

		<p>प्रधान आयुक्त का कार्यालय,सीमा शुल्क सदन, एमपी और एसईजेड, मुंद्रा, कच्छ-गुजरात -370421</p> <p><b>OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOMS HOUSE, MP &amp; SEZ MUNDRA, KUTCH-GUJARAT</b></p> <p><b>EMAIL: group3-mundra@gov.in</b></p>	
A	File No.	CUS/APR/MISC/6827/2025-Gr 3	
B	Order-in-Original No.	MCH/ADC/ZDC/253/2025-26	
C	Passed by	<b>Dipak Zala</b> Additional Commissioner of Customs Custom House, Mundra.	
D	Date of order	<b>23.09.2025</b>	
E	Noticee/Party/Importer/ Exporter	M/s. V M K Textiles Private Limited (IEC 0510006299) IX/7218, Ground Floor, Old no. 813-1, Guru Gobind Singh Gali, Gandhinagar, Delhi- 11003	
F	DIN No.	<b>20250971MO0000020570</b>	

1. यह अपील 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 अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 128 A के अंतर्गत प्रपत्र सीए- 1- में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-
- Any person aggrieved by this Order - in - Original may file an appeal under Section 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), 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 accompanied by –
- (i) उक्त अपील की एक प्रति और  
A copy of the appeal, and
- (ii) इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम- 1870 के मद सं.-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए ।  
This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.
5. अपील 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 सीमा शुल्क 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

M/s. V M K Textiles Private Limited (IEC 0510006299), (hereinafter referred to as ‘the importer’ for the sake of brevity) having address at IX/7218, Ground Floor, Old no. 813-1, Guru Gobind Singh Gali, Gandhinagar, Delhi- 110031 filed home consumption Bill of Entry No. 2510241 dated 06.06.2025 for import of fabric declared as “Polyester Laminated Fabric” under CTH 59039090 through their authorised Customs Broker M/s. Radhika Shipping Services (hereinafter referred as ‘the CB’ for sake of brevity). The details of the B/E are as follows: -

Table-A

(Exchange Rate: 1 USD = Rs.

86.75)

Sr No.	B/ENo.& date	Bill of Lading No. & Date Container No.	Declared Goods	Declared HSN Code	Declared Net Weight (In Kgs.)	Declared Unit Price	Declared Assessable Value (in Rs.)	Declared Duty (in Rs.)
1.	2510241  dated 06.06.2025	031F526444  dated 18.04.2025	Polyester Laminated Fabric	59039090	27470	0.35  USD/ Kgs.	8,34,057	3,14,789

2. On the basis of intelligence, goods covered under impugned B/E No. 2510241 dated 06.06.2025 were put on hold to rule-out possibility of concealment, mis declaration and duty evasion. The examination of the goods was carried out at Seabird Marine Services (Gujarat) Pvt. Ltd. on dated 16.06.2025 in the presence of Shri Lokendra Kumar Sharma, Assistant Manager, Operations, Seabird CFS and Shri Shristy T Thakur, F Card holder of CB M/s Radhika Shipping Services. After placing of the container, the seal placed on the containers was checked/verified and found intact and tally with the number mentioned in the Bill of lading. Before beginning the examination, the weighment slip of the containers generated at CFS weighbridge were cross-checked. The weight mentioned on the slips as well as Bills of Lading are as under :-

Table-B

Sr. NO.	Bill of entry no. and Date	Container No.	Declared Gross weight (in Kgs.)	Declared Net Weight(in kgs)	Weight as per CFS weighment slip (in Kgs)
1	2510241  dated 06.06.2025	WHSU6685773	27470	23580	27610

3. Upon opening of the gate, it was found that the goods (fabrics) were stuffed into the containers in form of Rolls which were packed in transparent

Plastic sheet. The rolls were opened and examined. The fabric appeared to be made of synthetic fibres material. However, to ascertain the actual nature, description, and composition of the goods, representative samples were drawn under Panchnama dated 16.06.2025 and sent to Textiles Committee Laboratory, Mumbai for testing purpose vide Test Memo no. 57 to 64 dated 16.06.2025.

4. The test reports were received from Textiles Committee Laboratory, Mumbai vide Test Report Nos. 0153032526- 796 to 803 dated 18.07.2025. The details of test reports are as under:-

Table-C1

Description of goods	Polyester Laminated Fabric	Polyester Laminated Fabric	Polyester Laminated Fabric	Polyester Laminated Fabric
Color	Black	Pista	Air Force	Navy
	TM No. 57	TM No.58	TM No. 59	TM No.60
Query	TR No. 796	TR No. 797	TR No.:798	TR No.:799
Woven/ Knitted/Non-woven	Woven	Woven	Woven	Woven
Layer-I- Film	Thermoplastic Polyurethane	Thermoplastic Polyurethane	Thermoplastic Polyurethane	Thermoplastic Polyurethane
Layer-II – Warp& Weft	Polyester	Polyester	Polyester	Polyester
Composition	Polyester - 91% Theroplastic Polyurethane – 9%	Polyester – 91.8%  Theroplastic Polyurethane – 8.2%	Polyester – 95.3%  Theroplastic Polyurethane – 4.7%	Polyester – 95.4%  Theroplastic Polyurethane – 4.6%
Whether staple spun yarn/Filamen t yarn/staple fibre	Filament yarn	Filament yarn	Filament yarn	Filament yarn
Whether Texturized/N on-Texturized	Textured	Textured	Textured	Textured
Whether Coated/Lami nated/Impreg nated	Laminated	Laminated	Laminated	Laminated
GSM	132.9	126.4	125	131.6

Whether Polyester Laminated fabric or otherwise	Polyester Laminated fabric	Polyester Laminated fabric	Polyester Laminated fabric	Polyester Laminated fabric
Whether pile fabric or not	Not piled	Not piled	Not piled	Not piled
Presence of Azo Dyes	Not Detected	Not Detected	Not Detected	Not Detected

Table-C2

Description of goods	Polyester Laminated Fabric	Polyester Laminated Fabric	Polyester Laminated Fabric	Polyester Laminated Fabric
Color	Wine	Onion	Dark Grey	Olive
	TM No.61	TM No. 62	TM No. 63	TM No. 64
Query	TR No.800	TR No. 801	TR No. 802	TR No. 803
Woven/ Knitted/Non-woven	Woven	Woven	Woven	Woven
Layer-I- Film	Thermoplastic Polyurethane	Thermoplastic Polyurethane	Thermoplastic Polyurethane	Thermoplastic Polyurethane
Layer-II – Warp& Weft	Polyester	Polyester	Polyester	Polyester
Composition	Polyester – 94.2%  Theroplastic Polyurethane – 5.8%	Polyester – 93.4%  Theroplastic Polyurethane – 6.6%	Polyester – 92.5%  Theroplastic Polyurethane – 7.5%	Polyester – 91.0%  Theroplastic Polyurethane – 9.0%
Whether staple spun yarn/Filamen t yarn/staple fibre	Filament yarn	Filament yarn	Filament yarn	Filament yarn
Whether Texturized/N on-Texturized	Textured	Textured	Textured	Textured

Whether Coated/Laminated/Impregnated	Laminated	Laminated	Laminated	Laminated
GSM	128.2	127.1	126.5	129
Whether Polyester Laminated fabric or otherwise	Polyester Laminated fabric	Polyester Laminated fabric	Polyester Laminated fabric	Polyester Laminated fabric
Whether pile fabric or not	Not piled	Not piled	Not piled	Not piled
Presence of Azo Dyes	Not Detected	Not Detected	Not Detected	Not Detected

**4.1** As per above mentioned test reports no 796 to 803 all dated 18.07.2025, it is confirmed that the goods are – Woven fabric made of Polyester texturized filament yarn with lamination of ‘Thermoplastic Polyurethane’, of GSM in range-125 to 132.9.

**4.2** In view of the above test reports, it appears that Sample does not merit the classification under (CTH 59039090). However, the sample appears as more appropriately covered under Chapter-5903 under the description of laminated fabric i.e. **‘Textile fabrics impregnated, laminated, covered or laminated with plastics, other than those of heading 5902’.**

**Classification in terms of the Lab report:**

5903 Textile Fabric impregnated, coated, covered or laminated with plastics, other than those of heading 59.02

590310 - With Polyvinyl chloride:

59031010 --- Imitation leather fabrics of Cotton

59031090 --- Other

**590320 - With Polyurethane:**

**59032010 --- Imitation leather fabrics, of cotton**

**59032090 --- Other**

590390 - Other:

59039010 --- Of Cotton

59039020 --- Polyethylene laminated jute fabrics

59039090 --- Other.

**4.3** Since Polyurethane is a type of plastics. Hence, it, prima facie, appears to classifiable under 59032090 as there is 2<sup>nd</sup> single dash (-) level entry for fabric covered with polyurethane instead of declared CTH 59039090. Duty structure in case of both CTH is Same @ 36.640 % (BCD @ 20% + SWS @ 2% + IGST @ 12% ).

**5. Rejection of transaction value of the imported goods and determination of the value of the import goods**

Since during examination, the goods imported vide B/E No. 2510241 dated 06.06.2025, were found mis-declared in terms of description, classification and weight, hence, actual value of the goods imported could not be found out for import consignment covered under B/E No. 2510241 dated 06.06.2025. Therefore, the value of item declared by the importer in the Bill of Entry does 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 Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 are reproduced here under :-

**Rule 3. Determination of the method of valuation-**

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

*Value of imported goods under sub-rule (1) shall be accepted: Provided that -*

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

*are imposed or required by law or by the public authorities in*

*India; or*

*limit the geographical area in which the goods may be resold; or*

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

*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;*

*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*

*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.*

*(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.*

*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.*

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

*the deductive value for identical goods or similar goods;*

*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;*

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

*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.*

***Rule 4. Transaction value of identical goods. -***

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

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

*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.*

*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.*

*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. 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).-***

*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.*

*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:-***

*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 : -*

*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;*

*the usual costs of transport and insurance and associated costs incurred within India;*

*the customs duties and other taxes payable in India by reason of importation or sale of the goods.*

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

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

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

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

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

*the cost or value of materials and fabrication or other processing employed in producing the imported goods;*

*an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to India;*

*the cost or value of all other expenses under sub-rule (2) of rule 10.*

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

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

*Provided that the value so determined shall not exceed the price at which such or like goods are ordinarily sold or offered for sale for delivery at the time and place of*

*importation in the course of international trade, when the seller or buyer has no interest in the business of other and price is the sole consideration for the sale or offer for sale.*

*No value shall be determined under the provisions of" this rule on the basis of –*

*the selling price in India of the goods produced in India;*

*a system which provides for the acceptance for customs purposes of the highest of the two alternative values;*

*the price of the goods on the domestic market of the country of exportation; (iv) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of rule 8;*

*the price of the goods for the export to a country other than India;*

*minimum customs values; or*

*arbitrary or fictitious values.*

6. As mentioned above, the declared assessable value of the goods i.e. Rs. 8,34,057/- of Bill of Entry No. 2510241 dated 06.06.2025 cannot be considered as assessable value of the goods and hence the same is liable to be rejected under Rule 12 of Customs Valuation Rules 2007 as there has been misdeclaration in terms of description, classification and quantity. In absence of credible data of import of similar/identical goods due to upper quality of goods, description and other constraints, the value of these goods cannot be determined in terms of Rule 4,5,6,7,8 of Customs Valuation Rules 2007. Hence the value is to be determined in terms of Rule 9 of said rules.

7. Therefore, opinion of the empanelled Chartered Engineer was sought for determination of the value of the imported goods. The Chartered Engineer vide his Report No. ABJ:INSP:CE:SIIB:RADHIKA:25-26:02 dated 27.08.2025 has suggested the value of the imported goods as 23,468.50 USD, as detailed below:-

**Table-D**

**(Exchange Rate :- 1 USD = Rs.**

**86.75)**

Sr. No.	Description of goods –As found after examination as per test report	Total no of Rolls	Total Quantity of goods in Kgs- as found after examination	Per unit average suggestive CIF value of the goods in bulk quantity in USD(Approx.)	Total Average suggestive CIF Value of the Goods in bulk quantity in USD (Approx.)	Total Average CIF value in RS.
1	Polyester Laminated Fabric	1400 rolls	27610 Kgs.	0.85 USD/Kgs.	23468.5	20,35,892.37

8. On the basis of re determined value in above table, duty leviable on goods imported vide B/E No. 2510241 dated 06.06.2025 is being re calculated. The duty structure for Polyester laminated fabric with PU Lamination, covered under CTH

59032090 is @ 36.640% (BCD @ 20% + SWS@ 2% + IGST @ 12%). The leviable duty is as under :-

**Table-E**

Sr. No.	Item Found	Re determined Assessable value as per CE	BCD (@20%)	SWS (@2%)	IGST (@12%)	Total Re-determined Duty (in Rs.)	Total Declared Duty (in Rs.)	Difference (in Rs.)
A	B	C	D=C*20%	E=C*2%	F=(C+D+E)*12%	G=D+E+F	H	I
1	Polyester Laminated Fabric with PU Lamination	20,35,892	4,07,178	40,718	2,98,055	7,45,951	3,14,789	4,31,162

9. From the **Table E above**, it appears that the total duty liability of the importer is Rs. 7,45,951/- (Rupees Seven Lakh Forty-five Thousand and Nine Hundred Fifty One only). However, the importer has declared the total duty As Rs. 3,14,789/-. Therefore, the differential duty liability comes as Rs. 4,31,162/- (Rupees Four Lakh Thirty One Thousand One Hundred Sixty Two only).

**10. Summary of Investigation:**

The investigation conducted by the Special Intelligence and Investigation Branch (SIIB), Customs House, Mundra, regarding the consignment imported by M/s. V M K Textiles Private Limited (IEC: 0510006299) under Bill of Entry No. 2510241 dated 06.06.2025 revealed significant discrepancies and violations. Below is the outcome of the investigation based on the provided documents:

**10.1 Mis-declaration and Mis-classification of Goods:**

The imported goods, declared as "Polyester Laminated Fabric" under CTH 59039090, were found to be mis-classified based on test reports from the Textiles Committee Laboratory, Mumbai (Test Report Nos. 796 to 803 dated 18.07.2025). The goods consist of woven polyester filament yarn (91-95.4%) laminated with thermoplastic polyurethane (4.6-9%), which is more appropriately classifiable under CTH 59032090 ("Textile fabrics impregnated, coated, covered or laminated with polyurethane, other than those of heading 5902"). However, there is no difference in duty structure. Additionally, the declared net weight of 23,580 Kgs was found to be incorrect, as the weighment slip generated at the CFS weighbridge recorded a gross weight of 27,610 Kgs, indicating a discrepancy in the declared weight.

## 10.2 Undervaluation and Duty Evasion of Goods:

The declared assessable value of Rs. 8,34,057/- (based on a unit price of 0.35 USD/Kg) was found to be grossly undervalued. The empanelled Chartered Engineer, vide Report No. ABJ:INSP:CE:SIIB:RADHIKA:25-26:02 dated 27.08.2025, determined the fair CIF value to be USD 23,468.50 (equivalent to Rs. 20,35,892.37 at an exchange rate of 1 USD = Rs. 86.75), based on a unit price of 0.85 USD/Kg. This results in a differential assessable value of Rs. 12,01,835.37/- and a differential duty liability of Rs. 4,31,162/-, as detailed in Table-E above. The undervaluation suggests an intent to evade payment of correct customs duties, in violation of Section 46(4) of the Customs Act, 1962.

## 10.3 Confiscation of Goods and Penal action:

The importer, M/s. V M K Textiles Private Limited, through their acts of omission and commission, has rendered the goods found mis-declared and undervalued, with a re-determined assessable value of Rs. 20,35,892/- under Bill of Entry No. 2510241 dated 06.06.2025, liable for confiscation under Sections 111(l) and 111(m) of the Customs Act, 1962. Furthermore, the importer furnished false and incorrect documentation by failing to declare the correct description, classification, weight, and value of the dutiable goods in the subject Bill of Entry. This act of omission and commission renders the importer liable for penalties under Sections 112(a)(ii) of the Customs Act, 1962.

11. Further, after introduction of self-assessment vide Finance Act, 2011, the onus lies on the importer for making true and correct declaration in all aspects in the Bills of Entry and to pay the correct amount of Duty. In terms of Section 17 & 46 (4) of the Customs Act, 1962, the importers are required to make a declaration as to the truth of the contents of the Bills of Entry submitted for assessment of Customs duty. However, the importer has not presented correct facts at the time of filing B/E. Hence, it appears that the importer had knowingly involved themselves in the suppression of the material facts to clear the goods. These said act of omission and commission on the part of the importer, the importer has rendered themselves liable for penalty under section 114AA of the Custom Act, 1962.

## 12. RELEVANT LEGAL PROVISIONS:

### RELEVANT PROVISIONS OF CUSTOMS ACT, 1962:

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

**Section 2(23):** "import", with its grammatical variations and cognate expressions, means bringing into India from a place outside India; **Section 2(25):** "imported goods", means any goods brought into India from a place outside India but does not include goods which have been cleared for home consumption;

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

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

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

**Section 46.** *Entry of goods on importation:*

.....

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

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

*The accuracy and completeness of the information given therein;*

*The authenticity and validity of any document supporting it; and*

*Compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.*

**Section 17. Assessment of duty. –**

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

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

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

--

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

*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,-*

*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*

.....,

*shall be liable,-*

.....

*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.]*

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

The declared quantity i.e. 23580 Kgs. of goods imported vide impugned Bill of Entry no. 2510241 dated 06.06.2025 shall be rejected and same to be re determined as 27610 Kg.

The declared description and classification of the goods as "Polyester Laminated Fabric" under CTH 59039090 in Bill of Entry No. 2510241 dated 06.06.2025 are liable to be rejected due to mis-declaration and mis-classification and the same are re-determined as "Polyester Laminated Fabric, laminated with polyurethane" and re-classified under CTH 59032090.

The declared assessable value of Rs. 8,34,057/- is liable to be rejected under Rule 12 of the CVR, 2007 and the same is re-determined as Rs. 20,35,892/-, as per the Chartered Engineer's Report (Ref No. ABJ:INSP:CE:SIIB:RADHIKA:25-26:02 dated 27.08.2025) under Rule 9 of the Customs Valuation Rules, 2007.

The Bill of Entry no. 2510241 dated 06.06.2025 shall be re-assessed accordingly under Section 17(4) of the Customs Act, 1962.

The impugned goods imported vide B/ E No. 2510241 dated 06.06.2025, valued at Rs. 20,35,892/- are liable for confiscation under Section 111(l) & (m) of the Customs Act, 1962.

The importer, M/s. V M K Textiles Private Limited (IEC: 0510006299), is liable for penalties under Sections 112(a)(ii) and 114AA of the Customs Act, 1962, for mis-declaration, undervaluation, and suppression of material facts.

**14. Waiver of Notice and Personal Hearing:**

The Importer vide letter dated 28.08.2025, has requested that they have seen the CE report and they don't want any Summons, SCN & PH in the subject matter. They further requested to decide the matter on merits and they will abide by the decision taken by this office.

**15. DISCUSSION AND FINDING**

15. I have carefully gone through the Investigation report dated 101/2025-26 dated 11.09.2025 issued by the Deputy Commissioner of Customs (SIIB), Mundra and I find that the importer vide letter dated 28.08.2025 has requested for waiver of the Show Cause Notice and personal hearing in the matter. Therefore I find that the principle of natural justice as provided in section 122A of the Customs Act, 1962 has been completed. Hence, I proceed to decide the case on the basis of the documentary evidence available on records.

**16.** Ongoing through the facts of the case, I find that the following issues needed to be decided in the present proceedings:

The declared quantity i.e. 23580 Kgs. of goods imported vide impugned Bill of Entry no. 2510241 dated 06.06.2025 shall be rejected and same to be re-determined as 27610 Kg.

The declared description and classification of the goods as "Polyester Laminated Fabric" under CTH 59039090 in Bill of Entry No. 2510241 dated 06.06.2025 are liable to be rejected due to mis-declaration and mis-classification and the same are re-determined as "Polyester Laminated Fabric, laminated with polyurethane" and re-classified under CTH 59032090.

Whether the declared value of the goods is liable to be rejected and redetermined or otherwise.

Whether the goods imported vide impugned Bill of Entry are liable for confiscation under Section 111(m) of the Customs Act, 1962.

Whether the Importer is liable for penalty under Section 112(a) (ii) and Section 114 AA of the Customs Act, 1962.

17. On perusal of examination report and weighment slip generated at CFS on weighment of the container, I find that the declared net weight of 23,580 Kgs is incorrect, as the weighment slip generated at the CFS weighbridge recorded a gross weight of 27,610 Kgs, indicating a discrepancy in the declared weight. Therefore, I reject the declared weight of the shipment and find the correct weight as 27,610 Kgs instead of 23,580 Kgs as declared in the Bill of Entry which needs to be amended in the Bill of Entry upon adjudication of the case.

18. Coming to the second issue with respect to the classification of goods. I rely on the test reports no 796 to 803 all dated 18.07.2025 mentioned at Table C1 and C2 of the said order. On perusal of the same, I find that the goods are - Woven fabric made of Polyester texturized filament yarn with lamination of 'Thermoplastic Polyurethane', of GSM in range- 125 to 132.9. Therefore, I find that the Sample does not merit the classification under (CTH 59039090). However, I find that the sample appears as more appropriately covered under Chapter-5903 under the description of laminated fabric i.e. **'Textile fabrics impregnated, laminated, covered or laminated with plastics, other than those of heading 5902'**. The Headings are illustrated in Para 4.2 of the said order.

18.1 I find that the Polyurethane is a type of plastics. Hence, I find the same to be classifiable under 59032090 as there is 2<sup>nd</sup> single dash (-) level entry for fabric covered with polyurethane instead of declared CTH 59039090 (As illustrated in Para 4.2 of the said order). However, I find that the duty structure in case of both CTH is Same @ 36.640 % (BCD @ 20% + SWS @ 2% + IGST @ 12% ). I find that though the duty structure remains unchanged and there is no revenue implication due to change in CTH, The fact of classifying the goods under appropriate heading does not change. I find that the goods needs to be classified appropriately under the heading as per the Description of goods . Hence, I find that the goods merit classification under CTH 59032090.

19. I find that during examination, the goods imported vide B/E No. 2510241 dated 06.06.2025, were found mis-declared in terms of description, classification and weight. Further, I find that the value of item declared by the importer in the Bill of Entry does 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 therefore, I reject the same in terms of Rule 12 of CVR, 2007. However, I proceed to re-determine the value of the goods sequential in terms of Rules 4 to 9 of CVR. However, in absence of credible data of import of similar/identical goods due to upper quality of goods, description and other constraints, I find that the value of these goods cannot be determined in terms of Rule 4,5,6,7,8 of Customs Valuation Rules 2007. Hence, I proceed to re-determine the same in terms of Rule 9 of said rules.

**20.** I find that the opinion of the empanelled Chartered Engineer was sought for determination of the value of the imported goods. Further, I find that the Chartered Engineer vide his Report No. ABJ:INSP:CE:SIIB:RADHIKA:25-26:02 dated 27.08.2025 has suggested the value of the imported goods as 23,468.50 USD which comes to INR 20,35,892.37 as illustrated in Table-D above. In view of the same, I re-determine the value of Entire goods to INR 20,35,892.37 in terms of Rule 9 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

**20.1** From the **Table E above of the said order**, I find that the total duty liability of the importer is Rs. 7,45,951/- (Rupees Seven Lakh Forty-five Thousand and Nine Hundred Fifty One only). However, I find that the importer has declared the total duty As Rs. 3,14,789/-. Therefore, I find that the differential duty liability comes as Rs. 4,31,162/- (Rupees Four Lakh Thirty One Thousand One Hundred Sixty Two only) which needs to be paid by/ recovered from the importer.

**21.** In view of the above, I find that the importer, M/s. V M K Textiles Private Limited, through their acts of omission and commission, have rendered the goods found mis-declared and undervalued, with a re-determined assessable value of Rs. 20,35,892/- under Bill of Entry No. 2510241 dated 06.06.2025, liable for confiscation under Sections 111(l) and 111(m) of the Customs Act, 1962. Furthermore, I also find that the importer furnished false and incorrect documentation by failing to declare the correct description, classification, weight, and value of the dutiable goods in the subject Bill of Entry. Due to their this act of omission and commission I hold the importer liable for penalties under Sections 112(a)(ii) of the Customs Act, 1962.

**22.** I find that after introduction of self-assessment vide Finance Act, 2011, the onus lies on the importer for making true and correct declaration in all aspects in the Bills of Entry and to pay the correct amount of Duty. In terms of Section 17 & 46 (4) of the Customs Act, 1962, the importers are required to make a declaration as to the truth of the contents of the Bills of Entry submitted for assessment of Customs duty. However, in the instant case, I find that the importer has not presented correct facts at the time of filing B/E. Hence, I find that the importer had knowingly involved themselves in the suppression of the material facts to clear the goods. Due to this act of omission and commission on the part of the importer, I find the importer liable for penalty under section 114AA of the Custom Act, 1962

**23.** In view of the discussions in the foregoing paras, I pass following order:

### ORDER

- i. I reject the description, classification and quantity of the goods declared as 23580 Kgs of Polyester Laminated Fabric under CTH: 59039090, and order for amendment of Description, Quantity and CTH "Polyester Laminated Fabric, laminated with polyurethane" weighing 27610 Kgs and re-classify the same under CTH 59032090
- ii. I reject the declared assessable value of the goods in the above said Bill of Entry i.e. Rs. 8,34,057/- under Rule 12 of the CVR, 2007 and order for re-determination of the same at Rs. 20,35,892.37/- in view of Rule 9 of the CVR, 2007 as detailed in Table-D above;
- iii. I order for re-assessment of the above said Bill of Entry under Section 17(4) of the Customs Act, 1962;
- iv. I order for confiscation of the impugned goods under Bill of Entry no. 2510241 dated 06.06.2025 having re-determined assessable value of Rs. 20,35,892.37/- under Section 111(1) and 111(m) of the Customs Act, 1962 having been mis-declared by the importer in terms of description, classification, quantity and valuation. However, considering facts of the case and provisions of the Section 125 of the Customs Act, 1962, I give an option to the importer to re-deem the same for home consumption on payment of Redemption Fine of Rs. 2,10,000/- (Rs. Two Lakh Ten Thousand only) in lieu of confiscation.
- (V) I impose penalty of Rs. 43,000/- (Rs. Forty-Three Thousand only) on the importer under Section 112(a)(ii) of the Customs Act, 1962;
- (VI) I impose penalty of Rs. 50,000/- (Rs. Fifty Thousand only) on the importer under Section 114 AA of the Customs Act, 1962;

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

Copy to:

1. The Deputy Commissioner (SIIB), Custom House, Mundra
2. The Deputy/ Assistant Commissioner (RRA/TRC/EDI), Custom House, Mundra
3. Guard File