

	<p style="text-align: center;"> <b>सीमा शुल्क के प्रधान आयुक्त का कार्यालय</b>  <b>सीमा शुल्क सदन, मुंद्रा, कच्छ, गुजरात</b>  <b>OFFICE OF THE PRINCIPAL COMMISSIONER</b>  <b>OF CUSTOMS</b>  <b>CUSTOMS HOUSE, MUNDRA, KUTCH,</b>  <b>GUJARAT</b>  <u><b>Phone No.02838-271165/66/67/68</b></u>  <u><b>FAX.No.02838-271169/62,</b></u>  <u><b>Email-adj-mundra@gov.in</b></u> </p>	
<b>A. File No.</b>	:	<b>GEN/ADJ/ADC/409/2025-Adjn-O/o Pr. Commr- Cus-Mundra</b>
<b>B. Passed by</b>	:	Amit Kumar Mishra, Additional Commissioner of Customs, Customs House, AP & SEZ, Mundra.
<b>C. Noticee(s) / Party / Importer</b>	:	<b>M/s. Prakash Impex (IEC No. AIIPA9798F)</b>
<b>D. DIN</b>	:	20250271MO0000016501
<b>E. SCN Date</b>	:	11.02.2025

**SHOW CUASE NOTICE UNDER**  
**(UNDER SECTION 124 OF THE CUSTOMS ACT, 1962)**

**M/s. Prakash Impex (IEC No. AIIPA9798F)**, Plot No. 40, Flat B-1102 Maitri Ocean CHS, Sector -20, Khargar, Navi Mumbai, Raigad Maharashtra-410210 India (hereinafter referred to as importer) had filed Bill of Entry for SEZ import Z type (warehouse) having No. 4711770 dated 26.07.2024 (**RUD-1**) at SEZ Mundra, Port Code-INAJM6 to import 'PA COATED FABRIC' under CTH 59039090 at SEZ unit M/s. Holistic Global Corporation, IEC-AAPFH0139J, East of Steinweg Plot, Plot No. 3, Block D, Section 12 N, FTWZ, Adani Port & SEZ Ltd, Taluka Mundra, from the supplier M/s White Feathers-FZCO, Dubai, UAE, details of which is as under in Table-1.

**TABLE - 1**

B/E No & Date (Z Type/Warehouse B/E)	4711770 dated 26.07.2024
Item Description	'PA Coated Fabric'
Container No.	CSNU 7731732
Assessable Value declared (In Rs.)	Rs. 6,46,808/-
Quantity (in SQM)	76500
Total Rolls ( In Nos.)	1085
CTH	59039090
BCD @20%	Rs. 129362/-

SWS @10%	Rs. 12936/-
IGST @12%	Rs. 94693/-
Total Customs duty to be paid (In Rs.)	Rs. 2,36,990/-

**2.** Whereas, intelligence gathered indicated that the importer had mis-declared the goods before the customs authority with an intention to evade the Customs duty.

**3. Details of Examination:** -

**3.1.** Following the intelligence, the consignment being imported under Bill of Entry No. 4711770 dated 26.07.2024 in the container no. CSNU7731732 was put on hold and examined under Panchnama dated 02.08.2024 / 03.08.2024 (**RUD-2**) at M/s. Holistic Global Corporation, Plot No. 3, Block-D, Section 12 N, FTWZ Zone in east of Steinweg plot, Adani Port & SEZ ltd. Taluka Mundra in the presence of two independent panchas and Shri Rahul Gupta (Aadhar No. 360204283746), authorized representative of both M/s. Holistic Global Corporation & M/s Prakash Impex. During the course of examination, Shri Rahul Gupta provided the weighment slip of the Container No. CSNU 7731732, wherein, net weight of the container was shown as 27200 Kgs. He also provided the copy of import documents such as bill of entry, invoice, packing list and Bill of Lading.

**3.2.** Whereas, during the course of examination, the said container was found seal intact as per the import document i.e., bill of lading. Upon opening of container, it was observed that the container was filled with fabric rolls. Further, the fabric rolls were wrapped in transparent polythene and every fabric roll was having a slip containing details such as item name, Roll no., Colour No., Lot no., Col. Name, gross weight and net weight, Yards etc. and it was also noticed that the fabric rolls were having of different colour and weight. Thereafter, the fabric rolls were segregated and counted, wherein the number of rolls were found as per declaration.

**3.3.** Whereas, during examination, it has been noticed that there were 03 types of slips pasted on the fabric rolls wherein 03 different types of descriptions were found declared in on the slip and having different colour, size and weight. Thereafter, the fabric rolls were segregated as per the declared description and it was noticed that there were 640 rolls of fabric wherein the descriptions on the slip was mentioned as "NS LYCRA", 166 rolls of fabric wherein the description on the slip was mentioned as 'PEANUT ROMA" and 279 rolls of fabric wherein the description on the slip was mentioned as 'BARBIE". During examination, it was noticed that the average width of the fabric rolls were approx. 1.5 Mtrs, whereas, average length of the fabric roll in respect of the description declared as BARBIE was 120 to 125 yards, in respect of the description declared as NS LYKRA was approximately 100 yards and in respect of the description declared as PEANUT ROMA was 77 to 80 yards.

**3.4.** Accordingly, the total quantity of the fabric found during examination is as under:

**TABLE – 2**

Description of the goods mentioned on the slips	Total Rolls	Approximate length of the rolls in yards	Average width of the roll in Mtrs.
N.S. LYCRA	640	64000	1.5
PEANUT ROMA	166	13280	1.5
BARBIE	279	34875	1.5
<b>TOTAL</b>	<b>1085</b>		

**3.5.** Whereas, during examination 03 different types of fabric rolls were found, accordingly, to ascertain the actual characteristic / classification of the fabric representative samples of approx. 02 Meters length on random selection basis was drawn from all the three types of fabric rolls as mentioned in above Table-2 and sent to CRCL, Kandla for testing purpose.

**4. Samples submission to CRCL, Kandla -**

Samples were submitted to CRCL Kandla vide letter F. No.DRI/JRU/INQ-03/2024-25 dated 04.08.2024 along with Test Memos, details of which are as under:

**Table – 3**

Sl. No.	Name of the type of Fabric contained in Container No.CSNU7731732	Approximate length of each sample	Test Memo No.	No. of samples
01	N.S. LYCRA	one sample of appr. 2 meters	A-1/Sample No.1	01
02	PEANUT ROMA	one sample of appr. 2 meters	B-1/Sample No.1	01
03	BARBIE	one sample of appr. 2 meters	C-1/Sample No.1	01

**5. Test reports received from CRCL, Kandla:-**

**5.1.** CRCL, Kandla vide their letter F.No. KCL/Receipt Acknowledgement/2021-22 dated 12.08.2024 (**RUD-03**) has provided the test report. The gist of sample wise test report is as under-

**Table – 4**

Sl. No.	Name of the type of PA Coated	Test Memo No.	Test Report
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	Fabric contained in Container No.CSNU7731732		
01	N.S. LYCRA	A-1/ Sample No.1	Sample as received is in the form of cut piece of dyed (grey coloured) woven fabric. The fabric is composed of polyester filament yarn together with Lycra. GSM (as such)=128.8, Width( selvedge to selvedge)= 150 cm % Composition- Polyester (% by weight)=95.4 Lycra (% by weight)=balance <b>It is other than PA coated fabric.</b>
02	PEANUT ROMA	B-1/ Sample No.1	Sample as received is in the form of cut piece of dyed (grey coloured) knitted fabric. The fabric is composed of polyester multifilament yarns. GSM (as such)=303.9, Width( selvedge to selvedge)= 153 cm <b>It is other than PA coated fabric.</b>
03	BARBIE	C-1/ Sample No.1	Sample as received is in the form of cut piece of dyed (black coloured) woven fabric. The fabric is composed of polyester filament yarn together with Lycra. GSM (as such)=209.5, Width( selvedge to selvedge)= 146 cm % Composition- Polyester (% by weight)=95.4 Lycra (% by weight)=balance <b>It is other than PA coated fabric.</b>

**5.2.** Whereas, the Test Report pointed out the mis-declaration in the description as declared in the bill of entry. Accordingly, the imported consignment covered under B/E No. 4411770 dated 26.07.2024 comprised of three types of Fabric Rolls, found to be other than PA coated fabric, were placed under seizure vide Seizure Memo issued vide F. No. DRI/JRU/INQ-05/2024-25 dated 13.08.2024 (**RUD-04**) with a reasonable belief that the said goods were liable for confiscation under the provisions of the Customs Act, 1962.

#### **6. Statements recorded during Investigation:**

**6.1.** During the course of investigation, Statement of Shri Vipul P. Agarwal, Proprietor of M/s. Prakash Impex, Navi Mumbai was recorded under Section 108 of the Customs Act, 1962 on 07.08.2024 (**RUD-05**), wherein, he, inter-alia stated that he is the Proprietor of M/s. Prakash Impex, Navi Mumbai (IEC NO. AIIPA9798F) that he looks after of the work including Customs work related to M/s Prakash Impex; that the said Bill of Entry No. 4711770

dated 26.07.2024 has been filed by M/s Holistic Global Corporation office at Mumbai; that he had full knowledge regarding the imported goods being imported vide the aforesaid bill of entry; that he had gone through Panchama dated 02.08.2024 to 03.08.2024 drawn at M/s Holistic Global Corporation, Mundra SEZ; that he was agreeing that it was different fabric comparable to declared in the Bill of Entry; that the Fabric inside the imported goods was mixed with woven and knitted fabric; that he had mis-declared in the Bill of Entry for evasion of the Customs Duty; that M/s White Feathers FZCO, UAE is procuring the goods from various countries and supplying to them. The said container was loaded from China.

**6.2.** Another Statement of Shri Vipul P. Agarwal, Proprietor of M/s. Prakash Impex, Navi Mumbai (IEC NO. AIIPA9798F) was recorded under Section 108 of the Customs Act, 1962 on 17.10.2024 (**RUD-06**), wherein, he, inter-alia stated that the Bill of Entry is filed by M/s Holistic Global Corporation and after approval of M/s Prakash Impex, CTH is decided of the Goods imported; that he ordered the goods telephonically with the supplier i.e. M/s White Feathers FZCO, UAE, therefore not able to produce purchase orders; that he had perused all three Test reports and in token of having seen, put the dated signature on them; that he accepted that Fabric was mis-declared as PA Coated fabric to evade the Customs duty; that he agreed with the test reports of CRCL Kandla that consignment was comprised of three types of fabrics i.e. (1)Dyed grey coloured knitted fabric, wholly composed of polyester multifilament yarns (2) Dyed black coloured woven fabric, composed of polyester filament yarns together with Lycra (3) Dyed (grey coloured) woven fabric, composed of polyester filament yarns together with Lycra; that as per HSN Nomenclature, all above three mentioned fabric fall under CTH as under-

**Table - 5**

Sr. No.	Type of Fabric	CTH
1.	Dyed grey coloured knitted fabric, wholly composed of polyester multifilament yarns	60063200
2.	Dyed black coloured woven fabric, composed of polyester filament yarns together with Lycra	54076190
3.	Dyed (grey coloured) woven fabric, composed of polyester filament yarns together with Lycra	54076190

During the statement, he has perused Customs Tariff available and agree with classification/CTH of Fabrics as tabulated above; that it appears that 'Dyed grey coloured knitted fabric' is prohibited as per DGFT Notification No. 77/2023 dated 16.03.2024; that he is agree to pay the customs duty as per CIF value 3.5 US Dollar per kilogram on 'Dyed grey coloured knitted fabric'; that he is agree to pay the applicable Customs duties as stated above and will pay in due course as and when the assessment is taken up by the Custom House; that as per the payment terms he had with the supplier, a period of 120 days from the date of

shipment and as of now they had not paid any payment or advance payment against the subject import consignment.

#### **7. Findings of the Investigation:**

Whereas, in view of the Test Report, the statement of Shri Vipul P Agarwal, Proprietor of M/s. Prakash Impex, Navi Mumbai and the investigation conducted, it appears that the importer had deliberately declared the fabric as "PA Coated Fabric" with the sole intent to evade payment of appropriate duty.

#### **7.1. Mis-declaration of goods:**

The importer declared the goods 'PA Coated Fabric' whereas in view of Test reports 12.08.2024 (**RUD-03**) received from CRCL Kandla, it came out as 'Other than PA coated Fabric'. Moreover, the whole consignment comprised of three types of fabric of 1085 Rolls as per Table-5 above. The importer has admitted in his statements dated 17.10.2024 & 07.08.2024 recorded under Section 108 of the Customs Act, 1962 that he had intentionally mis-declared the goods to evade the Customs duty. He was well aware that one of the imported fabrics are prohibited in terms of DGFT Notification No. 77/2023 dated 16.03.2024 and are allowable to importer if CIF value is 3.5 US\$ and above per kilogram.

#### **7.2. Quantity of each type of fabric:**

In view of Table-2 and Table-4, the quantity of fabric in square meter and Kg. are workout as under:

**Table – 6**

Fabric	Total rolls	Approx. length of the rolls in yards	Average width of the Rolls in Mtrs	Approximate length of the rolls in Metre	Area in Metre square	GSM	Weight in kg
Peanut Roma	166	13280	1.5	58522	87783	303.9	26677
Barbie	279	34875	1.5	31890	47835	209.5	10021
N. S. Lycra	640	64000	1.5	58522	87783	128.8	11306

#### **7.3. Classification:**

In light of the CRCL, Kandla's report, it appears that the goods covered under Bill of Entry No. No.4411770 dated 26.07.2024 are "**other than PA coated fabric**" and appropriately classifiable under the following CTH as shown below:

**Table – 7**

Sr. No.	Type of Fabric	Actual Type of Fabric as per CRCL Report	Quantity in square meter	Weight in kg	CTH/HS code

1.	Peanut Roma	Dyed grey coloured knitted fabric, wholly composed of polyester multifilament yarns	87783	26677	60063200
2.	Barbie	Dyed black coloured woven fabric, composed of polyester filament yarns together with Lycra	47835	10021	54076190
3.	N. S. Lycra	Dyed (grey coloured) woven fabric, composed of polyester filament yarns together with Lycra	87783	11306	54076190

**7.3.1. Correct Classification of Dyed grey coloured knitted fabric, wholly composed of polyester multifilament yarns:**

The type of Fabric "Peanut Roma" imported by M/s. Prakash Impex have been appropriately categorized and classified as "Polyester knitted fabric". It appears that the Knitted Fabric fall under chapter 60 of the Customs Tariff depending on the width and types of knit i.e. Warp knit or other knit. From the details of test reports of the CRCL, Kandla in respect of the fabric describes as "Peanut Roma" was Polyester multifilament yarns having width 153 cm. Relevant Entries of Chapter 60 in the First Schedule to the Customs Tariff Act, 1975 are reproduced as under:

**Chapter 60: Knitted or Crocheted Fabrics**

- 6001 *Pile fabrics, including "long pile" fabrics and terry fabrics, knitted or crocheted*
- 6002 *Knitted or crocheted fabrics of a width not exceeding 30cm, containing by weight 5% or more of elastomeric yarn or rubber thread, other than those of heading 60.01*
- 6003 *Knitted or crocheted fabrics of a width not exceeding 30 cm, other than those of heading 60.01 or 60.02*
- 6004 *Knitted or crocheted fabrics of a width exceeding 30cm, containing by weight 5% or more of elastomeric yarn or rubber thread, other than those of heading 60.01*
- 6005 *Warp knit fabrics (including those made on galloon knitting machines), other than those of headings 60.01 to 60.04*
- 6006** ***Other knitted or crocheted fabrics***
- 60061000 - *Of wool or fine animal hair*
  - *Of cotton:*
  - ***Of synthetic fibres:***
- 60063100 -- *Unbleached or bleached*
- 60063200 -- ***Dyed***
- 60063300 -- *Of yarns of different colours*
- 60063400 -- *Printed*
  - *Of artificial fibres*
- 60069000 - *other*

In view of above, it appears that the fabric does not fall under CTH 6001 as it is not a pile fabrics. Further, the width of the fabric is 153 cm i.e. more than 30 cm, hence, it may not be classified under CTH 6002 and 6003. Further the fabric does not contain *elastomeric yarn or rubber thread*, it may not be classified under CTH 6004. Since, the fabric is dyed; it may only be classified either under CTH 6005 or CTH 6006 depending upon the knit. Further, CTH 6005 deals with the warp knit fabric, therefore, the subject fabric may not classified under CTH 6005, hence, it may rightly classified under CTH 6006 and further subheading as 60063200, as the fabric is polyester, which is a synthetic fibres.

### **7.3.2. Correct Classification of Dyed Black / Grey coloured woven fabric, composed of polyester filament yarns together with Lycra**

The type of Fabric "Barbie & N. S. Lycra" imported by M/s. Prakash Impex have been appropriately categorized and classified as "Polyester woven fabric". It appears that the Polyester Woven Fabric fall under chapter 54 or 55 of the Customs Tariff depending on the type of yarn used in the weaving of such fabrics. From the details of the test reports, it appears that the yarn is polyester filament. Chapter 5407 of the Customs Tariff deals with "Woven fabrics of synthetic filament yarn, including woven fabrics obtained from materials of heading 5404" and Chapter 5512 to chapter 5516 of the Customs Tariff deals with "Woven fabrics of Synthetic Staple Fibre". In the instant case, the fabric is "made out of polyester filament yarn". Hence, the said fabrics are appropriately classifiable under chapter 5407 of the Customs Tariff. Relevant Entries of Chapter 5407 in the First Schedule to the Customs Tariff Act, 1975 are reproduced as under:

5407	<i>Woven fabrics of synthetic filament yarn, including woven fabrics obtained from materials of heading 54.04</i>
540710	- <i>Woven fabrics obtained from high tenacity yarn of nylon or other polyamides or of polyesters:</i>
540720	- <i>Woven fabrics obtained from strip or the like</i>
540730	- <i>Fabrics specified in Note 9 to Section XI:</i> - <i>Other woven fabrics, containing 85% or more by weight of filaments of nylon or other polyamides:</i> - <i>Other woven fabrics, containing 85% or more by weight of textured polyester filaments:</i> - <i>Other woven fabrics, containing 85% or more by weight of polyester filaments:</i>
540761	- <i>Containing 85% or more by weight of non-textured polyester filaments:</i>
54076190	-- <b><i>Other</i></b>

In view of above, fabric made out of high tenacity yarns mostly used for Industrial purpose and textile fabric in the instant case are mostly meant for the manufacture of textile articles used in household and not in

Industries. Accordingly, the goods in the instant case cannot be classified under chapter 5407-1 of the Customs Tariff. Further, these fabrics are not woven by strips and are not fabrics specified in Note 9 to Section XI they do not fall under chapter 5407-2 or 5407-3 of the Customs Tariff. Since the constituent material used in manufacture of these fabrics is polyester filament and not filament of Nylon or other Polyamides, these goods cannot be classified under Chapter 5407-4 of the Customs Tariff. Further, the polyester filament is not textured; it cannot be classified under Chapter 5407-5 of the Customs Tariff. In the instant case as is evident from the test report issued by CRCL, Kandla, that the fabric is composed of polyester filament yarn and the %age of polyester by weight is more than 85% of the total weight, hence, it appears that the same falls under the category of fabrics "*Containing 85% or more by weight of non-textured polyester filaments*". Therefore, the fabric declared as "**Barbie & N. S. Lycra**" is rightly classifiable under Chapter 5407-6 and further under subheading as 54076190.

## **8. Section 21 of the Special Economic Zones Act, 2005 –**

### ***Single enforcement officer or agency for notified offences.—***

*(1) The Central Government may, by notification, specify any act or omission made punishable under any Central Act, as notified offence for the purposes of this Act.*

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

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

## **9. Relevant legal provisions of the Customs Act, 1962:**

**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 (33)** "*prohibited goods*" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with;

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

(1) The importer of any goods, other than goods intended for transit or transhipment, shall make entry thereof by presenting <sup>1</sup> [electronically] <sup>2</sup> [on the customs automated system] to the proper officer a bill of entry for home consumption or warehousing <sup>3</sup> [in such form and manner as may be prescribed] :

(2).....

(3).....

(4) The importer while presenting a bill of entry shall <sup>12</sup> [\* \* \*] 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, <sup>13</sup> [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;

(l) 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;

(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 transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of Section 54;]

### **SECTION 112: Penalty for improper importation of goods, etc.-**

*Any person, -*

*(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or*

*(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, 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 :*

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

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

*(iv) in the case of goods falling both under clauses (i) and (iii), to a penalty not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees, whichever is the highest;*

*(v) in the case of goods falling both under clauses (ii) and (iii), to a penalty not exceeding the duty sought to be evaded on such goods or*

*the difference between the declared value and the value thereof or five thousand rupees, whichever is the highest.*

**Section 114AA: Penalty for use of false and incorrect material. -**

*If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.]*

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

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

**Section 124: Issue of show cause notice before confiscation of goods, etc.**

*No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person—*

*(a) is given a notice in writing with the prior approval of the officer of Customs not below the rank of [an Assistant Commissioner of Customs], informing him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;*

*(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and*

*(c) is given a reasonable opportunity of being heard in the matter:*

*Provided that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person concerned be oral.*

**10.** From the facts discussed in the foregoing paras and material evidences available on record, it transpires that M/s. Prakash Impex had imported Knitted and Woven fabrics from the overseas supplier, and had resorted to mis-declaration, by declaring the description of the goods as PA COATED FABRIC, which is other than the correct description of the goods, in the invoices and the documents filed before the Customs Authority as Bill of Entry for SEZ import Z type (warehouse) with an intent to evade customs duty leviable thereon. The goods declared by the importer as PA COATED FABRIC before the Customs authority, for warehousing the goods, was not the correct description in as much as the goods were actually Knitted Fabric

and Woven Fabric as detailed in Table – 4 & 7 above. In the instant case, the importer had furnished wrong declaration, statement & documents to the Customs while filing Bill of Entry for SEZ import Z type (warehouse) of said Z type bills of entry i.e. bill of entry for warehousing of goods, thereby, suppressing the actual description of the goods imported by them, with an intention to evade customs duty leviable thereon, by adopting the modus as detailed hereinabove. The fact that the said goods are not PA COATED FABRIC has been categorically accepted by Shri Vipul P. Agarwal, Proprietor of M/s. Prakash Impex in his statement dated 07.08.2024 & 17.10.2024 recorded under Section 108 of the Customs Act, 1962, which is duly corroborated with the documentary evidences discussed hereinabove, Thus, the declared description and classification in respect of the said imported consignment of Knitted Fabric and Woven Fabric mis-declared as PA COATED FABRIC is liable to be rejected and same needs to be reclassified in their respective CTH as detailed in Table – 7 above.

**11.** From the above, it appears that the importer in connivance with the overseas supplier had wilfully mis-stated the actual description of fabrics before the customs authority at the time of filing Bill of Entry for SEZ import Z type (warehouse) a view to evade higher applicable customs duty. The correct description and classification of the imported product was also suppressed that the time of filing Bill of Entry for SEZ import Z type (warehouse) by presenting an invoice with a different description of the goods. Thus, the importer had suppressed the facts by way of wilful mis-statement and mis-declaration to evade the applicable customs duty. Further, the above facts discussed in the foregoing paras and material evidences available on record and the deposition of Shri Vipul P. Agarwal, Proprietor of M/s. Prakash Impex, it appeared that the importer has contravened the provisions of Section 46(4) of the Customs Act, 1962 in as much as they had intentionally mis-declared the description of their importer product as PA COATED FABRIC whereas the actual product was Knitted Fabric and Woven Fabric as detailed in Table – 4 & 7 above, thereby suppressing the correct description and classification of the imported goods, while filing the declaration, seeking clearance at the time of warehousing of the impugned goods. This act on the part of importer had rendered the goods, as detailed in Table – 2 above is liable for confiscation under the provisions of Section 111 (d), (f), (l) & (m) of the Customs Act, 1962.

**12.** Whereas, during the course of investigation, Shri Vipul P. Agarwal, Proprietor of M/s. Prakash Impex in his statement dated 17.10.2024 & 07.08.2024 recorded under Section 108 of the Customs Act, 1962 categorically admit that he had full knowledge regarding the imported goods as it was different fabric comparable to declared in the bill of entry. Further, he agreed with the test reports of CRCL Kandla that consignment was comprised of three types of fabrics i.e. (1) Dyed grey coloured knitted fabric, wholly composed of polyester multifilament yarns (2) Dyed black coloured woven fabric, composed of polyester filament yarns together with Lycra (3) Dyed (grey coloured) woven fabric, composed of polyester filament yarns together with Lycra. He has also admitted that he had intentionally mis-declared the goods to evade the Customs duty. He was well aware that one

of the imported fabrics are prohibited in terms of DGFT Notification No. 77/2023 dated 16.03.2024 and are allowable to importer if CIF value is 3.5 US\$ and above per kilogram. Therefore, it appears that the importer knowingly and intentionally mis-declare the goods to solely evade the higher custom duty. Hence the said acts of omission and commission on the part of the importer have rendered themself liable for penal action under the provisions of Section 112(a), 112 (b), 114AA & 117 of the Customs Act, 1962.

**13.** Now therefore, the Importer, **M/s. Prakash Impex** is hereby called upon to show cause in writing to **the Additional Commissioner of Customs**, Customs House, Mundra having office situated at office of the Pr. Commissioner of Customs, 5B, Port User Building, Adani Ports & SEZ, Mundra, Kutch, Gujarat – 370421 within 30 (thirty) days from the date of receipt of the notice, as to why:-

- (i) The goods imported vide the Bills of Entries mentioned in Table-1 above, seized vide Seizure Memorandum dated 13.08.2024 should not be held liable for confiscation under Section 111 (d), 111(f), 111 (l) & 111 (m) of Customs Act 1962.
- (ii) The description & classification of goods declared as “PA Coated Fabric” under CTI 59039090 should not be rejected and the same should not be re-classified/re-assessed under CTI 60063200 (*Dyed grey coloured knitted fabric*), 54076190 (*Dyed black coloured woven fabric*) & 54076190 [*Dyed (grey coloured) woven fabric*] quantity wise as mentioned in foregoing paras.
- (iii) Penalty should not be imposed on the importer i.e. M/s. Prakash Impex under Section 112 (a), 112(b), 114AA & 117 of the Customs Act, 1962.

**14.** The noticees are hereby required to produce at the time of showing cause all the evidences upon which they intend to rely in support of their defense. They are further required to indicate in their written explanation as to whether they desire to be heard in person before the case is adjudicated. If no mention is made about this in their written explanation, it will be presumed that they do not desire a personal hearing. If no cause is shown by them against the action proposed to be taken within 30 days of receipt of this notice or if they do not appear before the adjudicating authority when the case is posted for hearing, the case would be liable to be adjudicated on the basis of evidences on records.

**15.** This Show Cause Notice is issued without prejudice to any other actions that may be taken against the persons involved in the subject case, under the provisions of the Customs Act, 1962 or any other Allied Acts for the time being in force.

**16.** The relied upon documents are enclosed with this show cause notice. Copies of RUDs, if any, can also be collected from this office within 30 days of receipt of this notice.

Annexure-I (List of RUDs)

*Amit Kumar Mishra*  
**(Amit Kumar Mishra)**  
**Additional Commissioner,**  
**Custom House, Mundra.**

11.02.2025

F. No. GEN/ADJ/ADC/409/2025-Adjn  
DIN: 20250271MO0000016501  
To,

1. **M/s. Prakash Impex (IEC No. AIIPA9798F),**  
Plot No. 40, Flat B- 1102 Maitri Ocean CHS,  
Sector -20, Khargar, Navi Mumbai,  
Raigad Maharashtra-410210 India

**Copy to:**

1. The Deputy Director, Directorate of Revenue Intelligence, Jamnagar
2. Guard File.

**ANNEXURE-I**

**LIST OF RELIED UPON DOCUMENTS (RUDs) TO THE INVESTIGATION  
REPORT IN RESPECT OF IMPORTS MADE BY M/S. PRAKASH IMPEX  
(IEC No. AIIPA9798F) VIDE BILLS OF ENTRY NO. 4711770 DATED  
26.07.2024**

<b>RUD No.</b>	<b>Description</b>	<b>Pages</b>	<b>Remarks</b>
1	Copies of Warehouse Bills of Entry No. 4711770 dated 26.07.2024 as mentioned in Table-I		Available with the importer
2	Panchnama proceedings starting from 02.08.2024 to 03.08.2024 drawn at M/s. Holistic Global Corporation, Mundra SEZ.	1-7	Copy attached
3	Test report dated 09/12.08.2024 received from CRCL, Kandla	1-7	Copy attached
4	Seizure Memo & Supratnama dated 13.08.2024	2	Copy attached
5	Statement of Shri Vipul P. Agarwal, dated 07.08.2024 recorded under Section 108 of the Customs Act, 1962	1-3	Copy attached
6	Statement of Shri Vipul P. Agarwal dated 17.10.2024 recorded under Section 108 of the Customs Act, 1962	1-3	Copy attached