aryavarta International has appeared for recording statement on 15.10.2024 wherein he has inter alia stated that:-

- i. As per their knowledge if the composition the PVC is 99.78% by wt. in the imported consignment, it is to be considered as PVC regrind. The comments in the lab test report that “On the basis of physical appearance, form of the sample and analytical finding, it may not be considered as regrind” is not correct and therefore they do not agree with the lab test results. They believe that if retesting of the sample is done, the results will be in their favor.

9.4. I find that a letter dated 15.10.2024 has also been received from the importer under which they have shown their disagreement with the test results provided by the CRCL Kandla in respect of Bill of entry no. 5298985 dated 28.08.2024. They informed that they have identified several discrepancies and concerns that warrant further investigation. Further, they requested that the samples be re-evaluated by a different, independent and accredited laboratory to ensure the accuracy and reliability of the test results. Therefore, as per Circular No. 30/2017-Cus dated 08.07.2017 issued by the Central Board of Excise & Custom regarding detailed guidelines for re-testing of samples, the remnant samples have been sent for re-testing to CRCL Delhi vide letter dated 04.11.2024. The importer has paid the applicable charges for re-testing vide challan no. 5191 dated 30.10.2024.

9.5. I find that the re-test report has been received from the CRCL Delhi vide letter F. No. 26-CUS/C-118/2023-24 dated 14.02.2025, as mentioned below:-

Test Report-CRCL New Delhi

“The Sample is in the form of heterogeneous mixture of transparent, off-white, greyish, bluish, light blue and greyish black coloured broken cut pieces of sheet, turning having irregular shape and sizes. It is mainly composed of compounded PolyVinyl Chloride (PVC) based

polymer along with small amount of Polyethylene, Polymethylmethacrylate and Acrylonitrile butadiene styrene based polymeric material.

It has following % composition:-

Compounded Polyvinyl Chloride (PVC) % by mass = 91.9

Polyethylene (% by mass) = 4.0

Polymethylmethacrylate (% by mass) = 2.20

Acrylonitrile butadiene styrene (% by mass) = balance

Ash Content as such (% by mass) = 3.76

On the basis of physical appearance, the sample u/r is scrape/ waste containing more than one thermoplastic material.

Sealed remnant sample returned separately.”

9.6. I find that as per the report of re-testing received from CRCL Delhi, the goods are found mis-declared as PVC regrind, therefore, another summon dated 12.03.2025 has been issued to the importer for recording of statement. However, the importer has not appeared in response to the summons. The importer vide letter dated 21.07.2025 received under email dated 22.07.2025 has requested for waiver of SCN/PH and to decide the case on merit.

9.7. I find that in light of the above correspondence and the clarifications provided, it appears that the importer has not accurately classified the goods, as they were mis-declared under the category of 'Plastic Regrind'. Based on the test results provided by CRCL Kandla, it has been determined that the imported goods are, in fact, 'Waste/Scrap containing more than one thermoplastic material'.

10. I further take note of the Chapter Note 7 to the CTH 39 of the Customs Tariff Act, 1975, which reads as under:

".....7. Heading 3915 does not apply to waste, parings and scrap of a single thermoplastic material, transformed into primary forms (headings

3901 to 3914)."

10.1. I find that the CRCL Kandla and CRCL Delhi test reports, *ibid* transpires that the cargo put on hold is a mixed plastics rather than a single thermoplastic material. As such, the imported goods should more appropriately be classified under Customs Tariff Heading (CTH) 39159090, which covers plastic waste and scrap containing multiple types of thermoplastic materials. This is in contrast to the declared CTH 39041090, which refers to regrind plastic, and is therefore not applicable in this case.

10.2. I further take note of the Public Notice No. 392/92-97, issued by the Directorate General of Foreign Trade (DGFT) on 1 January 1997, which lays down guidelines and conditions for the import of plastic waste/scrap into India. It forms part of the DGFT's regulatory framework under the Foreign Trade (Development & Regulation) Act, 1992, especially dealing with licensing and restrictions for imports of plastic scrap/waste (except certain exceptions such as PET bottle waste/scrap).

10.3. I find that The goods imported by the importer are Plastic Waste/Scrap containing more than one thermoplastic material. Thus, the imported goods are not covered under S. No. (i) and (ii) of DGFT Public Notice No. 392/92-97 dated 01.01.1997. Therefore, the goods falls under Sr. No. (iii) of the said circular and their import is not permitted. Additionally, as per Rule 12(6) of the Hazardous and Other Wastes Rules, 2016, the import of wastes listed in Schedule VI is also prohibited.

10.4. I find that the importer has made false declaration in the Bill of Entry and thus by doing so they have contravened the provisions of section 46 of the Customs Act and thereby rendered the goods liable for confiscation under Section 111(d), 111(f), 111(m) and 111(q) of the Customs Act 1962.

Section 111(d), (f), (m) and (q) of the Customs Act, 1962, deal with confiscation of improperly imported goods:

- 111(d): Goods imported in violation of any prohibition under the Customs Act or any other law.
- 111(f): Goods that have been concealed to avoid customs duties or restrictions.
- 111(m): Goods that have been mis-declared in terms of value,

description, or quantity.

- 111(q): Goods that have imported on a claim of preferential rate of duty which contravenes any provision of Chapter VAA or nay rule made thereunder.

11. I find that the investigation has revealed that the imported goods in question are Plastic Waste/Scrap, and not PVC Regrind as declared under CTH 39041090 in the Bill of Entry. Given that the goods are properly classifiable under CTH 39159090, which covers Plastic Waste/Scrap, it appears that the importer has mis-declared the nature of the goods in the Bill of Entry.

11.1. I find that as per the test report received from CRCL Kandla and CRCL Delhi the said goods are waste and scrap containing more than one thermoplastic material. Accordingly, the said goods appear to fall under Basel No. B3010 of Schedule VI of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016. Further, as per Rule 12 (6) of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, import of the hazardous and other wastes specified in Schedule VI is not permitted.

11.2. I find that DGFT Public Notice No. 392/92-97 dated 01.01.1997 states that:

“(i) Import of plastic waste/scrap (except PET bottle waste/scrap) shall be permitted only against a license. The description/definition of the plastic waste/scrap for this purpose would be:

"Plastic scrap/waste constitute those fractions generated by various plastic processing operations or those fractions generated in the production process of plastics in a plant, which have not been put to any use whatsoever and as such can be termed as virgin or new material which can be recycled into viable commercial products using standard plastic processing techniques but without involving any process of cleaning, whereby effluents are generated".

(ii) Such virgin/new Plastic scrap/waste shall be permitted for import in the following forms i.e. compressed, films in cut condition, cut tape soft waste, flakes, powders, pieces of irregular shape (not exceeding the size of 3"x3")

(iii) Any other category of plastic scrap/wastes which are not covered by the description/definition as given in sub-para (i) and (ii) above shall not ordinarily be permitted.”

11.3 I find that as per the investigation, the goods in question, which appear to be Plastic Waste/Scrap, do not fall under S. No. (i) and S. No. (ii) of DGFT Public Notice No. 392/92-97 dated 01.01.1997. Therefore, in accordance with S. No. (iii) of the same notice, the import of these goods appears to be prohibited. Additionally, since the importer lacks authorization from DGFT, the goods are classified as prohibited goods.

11.4. I find that as per above paras, the import of subject goods are not permitted/prohibited, accordingly, the said goods appear to fall under the ambit of "prohibited goods" as defined under Section 2(33) of the Customs Act, 1962.

11.5. In view of the above facts and circumstances, I find that the importer has purposefully and intentionally mis-declared the goods in their Bill of Entry and attempted to import the Plastic Waste and Scrap in the guise of PVC Regrind, thereby, circumventing the restrictions/prohibitions imposed through Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, Import Policy as stipulated by DGFT.

11.6. I find that by adopting the above modus operandi the said importer attempted to import the subject consignment by mis-declaring the goods by willful misstatement and suppression of facts, thereby contravening the provisions of the Section 46 of the Customs Act, 1962 read with Section 11 of the Foreign Trade (Development and Regulation) Act, 1992 and Rule 11 & 14 of the Foreign Trade (Regulation) Rules, 1993.

11.7. I find that in terms of Section 11A (a) of the Customs Act, 1962 the act amounts to "Illegal import" by them in as much as the importer have attempted to import the goods in contravention of the various legal provisions as mentioned in above paras.

11.8. I find that in terms of Section 2(39), the act also amounts to "smuggling" of the goods by them in as much as they attempted to import

prohibited goods as discussed above.

11.9. I find that the declared weight of the imported consignment is 49,996 KGs whereas, during examination the weight of the goods as per the weighment slip is found as 51,630 KGs i.e. excess weight of 1,634 KGs which is more than 2%. Thus, the importer has also not declared the actual/correct quantity of the goods and issue is also required to be adjudicated for weight difference as per Public Notice No. 1/2019-20 dated 12.04.2019. The importer has declared the assessable value of the consignment as Rs. 26,30,140 /- which is liable to be rejected as excess goods found. As per the declared rate, the re-determined value of the consignment is Rs. 27,16,100/- (for 51,630 KGs of goods) under Rule 4 of the CVR, 2007.

11.10. I find that the importer had availed the Country of Origin based exemption on declared goods, i.e. "PVC Regrind", from applicable Customs duty as per Sr. No. 296 of Notification No. 69/2011-Customs dated 29.07.2011, as amended. The Section 28DA of the Customs Act, 1962 read with Notification No. 81/2020-Customs (N.T.) dated 21.08.2020 and Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020 provides for procedure regarding claim of preferential rate of duty. The relevant provisions of the Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020 are reproduced below:-

Rule 4. "Origin related information to be possessed by importer.-

The importer claiming preferential rate of duty shall-

(c) exercise reasonable care to ensure the accuracy and truthfulness of the aforesaid information and documents."

Rule 8. "Miscellaneous. -

(2) Where it is established that an importer has suppressed the facts, made wilful mis-statement or colluded with the seller or any other person, with the intention to avail undue benefit of a trade agreement, his claim of preferential rate of duty shall be disallowed and he shall be liable to penal action under the Act or any other law for the time being in force."

As per reports of CRCL Kandla & CRCL New Delhi, supra, the goods have been found to be mis-declared, wherein it is mentioned that the goods are plastic waste/scrap of CTH 39159090 import of which is restricted and only allowed with a valid authorization from DGFT. The importer is not having any such authorization, thus, the goods becomes prohibited goods. Therefore, the importer has mis-declared the goods & suppressed the facts to evade the applicable Customs duty to avail undue benefit of a trade agreement. Accordingly, it appears that the benefit of preferential rate of duty is liable to be disallowed on the said imported goods under Section 28DA of the Customs Act, 1962.

11.11. I find that the contraventions of various legal provisions, as outlined in the preceding paragraphs, have rendered the said goods liable to confiscation under Sections 111(d), 111(f), 111(m), and 111(q) of the Customs Act, 1962.

11.12. From the above, it is evident that the importer M/s. Aryavarta International has been found to be involved in the import of prohibited goods, in violation of the provisions of the Customs Act, 1962, thereby rendering the goods liable for confiscation under 111(d), 111(f), 111(m), and 111(q) of the Act, and liable for a penalty under **Section 112(a)(i)** of the Customs Act, 1962.

11.13. As regards the penalty on the Importer under Section 114AA of the Customs Act, 1962 is concerned, Section 114AA mandates penal action for intentional usage of false and incorrect material against the offender. From the investigation and other material particulars, it is observed that the Importer has dealt with incorrect documents while filing bill of entry for the said shipment. The Importer had knowingly and intentionally made/signed/used and/or caused to be made/signed/used the import documents and other related documents which were false or incorrect in material particular such as description, value etc., with mala-fide intention, and therefore, the Importer is liable to penalty under Section 114AA of the Customs Act, 1962.

12. **In view of foregoing discussion and findings, I pass the following order:**

ORDER

i. I order to reject the description and classification of the goods imported vide Bill of entry no. 5298985 dated 28.08.2024, declared as "PVC Regrind" under Customs Tariff Heading 39041090 and the same are to be re-described and re-classified as "Plastic Waste/Scrap" under Customs Tariff Heading 39159090.

ii. I order to reject the declared quantity as 49,996 KGs and the same is to be re-determined as 51,630 KGs in the subject Bill of Entry 5298985 dated 28.08.2024

iii. I order to reject the benefit of preferential rate of duty claimed under Sr. No. 296 of Notification No. 69/2011-Customs dated 29.07.2011, as amended, in terms of Section 28DA of the Customs Act, 1962 read with Rule 8(2) of the Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020.

iv. I order to reject the declared assessable value of the imported goods as Rs. 26,30,140/- and the same to be re-determined as Rs. 27,16,100/- (Rupees Twenty Seven Lakhs Sixteen Thousand One Hundred Only) in terms of Rule 4 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

v. I order to confiscate the goods of subject Bill of Entry no. 5298985 dated 28.08.2024 having re-determined assessable value as Rs. 27,16,100/- (Rupees Twenty Seven Lakhs Sixteen Thousand One Hundred Only) under Sections 111(d), 111(f), 111(m) and 111(q) of the Customs Act, 1962.

vi I order to impose penalty of Rs. 2,50,000/- (Rupees Two Lakh Fifty Thousand Only) on the importer M/s. Aryavarta International under Section 112(a)(i) of the Customs Act, 1962.

vii. I order to impose penalty of Rs.50,000/- (Rupees Fifty Thousand Only) on the importer M/s. Aryavarta International under Section 114AA of the Customs Act, 1962.

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

Zala Dipakbhai

Chimanbhai

Additional Commissioner of
Customs,
Import Assessment Group,
Customs House, Mundra

Encl: Annexure-R

To,
M/s. Aryavarta International (IEC: ABRFA4532D),
Godown No. 5, Plot No. 1, Paikee Survey,
At Vajepar, Morbi-363641, Gujarat.

Copy to:

1. The Deputy/Assistant Commissioner (SIIB), Customs House, Mundra.
2. The Dy./Asstt. Commissioner (EDI), Customs House, Mundra.
3. The Dy./Asstt. Commissioner (RRA/TRC), Customs House, Mundra.

Annexure-R

Sr. No.	Description of the document	Remark
1	Test report No. 5793-SIIB/19.09.2024 dated 24.09.2024	Copy enclosed.
2	Clarification dated 09.10.2024 received from CRCL Kandla	Copy Enclosed
3	CRCL Delhi Test report dated 14.02.2025	Copy Enclosed
4	Importer's letter dated 21.07.2025	Available with importer