

	OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOMS HOUSE, MP & SEZ MUNDRA, KUTCH-GUJARAT -370421 PHONE : 02838-271426/271428 FAX :02838-271425	 सत्यमेव जयते
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A	File No.	CUS/ADJ/ADC/955/2025-Adjn-O/o Pr Commr-Cus-Mundra
B	OIO No.	MCH/ADC/ZDC/112/2025-26
C	Date of Order	04.07.2025
D	Passed by	Dipak Zala Additional Commissioner, Import Assessment, Custom House, Mundra.
E	SCN No./IR No. & Date	CUS/APR/MISC/6165/2024 dated 09.07.2024
F	Noticee / Party / Importer	M/s. Vaidehi Rayons, Shop No. 206, 2nd Floor, Empire State Bldg., Nr. Parag House, Ring Road, Surat, Gujarat-395002
G	DIN	20250771MO000081388C

1. The Assessment/Speaking Order is granted to concern free of charge.
2. 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

The Commissioner of Customs (Appeal), MUNDRA,
Office at 7th floor, Mridul Tower, Behind Times of India,
Ashram Road, Ahmedabad-380009
3. Appeal shall be filed within Sixty days from the date of Communication of this Order.
4. Appeal should be accompanied by a Fee of Rs. 5/- (Rupees Five Only) under Court Fees Act it must accompanied by (i) copy of the Appeal, (ii) 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. Proof of payment of duty / interest / fine / penalty / deposit should be attached with the appeal memo.
6. While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respect.
7. 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 or Penalty are in dispute, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

M/s. Vaidehi Rayons, Shop No. 206, 2nd Floor, Empire State Bldg., Nr. Parag House, Ring Road, Surat, Gujarat-395002 having IEC No. 5202009445 (hereinafter also referred to as “the importer” for the sake of brevity”) has filed Bills of Entry as mentioned in Annexure-A attached to Show Cause Notice for import of Stocklot of Narrow Tapes under CTH 58063990. It is noticed that the importer has misclassified the goods under CTH 58063990 (BCD- 10%) instead of the correct classification under CTH 58063200 (BCD- 20%) and incorrectly claimed the benefit of Sr.No. 145 of Notification No. 82/2017-Customs dated 27.10.2017 to evade higher BCD under the said CTH, which has resulted in short payment of Customs duty on the part of the importer.

2. Whereas, ‘Other narrow woven fabrics made of man-made fibres’ are classifiable under CTH 58063200 and attract BCD at the rate of 20 per cent (Notification No. 82/2017-Customs, Serial No.146 dated 27 October 2017). The imported goods were classified under CTH 58063990 and cleared, levying BCD at a concessional rate of 10 per cent under the notification described above, serial no. 145.

3. Whereas, serial no. 145 for concessional BCD was applicable for the import of ‘other narrow woven fabrics of cotton’ and ‘of other textile materials’ respectively. Although imported goods appear to be made of Polyester/Nylon, which are a type of man-made fibre, which accordingly merit classification under CTH 58063200 and are leviable to BCD at the rate of 20 per cent, instead of the 10 per cent applied. Thus, misclassification of imported goods resulted in a short levy of duty.

4. Classification: The goods classified under CTH 5806 are as given below:

(1)	(2)	(3)	(4)	(5)
5806	NARROW WOVEN FABRICS OTHER THAN GOODS OF HEADING 5807; NARROW FABRICS CONSISTING OF WARP WITHOUT WEFT ASSEMBLED BY MEANS OF AN ADHESIVE (BOLDUCS)			
5806 10 00	- Woven pile fabrics (including terry toweling and similar terry fabrics) and chenille fabrics	kg.	10%	-
5806 20 00	- Other woven fabrics, containing by weight 5% or more of elastomeric yarn or rubber thread	kg.	10%	-
5806 31	- <i>Other woven fabrics :</i>			
	-- <i>Of cotton :</i>			
5806 31 10	-- Typewriter ribbon cloth	kg.	10%	-
5806 31 20	-- Newar cotton	kg.	10%	-
5806 31 90	-- Other	kg.	10%	-
5806 32 00	-- Of man-made fibres	kg.	20%	-
5806 39	-- <i>Of other textile materials :</i>			
5806 39 10	-- Goat hair putti tape	kg.	10%	-
5806 39 20	-- Jute webbing	kg.	10%	-
5806 39 30	-- Other narrow fabrics of jute	kg.	10%	-
5806 39 90	-- Other	kg.	10%	-
5806 40 00	- Fabrics consisting of warp without weft assembled by means of an adhesive (bolducs)	kg.	10%	-

From the table above, it can be seen that the BCD for all goods covered under CTH 5806 is 10%, except for CTH 5806 3200, where the BCD is 20%.

5. Notification: The relevant extract of Notification No. 82/2017-Customs dated 27.10.2017 is as given below:

S. No.	Chapter/Heading/ Sub-heading/ Tariff item	Description	Rate
145.	5806 (except 5806 32 00)	All goods	10%
146.	5806 32 00	All goods	20%

It has been noted that the importer has misclassified goods made of Polyester/Nylon, a type of man-made fibre, under CTH 58063990 instead of the correct classification under CTI 58063200, and has wrongly claimed the benefit of Sr. No. 145 of Notification No. 82/2017-Customs dated 27.10.2017 to evade higher BCD.

6. Relevant Legal provisions, insofar as related to the facts of the case, are as under:-

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

(4) *Where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,-*

(a) collusion; or

(b) any willful mis-statement; or

(c) suppression of facts,

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

Section 28AA. Interest on delayed payment of duty.–

(1) *Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2), whether such payment is made voluntarily or after determination of the duty under that section.*

(2) *Interest at such rate not below ten per cent. and not exceeding thirty-*

six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

Section 46: Entry of goods on importation:

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

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

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

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

....

(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)

shall be liable,-

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

Section 114A. Penalty for short-levy or non-levy of duty in certain cases. - *Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any willful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-section (8) of Section 28 shall also be liable to pay a penalty equal to the duty or interest so determined:*

7. With the introduction of self-assessment under Section 17, more faith is bestowed on the importer, as the practices of routine assessment, concurrent audit, etc. have been dispensed with. As a part of self-assessment by the importer, they have been entrusted with the responsibility to correctly self-assess the duty. However, in the instant case, the importer intentionally abused this faith placed upon them by the law of the land. Therefore, it appears that the importer has wilfully violated the provisions of Section 17(1) of the Act in as much as Importer has failed to correctly self-assess the duty on the impugned goods and has also wilfully violated the provisions of sub-section (4) and (4A) of Section 46 of the Act. Therefore, the goods having assessable value of Rs. 42,53,734/- imported vide the said Bill of Entry appear liable for confiscation under Section 111(m) of the Customs Act, 1962.

8. Whereas, it appears that the importer has misclassified the goods under CTH 58063990 instead of the correct classification under CTH 58063200 and wrongly claimed the benefit of Sr.No. 145 of Notification No. 82/2017-Customs dated 27.10.20217 to evade higher BCD under the said CTH, which has resulted into short payment of Customs duty amounting to Rs. 4,91,306/- and the same is required to be recovered from the importer under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Act. For such acts of omission and commission, the importer has rendered themselves liable to

penalty under Section 112(a)(ii) and/or 114A of the Customs Act, 1962.

9. Further SCN Dated 09.07.2024 and Corrigendum dated 04.04.2025 was issued to M/s. Vaidehi Rayons, Shop No. 206, 2nd Floor, Empire State Bldg., Nr. Parag House, Ring Road, Surat, Gujarat-395002 to show cause to the Additional Commissioner of Customs, Import Assessment, Custom House, Mundra, having office at 1st Floor, Room No. 103, PUB Building, 5B, Mundra (Kutch) Gujarat 370 421, as to why:

- i. The classification of the goods declared under CTH 58063990 in Bills of Entry, as mentioned in Annexure-A to the Notice, should not be rejected, and the goods should be classified under CTH 58063200;
- ii. The above said goods having assessable value of **Rs. 42,53,734/-** should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962;
- iii. Differential Customs duty of **Rs. 4,91,306/-** in respect of the above said goods imported vide Bills of Entry as mentioned in Annexure-A to this Notice, should not be recovered from them under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962.
- iv. Penalty should not be imposed upon them under Section 112(a)(ii) and/or 114A of the Customs Act, 1962.

PERSONAL HEARING AND DEFENCE REPLY

10. The importer M/s. Vaidehi Rayons was given the opportunity to appear for a Personal Hearing in the matter on 29 April 2025, 22 May 2025, and 24 June 2025. Sh. Sanjay Bhatt, authorised representative of the Importer, appeared via virtual mode, wherein he stated that they are engaged in the business of Stocklot goods. They have imported an elastic narrow Tape mix of the correct size and have not misclassified the goods. He has stated that the heading on the Bill of Entry shows that there is rubber, thread used in narrow elastomeric tape, and it contains more than 5% elastomeric yarn and threads in Chapter 58-58062000.

DISCUSSION AND FINDINGS

11. I have carefully examined the Show Cause Notice dated July 9, 2024, the Corrigendum dated April 4, 2025, the facts of the case, the records and evidence before me, and the submission by the Importer, as presented during the virtual hearing conducted on June 24, 2025. Therefore, I find that the principle of natural justice as provided in Section 122A of the Customs Act, 1962, has been complied with. Hence, I proceed to decide the case based on the documentary evidence available in the records and the facts that have come to my notice.

12. On going through the facts of the case, I find that the following issues need to be decided in the present proceedings:

- i. Whether the declared classification of the goods needs to be rejected and the same is liable to be re-classified, or otherwise.
- ii. Whether the Importer is liable for penalty under Section 112(a) (ii)/Section 114A of the Customs Act, 1962.

13. I find that the importer has filed Bills of Entry as mentioned in Annexure-A of the Show Cause Notice dated 09.07.2024 for the import of a Stocklot of Narrow Tapes under CTH 58063990. Furthermore, the Importer has claimed the benefit of Sr. No. 145 of Notification No. 82/2017-Customs dated 27.10.20217 to evade higher BCD under the said CTH.

14. I find that "Stocklot of Narrow Tapes", which is mostly made from Polyester/Nylon, i.e made from man-made fibres, merits classification under CTH 58063200 and is leviable to BCD at the rate of 20 per cent instead of 10 per cent declared in the Bill of Entry.

15. The Importer has classified the goods under CTH 58063990.

Heading 5806 covers goods classifiable under the following sub-headings at the single dash (-) ,double dash(--)& triple dash (---)level:

**NARROW WOVEN FABRICS OTHER THAN GOODS OF HEADING 5807;
NARROW FABRICS CONSISTING OF WARP WITHOUT WEFT ASSEMBLED
BY MEANS OF AN ADHESIVE (BOLDUCS)**

58061000 - Woven pile fabrics (including terry towelling and similar terry fabrics) and chenille fabrics

58062000-Other woven fabrics, containing by weight 5% or more of elastomeric yarn or rubber thread

- Other woven fabrics:

5806 31 --Of cotton:

5806 31 10 --- Typewriter ribbon cloth

5806 31 20 --- Newar cotton

5806 31 90 --- Other

5806 32 00 -- Of man-made fibres

5806 39 -- Of other textile materials:

5806 39 10 --- Goat hair puttis tape

5806 39 20 --- Jute webbing

5806 39 30 --- Other narrow fabrics of jute

5806 39 90 --- Other

5806 40 00 - Fabrics consisting of warp without weft assembled by means of an adhesive (bolducs)

Upon a plain reading of the Custom Tariff, along with the description, I find that the goods imported via the Bills of Entry mentioned in Annexure-A of the SCN are rightly classifiable under CTH 58063200. However, the importer has incorrectly claimed the benefit of Sr. No. 145 of Notification No. 82/2017-Customs dated 27.10.20217 to evade higher BCD under the said CTH, which has resulted in short payment of Customs duty amounting to Rs. 4,91,306/-. During the Virtual Hearing, the representative of the importer asserted that the goods imported by them consist of more than 5% elastomeric yarn and threads, and according to them, the goods are classifiable under CTH 58062000. I find that the Importer failed to submit documentary evidence in support of their statement, which appears to be an afterthought lacking substantiation.

16. I find that the misclassification of the goods has resulted into short levy of duty amounting to Rs 4,91,306/- which is detailed in the below Table.

Table-A

B/E No. and Date	Name of the Importer	Inv. Sr. No.	Item Description	Item Sr. No.	Declared CTH	Correct CTH	Assessable Value	Differential BCD @10%	SWS on Diff. BCD	Differential IGST	Total Customs Duty Short Paid
4016948 dated 11.07.2019	VAIDEHI RAYONS	1	STOCKLOTS OF ELASTIC NARROW TAPES SECONDS AND MIX LOTS IN CASES	1	58063990	58063200	832309	83231	8323	4578	96132
4813221 dated 07.09.2019	VAIDEHI RAYONS	1	STOCKLOT OF ELASTIC NARROW TAPE SECONDS AND MIXED LOTS	2	58063990	58063200	1249933	124993	12499	6875	144367

5603108 dated 08.11.2019	VAIDEHI RAYONS	1	STOCKLOT OF NARROW TAPES SECONDS MIX SIZE	1	58063990	58063200	831417	83142	8314	4573	96029
6887460 dated 14.02.2020	VAIDEHI RAYONS	1	STOCKLOTS OF NARROW TAPES SECONDS MIX SIZE	1	58063990	58063200	703351	70335	7034	3868	81237
7169086 dated 09.03.2020	VAIDEHI RAYONS	1	STOCKLOTS OF NARROW TAPES SECONDS EDGE TRIMS, UNDYED (USE FOR PACKING PURPOSE, AS A ROPE)	1	58063990	58063200	636723	63672	6367	3502	73542
Total							4253734	425373	42537	23396	491306

I find that the non-payment of ADD has resulted in short levy of duty amounting to Rs. 4,91,306/- as calculated in the above Table. Hence, the goods do not correspond to the details mentioned in the Bill of Entry; therefore, the same is liable for confiscation under Section 111(m) of the Customs Act, 1962. Furthermore, for the said act of omission and commission, the importer appears liable for the penal action under the provisions of Section 112a(ii) of the Customs Act, 1962.

17. With the introduction of self-assessment under Section 17(1) of the Customs Act, 1962, the onus lies on the importer to correctly self-assess the bills of entry with the correct amount of leviable duties. By not correctly self-assessing the applicable duties, the importer received an undue monetary benefit and caused a loss to the public exchequer to the tune of Rs. Rs. 4,91,306/-. They failed to declare and assess the correct duty payable on the goods with the intention of evading payment of the correct duty on the imported goods. Thus, there is a reason to believe that the importer deliberately and wilfully misstated the facts in terms of the applicability of duty, causing loss to the Government. Revenue.

18. I find that the importer, while filing the impugned Bill of Entry, has subscribed to a declaration regarding the correctness of the contents of the Bill of Entry under Section 46(4) of the Act, ibid. Further, Section 46 (4A) of the Act casts an obligation on the importer to ensure the accuracy of the declaration and the authenticity of the documents supporting such declaration. In the instant case, the importer failed to discharge the statutory obligation cast upon him and made a wrong declaration about the applicable duties leviable on the imported goods.

19. Section 125 of the Customs Act, 1962 Provide that Whenever confiscation of any goods is authorized by this Act, the officer adjudging it

may, in the case of any goods, the importation or exportation where 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 an option to pay in lieu of confiscation such fine as the said officer thinks fit. I find that this provision makes it mandatory to grant the owner of confiscated goods the option to pay a fine in lieu of confiscation, provided the goods are not prohibited. I find it appropriate to allow for redemption under section 125 of the Customs Act, 1962.

20. In view of the above, I pass the following Order:

- i. I reject the classification of the goods declared under CTH 58063990 in Bills of Entry as mentioned in Annexure-A to the Show Cause Notice dated 09.07.2024, and order to re-classify the same under CTH 58063200;
- ii. I order to confiscate the said goods having assessable value of Rs. 42,53,734/- under Section 111(m) of the Customs Act, 1962. However, considering the facts of the case and the provisions of Section 125 of the Customs Act, 1962, I offer the importer the option to redeem the same upon payment of the Redemption Fine of Rs. 4,20,000/- (Rs Four Lakhs Twenty Thousand only) in lieu of confiscation.
- iii. I order to recover the differential Customs duty of Rs. 4,91,306/- in respect of the above said goods imported vide Bills of Entry as mentioned in Annexure-A to the Show Cause Notice dated 09.07.2024 under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962.
- iv. I impose a penalty of Rs 4,91,306/- (Rupees Four Lakhs Ninety One Thousand Three Hundred and Six Only) on the Importer- M/s. Vaidehi Rayons under Section 114A of the Customs Act, 1962.

21. This order is issued without prejudice to any other action which may be contemplated against the importer or any other person under provisions of the Customs Act, 1962 and rules/regulations framed thereunder or any other law for the time being in force in the Republic of India.

Zala Dipakbhai Chimanbhai

**Digitally signed by
Dipakbhai Zala
Date: 05-07-2025
13:33:26**

ADDITIONAL COMMISSIONER
Customs House, Mundra

To,
M/s. Vaidehi Rayons,
Shop No. 206, 2nd Floor, Empire State Bldg.,
Nr. Parag House, Ring Road,
Surat, Gujarat-395002.

Copy to:

1. The Deputy/Assistant Commissioner of Customs (RRA), CH, Mundra.
2. The Deputy/Assistant Commissioner of Customs (TRC), CH, Mundra.
3. The Deputy/Assistant Commissioner of Customs (EDI), CH, Mundra.
4. Office Copy.

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Annexure-A

B/E No. and Date	Name of the Importer	Inv. Sr. No.	Item Description	Item Sr. No.	Declared CTH	Correct CTH	Assessable Value	Differential BCD @10%	SWS on Diff. BCD	Differential IGST	Total Customs Duty Short Paid
4016948 dated 11.07.2019	VAIDEHI RAYONS	1	STOCKLOTS OF ELASTIC NARROW TAPES SECONDS AND MIX LOTS IN CASES	1	58063990	58063200	832309	83231	8323	4578	96132
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6887460 dated 14.02.2020	VAIDEHI RAYONS	1	STOCKLOTS OF NARROW TAPES SECONDS MIX SIZE	1	58063990	58063200	703351	70335	7034	3868	81237
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				Total				4253734	425373	42537	23396	491306
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