


| | | |
|---|--|---|
|  | | कार्यालय: प्रधान आयुक्त सीमा शुल्क, मुन्द्रा, सीमा शुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421 OFFICE OF THE COMMISSIONER OF CUSTOMS, CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT- 370421. |
| A | FILE NO. फाइल संख्या | CUS/APR/SCN/1469/2025-Gr 3 |
| B | OIO NO. आदेश संख्या | MCH/ADC/ZDC/351/2025-26 |
| C | PASSED BY जारीकर्ता | Dipak Zala, Additional Commissioner of Customs/अपर आयुक्त सीमा शुल्क Custom House, Mundra/कस्टम हाउस, मुन्द्रा। |
| D | DATE OF ORDER आदेश की तारीख | 17.10.2025 |
| E | DATE OF ISSUE जारी करने की तिथि | 17.10.2025 |
| F | SCN No. & Date कारण बताओ नोटिस क्रमांक | Party requested for waiver of SCN & PH |
| G | NOTICEE/ PARTY/ IMPORTER नोटिसकर्ता/पार्टी/आयातक | M/s. Tapisserie Homes Pvt. Ltd. (IEC: AAHCT3015C) |
| H | DIN/ दस्तावेज पहचान संख्या | 20251071MO00008184E6 |

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

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

2. यदि कोई व्यक्ति इस आदेश से असंतुष्ट है तो वह सीमाशुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमाशुल्क अधिनियम 1962 की धारा 128 A के अंतर्गत प्रपत्र सीए- 1 में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

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

“सीमाशुल्क आयुक्त) अपील,
चौथी मंजिल, हुडको बिल्डिंग, ईश्वरभुवन रोड,
नवरंगपुरा, अहमदाबाद 380 009”

**“THE COMMISSIONER OF CUSTOMS (APPEALS), MUNDRA
HAVING HIS OFFICE AT 4TH FLOOR, HUDCO BUILDING, ISHWAR BHUVAN ROAD,
NAVRANGPURA, AHMEDABAD-380 009.”**

3. उक्तअपील यहआदेश भेजने की दिनांक से 60दिन के भीतर दाखिल की जानी चाहिए।

Appeal shall be filed within sixty days from the date of communication of this order.

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5 -/रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-

Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must be accompanied by –

- i. उक्त अपील की एक प्रति और A copy of the appeal, and
- ii. इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची 1-के अनुसार न्यायालय शुल्क अधिनियम 1870-के मद सं० 6-में निर्धारित 5 -/रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।

This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.

5. अपील ज्ञापन के साथ ड्यूटी /ब्याज /दण्ड /जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।

Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo.

6. अपील प्रस्तुत करते समय, सीमाशुल्क) अपील (नियम, 1982और सीमाशुल्क अधिनियम, 1962के अन्य

7. 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.

8. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (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. Tapisserie Homes Pvt. Ltd. (IEC: AAHCT3015C), (hereinafter referred to as ‘the Importer’ or ‘Tapisserie Homes Pvt. Ltd.’ for sake of brevity) having address at 482, Phase II, HSIIDC, Barhi Industrial, Sonipat-131101, has filed the following Home Consumption Bill of Entry for import of goods declared as detailed in Table-A below: -

Table-A

| | |
|------------------------------|--|
| Name of Importer & IEC | M/s Tapisserie Homes Pvt. Ltd. (IEC: AAHCT3015C) |
|------------------------------|--|

| | | | | |
|--------------------------|---|------------------------------------|---------------|-----------|
| Address of Importer | 482, Phase II, HSIIDC, Barhi Industrial, Sonipat-131101 | | | |
| Name of CFS | Landmark CFS | | | |
| Bill of Entry No. & Date | 5900749 dated 01.10.2024 | | | |
| Container No. | EMCU8891347 | | | |
| Bill of Entry & Date | Container | Description as per BE | CTH | GW |
| 5900749 dated 01.10.2024 | EMCU8891347 | Polyester Knitted Cut Pile Fabric | 60019200 | 13995 Kgs |
| Bill of Entry No. | dated | Assessable Value declared (In Rs.) | Duty declared | |
| 5900749 | 01.10.2024 | 13,37,018/- | 3,75,702/- | |

2. The importer M/s Tapisserie Homes Pvt. Ltd. has filed Bill of Entry No. 5900749 dated 01.10.2024 for import of the goods i.e. "Polyester Knitted Cut Pile Fabric" under CTH 60019200 through their CB M/s DSR Logistics. The above said consignment was put on hold by DRI, Gandhidham Regional Unit for examination on the basis of intelligence on suspected misdeclaration/misclassification/undervaluation in import of fabrics through Mundra SEZ. The consignment was examined by the DRI officers under Panchnama dated 09.11.2024 at the premises of M/s. Landmark CFS (P) LTD., Mundra, Kutch, in the presence of the Panchas, Shri Suresh Maheshwari, Authorised person of M/s. DSR Logistics, Gandhidham and Shri Pravanjan Jena, Sr. Executive (Operations), M/s.. Landmark CFS (P) LTD, Mundra. During the examination, net weight of the goods was found to be 14170 kgs whereas gross weight declared in the Bill of Lading declared as 13995 Kgs. The cargo was examined by the DRI officers which appears to be fabric rolls of different color with the details as, mentioned in the Table-A below. The officers then randomly measured and weighed the rolls and found as per detailed packing list provided by the custom broker. The officers then took the representative samples of the cargo de-stuffed from the container No. EMCU8891347 in triplicate with the details as mentioned in the below table:

Table-B

| Sr. No. | Description of the goods. (as found on sticker pasted on rolls/detailed packing list) | Container No. | Total rolls | Sample markings |
|---------|---|---------------|-------------|-----------------|
| 1 | Fabric Rolls of Hornet Design | EMCU8891347 | 237 | B1, B2, B3 |
| 2 | Fabric Rolls of Stucco Design | | 364 | A1, A2, A3 |
| 3 | Fabric Rolls of Alpaca Design | | 24 | C1, C2, C3 |

2.1. Samples were sent to the Custom House Laboratory, Custom House Kandla by DRI, Gandhidham Regional Unit for necessary testing to ascertain the correct nature, characteristics, GSM, etc. of the fabric under following Test Memos for which Test Reports are as under:-

Table-C

| Query Sr. No. | Test Memo No. | 485/ 2024 dated 09.12.2024 | 486/ 2024 dated 09.12.2024 | 487/ 2024 dated 09.12.2024 |
|---------------|--|--|---|---|
| | Sample Marking | A1, A2, A3 | B1, B2, B3 | C1, C2, C3 |
| | Test Report Lab No. | 7394 – DRI/10.12.2024 | 7395 – DRI/10.12.2024 | 7396 – DRI/10.12.2024 |
| | Item Description in BE | Polyester Knitted Cut Pile Fabric CTH: 60019200 | Polyester Knitted Cut Pile Fabric CTH: 60019200 | Polyester Knitted Cut Pile Fabric CTH: 60019200 |
| | Description as per detailed Packing List | Fabric Rolls of Stucco Design | Fabric Rolls of Hornet Design | Fabric Rolls of Alpaca Design |
| 1. | Description of the sample as received | Cut piece of bonded fabric made of dyed (maroon) knitted fabric having polymeric coating on upper side and grey colour knitted fabric having raised fibers on lower side adhered to each other with adhesive material without selvedge | Irregular cut piece of two layered bonded fabric having dyed (grey coloured) soft surface on upper side and dark grey coloured fibrous surface on the lower side, adhered to each other with adhesive material | Cut piece of bonded fabric made of dyed (light brown) knitted fabric having cut piles on upper side and white knitted fabric having raised fibers on lower side adhered to each other with material having selvedge on one side |
| 2. | Composition | Upper and lower fabric made of Polyester filaments yarn and raised fibers is made of Polyester fibers. Coating is composed of Polymer based on Polyurethanes (PU) | Upper layer made of dyed (grey coloured) knitted fabric (59.2% by Wt.) having cut pile surface on one side is made of polyester filament yarns and its cut pile is made of polyester fibers and the lower layer made of dyed (dark grey coloured) knitted fabric (40.3% by Wt.) having raised fibres on one side is made of polyester filament yarns and raised fibres is made of polyester fibres. | Upper and lower fabric made of Polyester filaments yarns and cutpiles alongwith raised fibers is made of Polyester fibers. |
| 3. | %age composition | Polyester = 98.12% % of Coating material (PU) = 1.58 % by wt. Adhesive material = balance | Total Polyester = 99.5% Knitted fabric having cut pile surface = 59.2% Knitted fabric raised fibers = 40.3% Adhesive material = balance | Total Polyester = 99.5% Knitted fabric alongwith cut piles (Polyester) = 67.76% Knitted fabric alongwith aised fibers (Ployester) = 32% Adhesive material = balance |
| 4. | GSM | 286.88 | 374.6 | 373.19 |
| 5. | Tenacity of yarn | NA | NA | NA |
| 6. | Whether pile fabric or not | Other than Polyester knitted cut pile fabric. PU Coated. | Polyester knitted cut pile | Polyester knitted cut pile |

2.2. The above said test reports were perused by Shri Shwetank Jain, Director of M/s Tapisserie Homes Pvt. Ltd. wherein he contested the test result vide Test Lab Report No. 7394 – DRI/10.12.2024 (Test Memo No. 485/ 2024

dated 09.12.2024) in relation to Fabric Rolls of Stucco Design. As per the request of the importer the remnant sample taken vide Test Memo No. 484/2024 in respect of Fabric Rolls of Stucco Design were sent to Textile Committee, Delhi for retesting purpose. The test report received from Textile Committee is as under:

Table-D

| | | | | |
|---|---------------------------------------|---|---------|-----------|
| 1 | Identification of fibre | Layer I | Knitted | Polyester |
| | | Layer II | Knitted | Polyester |
| 2 | % Composition | Polyester | | 100 |
| 3 | GSM (TC/LAB TM-03) | 288.7g | | |
| 4 | Whether knitted/ woven | Layer I & II | | Knitted |
| 5 | Whether coated/uncoated | Not a coated | | |
| 6 | HS Classification | 6005.37 Warp knitted fabrics (including those made on galloon knitting machines), other than those of headings 60.01 to 60.04: -- Other dyed | | |
| | Whether cut pile/long pile/other pile | | | |

The above said Test Report was shared with the importer who vide their email dated 25.09.2025 has confirmed and accepted the test report.

3. As per the above said Test Reports, item nos. 1 and 3 of the detailed packing list i.e. Fabric Rolls of Hornet Design and Fabric Rolls of Alpaca Design appear to be rightly classified by the importer in the BE whereas item no. 2 i.e. Fabric Rolls of Stucco Design appear to be misclassified by the importer, detailed as under:

Table-E

| Item Sr. No. in detailed packing list | Description of the goods in detailed packing list | Description of Goods in the BE | Declared CTH | Appropriate CTH as per Test Reports |
|---------------------------------------|---|-----------------------------------|--------------|-------------------------------------|
| 1 | Fabric Rolls of Hornet Design | Polyester Knitted Cut Pile Fabric | 60019200 | 60019200 |
| 2 | Fabric Rolls of Stucco Design | Polyester Knitted Cut Pile Fabric | 60019200 | 60053790 |
| 3 | Fabric Rolls of Alpaca Design | Polyester Knitted Cut Pile Fabric | 60019200 | 60019200 |

3.1. Item No. 1 & 3 mentioned in the detailed packing list of the subject BE has been classified by the importer under CTH: 60019200. The entries under the CTH 6001 are as under:

6001 PILE FABRICS, INCLUDING —LONG PILE FABRICS AND TERRY FABRICS, KNITTED OR CROCHETED

-Other:

....

60019200 --Of man-made fibres

As per the test report received from CRCL Lab, Kandla, sample of item no. 1 & 3 i.e. Fabric Rolls of Hornet Design and Fabric Rolls of Alpaca Design mentioned in the detailed packing list of the subject Bill of Entry No. 5900749 dated 01.10.2024 is dyed polyester knitted cut pile fabric composed of Polyester approx. 99.5 % by weight with adhesive material is balance. Since the sample is knitted pile fabric and contains more than 99.5% of polyester, it has been rightly classified by the importer under CTH 60019200 as can be seen from above entries under CTH 6001.

3.2. Item No. 2 i.e. Fabric Rolls of Alpaca Design mentioned in the detailed packing list of the subject BE has been classified by the importer under CTH: 60019200 whereas as per the Test Report, correct CTH of the goods appear to be 60053790. The entries under the CTH 6005 are as under:

6005 WARP KNIT FABRICS (INCLUDING THOSE MADE ON GALLOON KNITTING MACHINES), OTHER THAN THOSE OF HEADINGS 6001 TO 6004

- Of cotton :

| | |
|------------|----------------------------------|
| 6005 21 00 | -- Unbleached or bleached |
| 6005 22 00 | - Dyed |
| 6005 23 00 | -- Of yarns of different colours |
| 6005 24 00 | - Printed |

- Of synthetic fibres :

| | |
|-----------------|--|
| 6005 35 00 | -- Fabrics specified in Sub-heading Note 1 to this Chapter |
| 6005 36 00 | -- Other, unbleached or bleached |
| 6005 37 | -- Other, dyed: |
| 60053710 | --- Shade Nets, conforming to IS 16008 |
| 60053790 | --- Other |

From the plain reading of CTH 6005, it is clear that Warp Knitted fabric other than those of heading 6001 to 6004 are classifiable under the CTH. Since per the test report of sample of item no. 2 i.e. Fabric Rolls of Alpaca Design mentioned in the detailed packing list of the subject BE, goods are dyed polyester warp knitted fabric composed wholly of polyester, they are rightly classifiable under CTH 60053790.

4. Rejection of transaction value of the imported goods and determination of the value of the import goods:-

4. Since during the test result, the imported items has been found mis-declared in terms of description/CTH classification/ quantity, as detailed in Table-E above, the declared assessable value of the goods cannot be considered as 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 (CVR, 2007) and thus, the same is liable to be rejected in terms of Rule 12 of CVR, 2007.

4.1. As per Rule 3(4) of CVR, 2007, if the value cannot be determined under the provisions of sub-rule (1), the value shall be determined by proceeding sequentially through rule 4 to 9.

4.2. As per Rule 3(4) of CVR, 2007, 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. To ascertain the value of cargo, attempts have been made to get the details from the previous bills of entry filed by the importer and as well as NIDB data for similar and identical during the relevant period was done. However, due to various items without specification and detail, valuation of identical or similar items cannot be ascertained. Thus, valuation of the item under import could not be determined in terms of Rule 4 to 8 of the CV Rules, *ibid*. Therefore, valuation of the goods was found appropriate to be determined under residual method of valuation provided under Rule 9 of the CV Rules *ibid* and hence, opinion of the empanelled Chartered Engineer was sought for determination of the value of the goods under import. The empanelled Chartered Engineer Shri Ajay Jhala has submitted his observations vide report ABJ:INSP:CE:MUN:SIIB:THPL:25-26:01 dated 26.09.2025. The Empanelled CE has ascertained the CIF value of the imported consignment 30,691.80 USD as item-wise details mentioned here under:

**TABLE – F
VALUATION**

USD = 84.6 INR

| Sr. No. | Description of Goods - As found after examination - As per DRI examination report | Description of Goods - As found after examination - As per Test Report | Total Quantity of goods in Rolls - As found after examination (in Rolls) | Total Quantity of goods in Metre - As found after examination (in Metre) | Total Declared C.I.F. Value of the Goods in bulk quantity in USD | Total Weight - Found after examination (in KGS) | Per Unit (NET WEIGHT - KGS.) Average Suggestive C.I.F. Value of the Goods in bulk quantity in USD (Approx.) | Total Average Suggestive C.I.F. Value of the Goods in bulk quantity in USD (Approx.) |
|--------------|---|--|--|--|--|---|---|--|
| 1 | Fabric Rolls of Hornet Design | Polyster Knitted Cut Pile Fabric (GSM 373.19) - As per test report | 273 | 10608.4 | 15804 | 4959 | 1.8 | 8,926.2 |
| 2 | Fabric Rolls of Stucco Design | Warp Knitted Fabric - As per test report | 364 | 18450.8 | | 8643 | 2.4 | 20,743.2 |
| 3 | Fabric Rolls of Alpaca Design | Polyster Knitted Cut Pile Fabric (GSM 374.5) - As per test report | 24 | 1195.2 | | 568 | 1.8 | 1,022.4 |
| TOTAL | | | 661 Rolls | 30254.4 METRE | 15804 USD | 14170 KGS | | 30,691.80 USD |

On perusal of the above report, it appears that Chartered Engineer after examination of the cargo has found that Per unit average suggestive C.I.F. value of the goods in bulk is found to be 1.8 USD/Kg, 2.4 USD/Kg and 1.8 USD/Kg respectively and total average suggestive C.I.F. value of the goods is 30691.80 USD (Rs. 25,96,526 /-) whereas the importer has declared the total assessable value of the consignment as Rs. 13,37,018/- [15804 USD (CIF Value)]. Thus, it appears that the subjected consignment has been undervalued to the extent of Rs. 12,59,508/- on account of mis-declaration of

the imported goods by the said importer.

Thus, the valuation of the imported goods needs to be rejected under Rule 12 of the CVR, 2007 and need to be re-determined. The valuation of all the items under import is required to be re-determined under Rule 9 of the Rules, ibid by way of valuation report of the Chartered Engineer on the basis of market research as discussed above. As per the report submitted by the Chartered Engineer (for CIF Value), the Assessable Value of the said imported goods is liable to be determined to total Rs. 25,96,526/-.

Further, the importer vide their email dated 26.09.2025 submitted that they are agreed with the value ascertained for their imported product, by the empanelled Chartered Engineer as per his report dated 26.09.2025.

5. For further investigation, summons dated 25.09.2025 was issued to the importer and subsequently, statement of Shri Shwetank Jain, Director of M/s.Tapisserie Homes Private Limited was recorded on 25.09.2025 which he interalia stated that:

- He agrees with the above said Re-Test Report received from Textile Committee;
- The importer had placed the order for order for Polyester Knitted Cut Pile Fabric only as mentioned in import commercial invoice of the subject bill of entry. Further, the Supplier loaded the goods from their warehouse directly. They were not present at the time of loading and it may be a genuine mistake on part of supplier. However, as per the test report of the item No. 2 mentioned in the detailed packing list i.e. Fabric Roll of Stucco design which were declared as Polyester Knitted Cut Pile Fabric and wherein, the goods have been found to be Warp Knitted Fabrics – Other Dyed Polyester (100%) having GSM= 288.7 to which he agreed and ready to pay differential Customs duty, if any, that may arise due to change in classification along with applicable fine and penalty.
- they requested to take lenient view in the matter and release the cargo; further, they are ready to pay differential Customs duty that may arise due to change in classification along with applicable fine and penalty;

6. In view of the same, applicable duty for the CTH 60019200 is as follows

CTH 60019200: BCD 20% of the assessable value
SWS: 10% of the BCD
IGST: 5 %
Unit: Kg

Further, applicable duty for the CTH 60053790 is as follows

CTH 60053790 : BCD 20% of the assessable value
SWS: 10% of the BCD
IGST: 5 %
Unit: Kg

On perusal of the above, it is found that the Basic Customs duty for both the CTH is prescribed as 20% of the assessable value. Accordingly, duty is calculated considering CIF value of the goods as 30691.80 USD (Rs. 25,96,526/-) which is as under:

Table-G**Exchange Rate: (1 USD = 84.6 INR)**

| Sr. No. | Description of Goods - As per detailed packing list found after examination | Description of Goods - As found after examination - As per Test Report | CTH Declared | CTH actual | Total Declared C.I.F. Value (in Rs.) | CIF Value as per CE Report (in Rs) | Basic Customs Duty (in Rs.) | SWS (in Rs.) | IGST (in Rs.) | Total Duty (in Rs.) |
|--------------|---|--|--------------|------------|--------------------------------------|------------------------------------|-----------------------------|--------------|---------------|---------------------|
| 1 | Fabric Rolls of Hornet Design | Polyster Knitted Cut Pile Fabric (GSM 373.19) - As per test report | 60019200 | 60019200 | 15804 | 755157 | 151031 | 15103 | 46065 | 212199 |
| 2 | Fabric Rolls of Stucco Design | Warp Knitted Fabric - As per test report | 60019200 | 60053790 | | 1754875 | 350975 | 35097 | 107047 | 493120 |
| 3 | Fabric Rolls of Alpaca Design | Polyster Knitted Cut Pile Fabric (GSM 374.5) - As per test report | 60019200 | 60019200 | | 86495 | 17299 | 1730 | 5276 | 24305 |
| TOTAL | | | | | 13,37,018 | 25,96,526 | | | | 7,29,624 |

In view of the above, prima facie, it appears that the importer M/s. Tapisserie Homes Private Limited has mis-declared the goods in terms of description, classification, quantity and valuation wherein all the items mentioned in detailed packing list found to be undervalued. Item no. 2 i.e. Fabric Rolls of Stucco Design found to be mis-declared as Polyester Knitted Cut Pile Fabric under CTH 60019200; whereas, as per the above Test Report received from Textile Committee, goods have been found to be dyed polyester warp knitted fabric falling under CTH: 60053790 wherein valuation of the goods appears to be of 30691.80 USD. Accordingly, the re-determined assessable value of the goods comes to Rs. 25,96,526/- on which applicable duty comes to Rs. 7,29,624/- resulting in differential duty of Rs. 3,53,922/-.

6.1. Therefore, it appeared that the importer has contravened Section 17 and Section 46 of the Customs Act, 1962 and CVR, 2007 in as much as they failed to declare correct description, classification and value of the goods in the Customs document filed by them. These acts of omission and commission on the part of importer has made the subject goods having re-determined assessable value of Rs. 25,96,526/- liable for confiscation under Section 111(d) and 111(m) of the Custom Act, 1962 which has rendered the importer liable for penal action under Section 112(a)(i) of the said Act.

6.2. It further appears that the importer has furnished false and incorrect documents before the Customs Department for import of the subject consignment by misdeclaring the goods in terms of description and classification to evade higher duty rate. This act of omission and commission on part of the importer has rendered them liable for penal action under Section 114AA of the Customs Act, 1962.

7. RELEVANT LEGAL PROVISIONS:

RELEVANT PROVISIONS OF THE CUSTOMS ACT, 1962:

Section 2. Definitions-

In this Act, unless the context otherwise requires,

(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;

(23) "import", with its grammatical variations and cognate expressions, means bringing into India from a place outside India;

(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;

(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;

(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;

(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.Definitions-

In this Act, unless the context otherwise requires,

(a) "illegal import" means the import of any goods in contravention of the provisions of this Act or any other law for the time being in force.

Section 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 46. Entry of goods on importation. –

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

....

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

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;

.....

(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54;

.....

Section 112. Penalty for improper importation of goods, etc. –

Any person,-

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

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, 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 1 [not exceeding the value of the goods or five thousand rupees], whichever is the greater;

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

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

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

8. Outcome of the Investigation Conducted:

8.1. The importer M/s Tapisserie Homes Pvt. Ltd. has filed Bill of Entry No. 5900749 dated 01.10.2024 for import of the goods i.e. "Polyester Knitted Cut Pile Fabric" under CTH 60019200 through their CB M/s DSR Logistics. The above said consignment was put on hold by DRI, Gandhidham Regional Unit for examination on the basis of intelligence on suspected misdeclaration/misclassification/undervaluation in import of fabrics through Mundra SEZ. The consignment was examined by the DRI officers under Panchnama dated 09.11.2024 with the details as, mentioned in the Table-A below. The officers then randomly measured and weighed the rolls and found as per detailed packing list provided by the custom broker wherein three different types of design namely (1) Fabric Roll of Hornet Design (2) Fabric Roll of Stucco Design and (3) Fabric Roll of Alpaca Design were found. The officers then took the representative samples of the above designs and sent the same to Custom House Laboratory, Custom House Kandla under Test Memo No. 485, 486 and 487 all dated 09.12.2024 to ascertain the correct nature, characteristics, GSM, etc. of the fabric.

8.2. The Test Reports received from Customs laboratory, Kandla revealed that samples vide Test Memo No.486 & 487 in respect of Fabric Rolls of Hornet and Alpaca Designs confirms with the description declared by the importer i.e. Polyester Knitted Cut Pile Fabric. However, the Test report in respect of Test Memo No. 485 i.e. Fabric Roll of Stucco design indicated that the sample do not confirm with the description declared by the importer and it is other than Polyester Knitted Cut Pile Fabric and actually PU coated. The above said test reports were perused by Shri Shwetank Jain, Director of M/s Tapisserie Homes Pvt. Ltd. wherein he contested the test result vide Test Lab Report No. 7394 – DRI/10.12.2024 (Test Memo No. 485/ 2024 dated 09.12.2024) in relation to Fabric Rolls of Stucco Design. As per the request of the importer the remnant sample taken vide Test Memo No. 484/2024 in respect of Fabric Rolls of Stucco Design were sent to Textile Committee, Delhi for retesting purpose. As per the test report received from Textile Committee, it is found that the sample is actually "Dyed Polyester Warp Knitted Fabrics" which falls under the CTH 60053790.

8.3. The goods were having declared assessable value of Rs. 13,37,018/- and declared duty of Rs. 3,75,702/-. The assessable value of the subject consignment has been re-determined as Rs. 25,96,526/- on the basis of CE Opinion Certificate dated 26.09.2025 in view of Rule 9 of the CVR, 2007, on which applicable duty calculated BCD@ 20%, SES 10% and IGST @5% comes to Rs. 7,29,624/- as detailed in Table-G above resulting in differential duty of Rs. 3,53,922/-.

8.4. The importer has thus contravened Section 17 and Section 46 of the Customs Act, 1962 and CVR, 2007 in as much as they failed to declare correct description, classification and value of the goods and correctly assess their duty liability in the subject bill of entry filed by them. It further appears that the importer has presented false and incorrect documents before the Customs Department for import of the subject consignment by misdeclaring the goods in

terms of description and classification to evade higher duty rate. These acts of omission and commission on the part of importer has made the subject goods having re-determined assessable value of Rs. 25,96,526/- liable for confiscation under Section 111(d) and 111(m) of the Custom Act, 1962 and hence, rendered the importer liable for penal action under Section 112(a)(i) and 114AA of the said Act.

9. Accordingly, it appears that:

- i. The description of the goods viz. is "Fabric Roll of Stucco Design" in detailed packing list and described in the Bill of Entry No. 5900749 dated 01.10.2024 as "Polyester Knitted Cut Pile Fabric" under CTH: 60019200 should not be rejected and described as "Dyed Polyester Warp Knitted Fabric" under CTH 60053790;
- ii. The declared value of the goods i.e. Rs. 13,37,018/- imported vide the above said Bill of Entry should not be rejected under Rule 12 of the CVR, 2007 and re-determined as Rs. 25,96,526/- as discussed in above paras under Rule 9 of the CVR, 2007;
- iii. The goods imported by M/s. Tapisserie Homes Pvt. Ltd. vide Bills of Entry No. 5900749 dated 01.10.2024 should not be re-assessed under Section 17(4) of the Customs Act, 1962 with the re-determined duty as discussed in para supra;
- iv. The goods imported vide Bill of Entry No. 5900749 dated 01.10.2024 should not be confiscated under Section 111(m) of the Customs Act, 1962;
- v. The penalty under Section 112(a)(ii) of the Customs Act, 1962 should not be imposed on the importer M/s. Tapisserie Homes Pvt. Ltd..
- vi. The penalty under Section 114AA of the Customs Act, 1962 should not be imposed on the importer M/s. Tapisserie Homes Pvt. Ltd.

10. Waiver of Notice and Personal Hearing: The Importer vide e-mail dated 27.09.2025, has given their acceptance of the Chartered Engineer report dated 22.07.2025. They communicated through mail that they don't want any Show Cause Notice and Personal Hearing in the subject case. They submitted that they have already accepted the Test Report No. 970/TC/SE/LDE/2025-26 dated 22.07.2025 issued by the Textile Committee, as well as the Valuation Report submitted by the Chartered Engineer vide his report No. ABJ:INSP:CE:MUN:SIIB:THPL:25-26:01 dated 26.09.2025. They also submitted that they fully agree with the outcome of the investigation and are ready to pay the differential customs duty arising due to the reclassification, along with the applicable fine and penalty.

DISCUSSION AND FINDINGS

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

12. The importer filed the Bill of Entry 5900749 dated 01.10.2024 declaring the goods as *Polyester Knitted Cut Pile Fabric* under CTH 60019200 with a declared assessable value of ₹13,37,018/-. The consignment was intercepted and examined by officers of DRI, Gandhidham Regional Unit, under Panchnama

dated 09.11.2024, at the premises of M/s Landmark CFS Pvt. Ltd., Mundra, in the presence of independent witnesses and representatives of the Customs Broker. Upon detailed examination of the goods, there were three types of fabric rolls identified as "Hornet Design", "Stucco Design" and "Alpaca Design". Representative samples were drawn in triplicate and sent to the Customs Laboratory, Kandla, under Test Memos Nos. 485 to 487 all dated 09.12.2024, for testing.

13. As per the laboratory reports, the samples of *Hornet* and *Alpaca* designs were found to be *Polyester Knitted Cut Pile Fabric*. Thus, I find that the two type of sample have been found as per the declared description and falling under CTH 60019200 (as declared by the importer). However, the sample of *Stucco Design* (Test Memo No. 485/2024) was found to be *other than Polyester Knitted Cut Pile Fabric* and indicated the presence of a polyurethane (PU) coating. The importer contested this result and requested for re-testing by the Textile Committee, Delhi. The Textile Committee, Delhi, provided test results and suggested that the *Stucco Design* fabric was *Dyed Polyester Warp Knitted Fabric (100% polyester, GSM 288.7, uncoated)* and therefore classifiable under heading 6005, specifically sub-heading 60053790. The importer vide their email dated 25.09.2025 accepted the re-test result.

14. In view of the above discussion, I conclude that two of the three fabric varieties, namely "Hornet" and "Alpaca," have been correctly classified under CTH 60019200. However, the fabric of "Stucco Design" is warp knitted, uncoated, and composed entirely of polyester. It does not possess the characteristics of a pile fabric and, therefore, merits classification under CTH 60053790 as "*Warp knitted fabrics (including those made on galloon knitting machines), of synthetic fibres, other, dyed—other.*"

15. The importer's declaration under CTH 60019200 for the "Stucco Design fabric" is found to be incorrect. The explanation given by Shri Shwetank Jain—that the error occurred inadvertently or due to a supplier's mistake—cannot absolve the importer of responsibility. Under Section 46(4) of the Customs Act, 1962, the importer is required to declare the truth of the particulars contained in the Bill of Entry, and Section 46(4A) further obligates the importer to ensure the accuracy and completeness of such declaration. Accordingly, I hold that the misclassification constitutes a mis-declaration under the provisions of the Customs Act, 1962.

16. VALUATION OF THE GOODS:-

16.1 From the above, it is evident that the importer had mis-declared the goods in terms of description, classification etc. and goods were not found as per the declaration filed in the Bill of Entry No. 85900749 dated 01.10.2024. Hence, value declared by the Importer cannot be accepted as true transaction value. Further, the Importer during the investigation, in principal, agreed with findings of the investigation and requested for waiver of the Show Cause Notice. Further, the importer has agreed to the valuation suggested by the Chartered Engineer/valuer. Thus, the declared value appeared to be not acceptable as transaction value and merits rejection in terms of Section 14 of Customs Act, 1962 read with Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. The value is required to be re-determined by sequentially proceeding in terms of Rules 4 to 9 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. I find that Rule 3(1) of Rules 2007 provides that "*subject to rule 12, the value of imported goods shall*

be the transaction value adjusted in accordance with provisions of rule 10". Rule 3(4) *ibid* states that "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 of Custom Valuation Rules, 2007". The relevant Rules of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 are reproduced hereunder: -

3. Determination of the method of valuation-

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

(2) Value of imported goods under sub-rule (1) shall be accepted:

Provided that -

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

(i) are imposed or required by law or by the public authorities in India; or

(ii) limit the geographical area in which the goods may be resold; or

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

(b) the sale or price is not subject to some condition or consideration for which a value cannot be determined in respect of the goods being valued;

(c) no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provisions of rule 10 of these rules; and

(d) the buyer and seller are not related, or where the buyer and seller are related, that transaction value is acceptable for customs purposes under the provisions of sub-rule (3) below.

(3) (a) Where the buyer and seller are related, the transaction value shall be accepted provided that the examination of the circumstances of the sale of the imported goods indicate that the relationship did not influence the price.

(b) In a sale between related persons, the transaction value shall be accepted, whenever the importer demonstrates that the declared value of the goods being valued, closely approximates to one of the following values ascertained at or about the same time.

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

(ii) the deductive value for identical goods or similar goods;

(iii) the computed value for identical goods or similar goods:

Provided that in applying the values used for comparison, due account shall be taken of demonstrated difference in commercial levels, quantity levels, adjustments in accordance with the provisions of rule 10 and cost incurred by the seller in sales in which he and the buyer are not related;

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

(4) if the value cannot be determined under the provisions of sub-rule (1), the value shall be determined by proceeding sequentially through rule 4 to 9.

4. Transaction value of identical goods. -

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

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

(b) In applying this rule, the transaction value of identical goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the value of imported goods.

(c) Where no sale referred to in clause (b) of sub-rule (1), is found, the transaction value of identical goods sold at a different commercial level or in different quantities or both, adjusted to take account of the difference attributable to commercial level or to the quantity or both, shall be used, provided that such adjustments shall be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustments, whether such adjustment leads to an increase or decrease in the value.

(2) Where the costs and charges referred to in sub-rule (2) of rule 10 of these rules are included in the transaction value of identical goods, an adjustment shall be made, if there are significant differences in such costs and charges between the goods being valued and the identical goods in question arising from differences in distances and means of transport.

(3) In applying this rule, if more than one transaction value of identical goods is found, the lowest such value shall be used to determine the value of imported goods.

Rule 5 (Transaction value of similar goods).-

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

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

(2) The provisions of clauses (b) and (c) of sub-rule (1), sub-rule (2) and sub-rule (3), of rule 4 shall, mutatis mutandis, also apply in respect of similar goods.

Further, as per Rule 6 of the CVR, 2007, if the value cannot be determined under Rule 3, 4 & 5, then the value shall be determined under Rule 7 of CVR, 2007.

Rule 7 of the CVR, 2007, stipulates that:-

(1) Subject to the provisions of rule 3, if the goods being valued or identical or similar imported goods are sold in India, in the condition as imported at or about the time at which the declaration for determination of value is presented, the value of imported goods shall be based on the unit price at which the imported goods or identical or similar imported goods are sold in the greatest aggregate

quantity to persons who are not related to the sellers in India, subject to the following deductions : -

(i) either the commission usually paid or agreed to be paid or the additions usually made for profits and general expenses in connection with sales in India of imported goods of the same class or kind;

(ii) the usual costs of transport and insurance and associated costs incurred within India;

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

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

(3) (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:-

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

(b) 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;

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

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

(1) 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.

(2) No value shall be determined under the provisions of" this rule on the basis of -

(i) the selling price in India of the goods produced in India;

(ii) a system which provides for the acceptance for customs purposes of the highest of the two alternative values;

- (iii) 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;*
- (v) the price of the goods for the export to a country other than India;*
- (vi) minimum customs values; or*
- (vii) arbitrary or fictitious values.*

16.2 I state that "Value" has been defined under Section 2(41) of the Customs Act, 1962 as "Value", in relation to any goods, means the value thereof determined in accordance with the provisions of sub-section (1) or sub-section (2) of section 14".

16.3 The Section 14 *ibid* provides, *inter alia*, that the value of the imported goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such their conditions as may be specified in the rules made in this behalf. Further, its proviso provides that such transaction value in the case of imported goods shall include, in addition to the price as aforesaid, any amount paid or payable for costs and services, including commissions and brokerage, engineering, design work, royalties and license fees, costs of transportation to the place of importation, insurance, loading, unloading and handling charges to the extent and in the manner specified in the rules made in this behalf. I find that as per the above provision value of any imported goods is the price actually paid or payable for the goods plus the components of other incidental charges to the extent mentioned in proviso to Section 14 *ibid* and in the manner specified in the Rules made under Section 14 *ibid*.

16.4 I find that Rule 4 (1) (a) of Rules 2007 stipulates determination of value of goods on the basis of value of identical goods. Rule 5, providing for transaction value of similar goods. I observed that the imported goods were found in different variety, description, specification and quality, so, it was not possible to find and compare the same with other goods having identical/similar description, brand, make, model, quantity and Country of Origin. As the import data extracted with respect to contemporaneous imports was general in nature and contemporaneous data for imports of identical/similar goods was not available/found, therefore, the value cannot be determined under Rules 4 and 5 of CVR, 2007. As per Rule 6 *ibid*, if the value cannot be determined under Rules 3, 4 and 5 same shall be determined under the provisions of Rule 7 or when same cannot be determined under that rule then under Rule 8. I also noticed that no exact sales values and data required for quantification of the deductions was available, hence, rule 7 cannot be invoked. Further, computed value, as provided under Rule 8, cannot be calculated in the absence of quantifiable data relating to cost of production, manufacture or processing of import goods. In such scenario, I find it appropriate to invoke the provisions of Rule 9 i.e. residual method for determining the value of the impugned import goods. Rule 9 provides for determination of value using reasonable means consistent with the principles and general provisions of these rules.

16.5 I find that in absence of credible data of import of similar goods 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. For the purpose of valuation, the Chartered Engineer vide his report ref no. ABJ:INSP:CE:MUN:SIIB:THPL:25-26:01 dated 26.09.2025 has suggested the valuation of the goods as per below detailed under Table-F at para 4.2 above. The content of the table are not being repeated here for the sake of brevity.

16.6 In view of the above, I find that the market price as provided by the Chartered Engineer has to be considered as the basis for arriving at the assessable value of these goods. I hold that the declared value in respect to aforementioned goods is liable to be rejected under Rule 12 of the CVR, 2007 and the same is liable to be re-determined under Section 14 of the Customs Act, 1962 read with Rule 9 of the CVR, 2007. Thus, I find it appropriate to consider the value suggested by the Chartered Engineer/valuer for the present shipment and re-determined the same at **Rs. 25,96,526/-**.

17. CONFISCATION OF THE GOODS UNDER SECTION 111(m) OF THE CUSTOMS ACT, 1962:

17.1 It is alleged in the investigation report that the goods are liable for confiscation under Section 111(m) of the Customs Act, 1962. In this regard, I find that as far as confiscation of goods are concerned, Section 111 of the Customs Act, 1962, defines the Confiscation of improperly imported goods. The relevant legal provisions of Section 111 of the Customs Act, 1962 are reproduced below: -

(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;"

17.2 In view of the facts and material evidence on record, it is clearly established that the goods imported in the present shipment have been found mis-declared in respect of description, value, classification alongwith other material particulars. Thus, there is no doubt that the goods are liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962.

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

"Section 125. Option to pay fine in lieu of confiscation.—(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods 1[or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit."

17.3.1 A plain reading of the above provision shows that imposition of

redemption fine is an option in lieu of confiscation. It provides for an opportunity to owner of confiscated goods for release of confiscated goods by paying redemption fine where there is no restriction on policy provision for domestic clearance. I find that there is no post import restriction on the goods imported under the subject shipments, hence, I find it appropriate to grant an option to the importer to redeem the goods on payment of on redemption fine in lieu of confiscation under Section 125(1) of the Customs Act, 1962.

18.1 It is clear that the details of the goods mentioned in the import documents and the goods found during the examination do not match and the Importer had imported the mis-declared items as mentioned above. As much as penalty under Section 112(a) of Customs Act, 1962 is concerned, I find that by the acts of omission and commission, the Importer had rendered themselves liable for penalty under Section 112(a) of the Customs Act, 1962. Therefore, the proposal of penalty under Section 112(a)(ii) of Customs Act, 1962 on the Importer is legitimate and thus, the same is confirmed.

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

19. With respect to the applicability of duty rate and recovery of differential duty, I confirm the same and hold that the same should be levied at the time of assessment of the Bill of Entry.

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

ORDER

- i. I order to reject the declared description as "Polyester Knitted Cut Pile Fabric" in the Bill of Entry No. 5900749 dated 01.10.2024 of item which found to be mentioned under detailed packing list as "Fabric Roll of Stucco Design" and order to re-determine the description as "Dyed Polyester Warp Knitted Fabric" under CTH 60053790. I also order for assessment of the Bill of Entry 5900749 dated 01.10.2024 under Section 17(4) of the Customs Act, 1962.
- ii. I order to reject the declared assessable value of Rs.13,37,018/- and order to re-determine the same as **Rs. 25,96,526/- (Rupees Twenty Five Lakhs Ninety Six Thousand Five Hundred and Twenty Six only)**, as detailed above under Table-F at para 4.2, under Rule 9 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with Section 14 of the Customs Act, 1962;
- iii. I order for confiscation of the goods having re-determined value of Rs. 25,96,526/- under Section 111(m) of the Customs Act, 1962. However, I give an option to the Importer to redeem the same on payment of redemption fine of **Rs. 3,00,000/- (Rupees Three Lakh only)**.
- iv. I impose a penalty of **Rs. 35,000 /-(Rupees Thirty Five Thousand only)**

upon the Importer under Section 112(a)(ii) of the Customs Act, 1962.

- v. I impose a penalty of **Rs. 1,00,000/-(One Lakh only)** upon the Importer under Section 114AA of the Customs Act, 1962.

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

Chimanbhai

COMMISSIONER

Zala Dipakbhai

ADDITIONAL

Customs House, Mundra

To:

M/s. Tapisserie Homes Pvt Ltd (IEC: AAHCT3015C),
482, Phase II, HSIIDC, Barhi Industrial,
Sonipat-131101.
[Email: purchase@tapisserie.co.in]

Copy to:

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