
	<p style="text-align: center;">कार्यालय: प्रधान आयुक्त सीमाशुल्क, मुन्द्रा, सीमाशुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421 OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS: CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT- 370421.</p> <p style="text-align: center;">PHONE : 02838-271426/271423 FAX :02838-271425 Email: adj-mundra@gov.in</p>	
A. File No.	GEN/ADJ/COMM/211/2025-Adjn-O/o Pr Commr-Cus-mundra	
B. Order-in-Original No.	MUN-CUSTM-000-COM-04-26-27	
C. Passed by	Nitin Saini, Commissioner of Customs, Customs House, AP & SEZ, Mundra.	
D. Date of order and Date of issue:	13.04.2026 13.04.2026	
E. SCN No. & Date	08/2025-26/COMM/KE/ADJ/MCH Dated 16.04.2025	
F. Importer	M/s Tapisserie Homes Pvt. Ltd. (IEC: AAHCT3015C)	
G. DIN	20260471MO000000B54D	

1. यह अपील आदेश संबंधित को निःशुल्क प्रदान किया जाता है।
This Order - in - Original is granted to the concerned free of charge.
2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 129A(1) के अंतर्गत प्रपत्र सीए3- में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

Any person aggrieved by this Order - in - Original may file an appeal under Section 129 A (1) (a) of Customs Act, 1962 read with Rule 6 (1) of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -3 to:

“केन्द्रीय उत्पाद एवं सीमा शुल्क और सेवाकर अपीलीय प्राधिकरण, पश्चिम जोनल पीठ, 2nd फ्लोर, बहुमाली भवन, मंजुश्री मील कंपाउंड, गिर्धनगर ब्रिज के पास, गिर्धनगर पोस्ट ऑफिस, अहमदाबाद-380 004”

“Customs Excise & Service Tax Appellate Tribunal, West Zonal Bench, 2nd floor, Bahumali Bhavan, Manjushri Mill Compound, Near Girdharnagar Bridge, Girdharnagar PO, Ahmedabad 380 004.”

3. उक्त अपील यह आदेश भेजने की दिनांक से तीन माह के भीतर दाखिल की जानी चाहिए।
Appeal shall be filed within three months from the date of communication of this order.
4. उक्त अपील के साथ -/ 1000रूपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज, दंड या शास्ति रूपये पाँच लाख या कम माँगा हो 5000/- रूपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज, शास्ति या दंड पाँच लाख रूपये से अधिक किंतु पचास लाख रूपये से कम माँगा हो 10,000/- रूपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, दंड व्याज या शास्ति पचास लाख रूपये से अधिक माँगा हो। शुल्क का भुगतान खण्ड पीठ बेंच आहरित ट्रिब्यूनल के सहायक रजिस्ट्रार के पक्ष में खण्डपीठ स्थित जगह पर स्थित किसी भी राष्ट्रीयकृत बैंक की एक शाखा पर बैंक ड्राफ्ट के माध्यम से भुगतान किया जाएगा।

Appeal should be accompanied by a fee of Rs. 1000/- in cases where duty, interest, fine or penalty demanded is Rs. 5 lakh (Rupees Five lakh) or less, Rs. 5000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 5 lakh (Rupees Five lakh) but less than Rs.50 lakh (Rupees Fifty lakhs) and Rs.10,000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 50 lakhs (Rupees Fifty lakhs). This fee shall be paid through Bank Draft in favour of the Assistant Registrar of the bench of the Tribunal drawn on a branch of any nationalized bank located at the place where the Bench is situated.

5. उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत 5/- रूपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मदसं-6 के तहत निर्धारित 0.50 पैसे की एक न्यायालय शुल्क स्टाम्प वहन करना चाहिए।

The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paise only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.

6. अपील ज्ञापन के साथ ड्यूटी/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।
Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.
7. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और CESTAT (प्रक्रिया) नियम, 1982 सभी मामलों में पालन किया जाना चाहिए।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and the CESTAT (Procedure) Rules 1982 should be adhered to in all respects.

8. इस आदेश के विरुद्ध अपील हेतु जहाँ शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहाँ केवल जुर्माना विवाद में हो, न्यायाधिकरण के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।

An appeal against this order shall lie before the Tribunal 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

Intelligence developed by the Directorate of Revenue Intelligence, Surat Regional Unit (“*DRI SRU*” for the sake of brevity) indicated that **M/s Tapisserie Homes Private Limited**, registered at E-59, 1st Floor, Industrial Area, Model town, Panipat, Haryana, 132103 (hereinafter referred to as ‘*Tapisserie*’ for the sake of brevity), having IEC: **AAHCT3015C**, were incorrectly availing benefit of Notification No. 46/2011-Customs dated 01.06.2011, as amended, by using unauthentic/non-existent Certificates of Origin (CoOs) during import of “Polyester Knitted Fabrics, Polyester Knitted Bonded Fabrics, Polyester Knitted Pile Bonded Fabrics and Polyester Woven Bonded Fabrics”, under CTIs 60063200, 60019200 and 54076900 of the first Schedule to the Customs Tariff Act, 1975 at Adani Port and Special Economic Zone, Mundra and clearing the said imported goods to their Domestic Tariff Area (DTA) unit without payment of the applicable duties.

1.2. As per the intelligence, it was suspected that the Certificates of Origin (CoOs) used for availing the duty exemption benefit were either non-existent or unauthentic. Since Tapisserie had imported the said goods from Malaysia and then cleared them to Domestic Tariff Area while availing the benefit of BCD exemption on the said supplies, it appeared that they had claimed the preferential tariff benefit by way of using unauthentic/non-existent CoO and hence, the effective rate of duty on their import/DTA Sale of “Polyester Knitted Fabrics, Polyester Knitted Bonded Fabrics, Polyester Knitted Pile Bonded Fabrics and Polyester Woven Bonded Fabrics” classifiable under CTIs 60063200, 60019200 and 54076900 of the first Schedule to the CTA would be the merit rate of 20% ad-valorem.

2. Accordingly, investigation was initiated by DRI SRU against Tapisserie for duty evasion on import of ‘Polyester Knitted Fabrics, Polyester Knitted Bonded Fabrics, Polyester Knitted Pile Bonded Fabrics and Polyester Woven Bonded Fabrics’ from Malaysia and two live consignments pending for DTA clearance at APSEZ Mundra were put on hold vide letter F. No. DRI/AZU/SRU/B/INT-04/2023 dated 19.04.2023 (**RUD-1**).

SEARCH AND PANCHNAMA

3. A search was conducted on 20.04.2023 under Panchnama (**RUD-2**) at the factory premises of Tapisserie at E-59, 1st Floor, Industrial Area, Model town, Panipat, Haryana, 132103. During the search, some

documents related to import from Malaysia were resumed for further investigation under Customs Act, 1962. During the search, the Director of Tapisserie informed that for import of fabrics from Malaysia, he used to place order with one person named Shri Mohit Gupta (Mob No. 9999905434), who is based in New Delhi and that he had never contacted any persons sitting in Malaysia/China. During the search he also informed that since December 2022, his firm had started import of goods from Malaysia through Shri Mohit Gupta.

STATEMENTS RECORDED AND ENQUIRY

4. STATEMENT OF DIRECTOR OF TAPISSERIE

4.1. Summon dated 20.04.2023 was issued to Shri Anshul Jain, Director of Tapisserie and his statement dated 20.04.2023 was recorded under Section 108 of the Customs Act, 1962 **(RUD-3)**. In his statement, Shri Anshul Jain inter-alia stated that Tapisserie started importing fabrics in the month of Dec-2022; that Tapisserie started importing through Shri Mohit Gupta; that Shri Mohit Gupta recommended that they import directly from Malaysia instead of purchasing locally from his firms; that Tapisserie used to communicate with Shri Mohit Gupta regarding the import of Pile Fabrics, Bonded Fabrics etc.; that Shri Mohit Gupta used to communicate with one Shri Jeson for import of Fabrics from Malaysia/China; that Tapisserie never contacted Shri Jeson telephonically or through email for any of their imports; that they had imported 07 consignments of different types of Fabrics from Malaysia since Dec-2022; that of those 07 consignments 04 consignments were imported from M/s Hubking Resources, 02 consignments were imported from M/s Multi Resources Ventures SDN and 01 consignment was imported from M/s Kuala Home Products SDN BHD; that Shri Mohit Gupta had informed him that Shri Jeson Shen had conveyed that the Chinese company had started manufacturing activities of Polyester Fabrics in Malaysia also and then advised him to import the above said goods from Malaysia and avail the CoO benefit of Malaysian goods and avoid paying higher import Customs duties in India; that from Dec 2022, Tapisserie started import of Polyester Knitted Pile Fabrics and other fabrics from Malaysia and availed the concessional duty benefit of Certificate of origin and paid NIL BCD against the import of the said goods from Malaysia.

4.2. Further he was asked to peruse **(i)** CoO reference no. KL-2023-AI-21-003397 dated 12.01.2023 produced by Tapisserie before Customs Authority at the time of import wherein the exporter is mentioned as

Hubking Resources and consignee is Tapisserie for Polyester Knitted Pile bonded fabrics and other fabrics and **(ii)** CoO reference no KL-2023-AI-21-003397 (same reference number as in COO produced by Tapisserie during Import of its consignment into India) dated 23.03.2023 downloaded from Malaysian Govt. Portal by the statement recording officer in the presence of Shri Anshul Jain, wherein the exporter is mentioned as 'Sony EMCS (Malaysia) SDN BHD' and consignee is mentioned as 'Competition Team Technology (India) Pvt Ltd for goods 'Bag and Cover'. When asked about the difference in details of the above said CoOs, Shri Anshul Jain stated that the later CoO i.e. the one issued on 23.03.2023 seemed to be genuine as the same had been downloaded from the Govt. Portal of Malaysia and stated that the CoO produced by Tapisserie before Indian Customs seemed to be unauthentic.

4.3. Further, on being asked regarding possession of sufficient information as specified in Section 28DA (ii) of the Customs Act, 1962, he stated that Tapisserie did not have any such information of their supplier.

5. STATEMENT OF PERSON DEALING WITH IMPORTS AND DTA SALES

5.1. Summon dated 02.05.2023 was issued to Shri Mohit Gupta and his statement was recorded on 04.05.2023 under Section 108 of the Customs Act, 1962 **(RUD-4)**. During his statement, Shri Mohit Gupta was asked to peruse statement dated 20.04.2023 of Shri Anshul Jain and comment on it. He inter-alia stated that he deals with the foreign supplier on behalf of Tapisserie and that he had directed the CHA to file Bills of Entry for clearance of import consignment for Tapisserie Homes Pvt Ltd, Panipat as per the instructions of Shri Anshul Jain.

5.2. Further, on being asked regarding possession of sufficient information as specified in Section 28DA (ii) of the Customs Act, 1962, he stated that he did not have any such information of their supplier. He also stated that the supplier has forwarded only the Certificates of Origin in support of Malaysian Origin of goods supplied by them.

5.3. On being asked regarding the manufacturer in Malaysia he stated that Mr. Jeson had informed him that their Chinese company had established their manufacturing unit in Malaysia, but that he had not verified its existence in Malaysia.

6. FURTHER STATEMENT OF DIRECTOR OF TAPISSERIE

6.1. Further, summon dated 24.04.2023 (**RUD-5**) was issued to Shri Ashul Jain, Director of Tapisserie to appear on 02.05.2023 but he sought adjournment vide email dated 01.05.2023 (**RUD-6**).

6.2. Again, summon dated 02.05.2023 were issued to Shri Ashul Jain, Director of Tapisserie and his statement was recorded on 10.05.2023 under Section 108 of the Customs Act, 1962 (**RUD-7**). During his statement, Shri Anshul Jain was asked to peruse statement dated 04.05.2023 of Shri Mohit Gupta and comment on it. Shri Anshul Jain inter-alia stated that due to reduced profit margins Post Covid they directly started importing fabrics from December 2022 onwards, after discussing the same with Shri Mohit Gupta who offered to take the responsibility of clearance of the said import consignments of their firm; that till date they had imported a total of 8 consignments from Mundra SEZ.

6.3. Further, on perusing the printout of Certificates-of-Origin and its verification from the portal of Malaysian Government and copies of Certificates-of-Origin submitted by Tapisserie against clearance of import/DTA consignment pertaining to Tapisserie, he gave the following comments as summarized in the Table-1 below:

Table-1: Comments of Shri Anshul Jain on the CoOs perused

Sr. No.	B.E./ B.E. (SEZ To DTA) No.	CoO No. submitted by Tapisserie	Consignee name as per CoO issued from the portal	Comment of Shri Anshul Jain
1	2001599	KL-2023-AI-21-003397	Competition Team Technology (India) Pvt Ltd	CoO produced before Indian Customs appears to be fake
2	2003685	KL-2023-AI-21-004453	Diach Chemicals and Pigments Pvt Ltd	CoO produced before Indian Customs appears to be fake
3	2004008	KL-2023-AI-21-004954	Rockman Industries Ltd.	CoO produced before Indian Customs appears to be fake

4	2003687	KL-2023-AI-21-004541	RSPL Ltd.	CoO produced before Indian Customs appears to be fake
5	2003684	KL-2023-AI-21-004357	Endorsement No. doesnot exists	CoO produced before Indian Customs appears to be fake
6	2020305	KL-2022-AI-22-0101060	Endorsement No. does not exists	CoO produced before Indian Customs appears to be fake
7	2020306	KL-2022-AI-22-0101059	Endorsement No. does not exists	CoO produced before Indian Customs appears to be fake
8	2004518	PP-2023-AI-21-000604	Tapisserie Homes Pvt Ltd	CoO produced before Indian Customs is genuine

6.4. Further, on being asked he stated that the supplier has forwarded only Certificates of Origin in support of Malaysia Origin and has not provided any other documents in support.

6.5. On being asked regarding the manufacturer in Malaysia, he stated that Shri Mohit Gupta had informed him that the Chinese company from which Shri Mohit Gupta had imported earlier had established its manufacturing unit in Malaysia, but that he (Shri Anshul Jain) had not verified its existence in Malaysia.

6.6. Further, on being asked regarding the payment of differential Customs duty, he stated that he had submitted a demand draft of Rs. 20 Lacs vide letter dated 09.05.2023 against duty liability of Tapisserie Homes Pvt Ltd; that he would try to pay the remaining amount after receiving the reply from his supplier.

6.7. Further, on being asked regarding the consignments pending clearance at the material time, he had stated that some of his consignments were pending for clearance from APSEZ, Mundra, details of which are tabulated in Table-2 below:

Table-2: Details of Consignments put on hold

Sr. No.	BL No.	Name of Firm	No. of Containers
1	CULVPKG2300692	Tapisserie Homes Pvt Ltd	1
2	PKG2304006838	Tapisserie Homes Pvt Ltd	1

He further stated that, he would clear the above-mentioned consignments without availing the CoO benefit.

7. STATEMENT OF THE CHA

7.1. Summon dated 17.05.2023 was issued to Maa Shipping and Logistics and statement of Shri Krushnrajsinh Jadeja, Partner of Maa Shipping and Logistics was recorded on 22.05.2023 under Section 108 of the Customs Act, 1962 **(RUD-8)**. In his statement, Shri Krushnrajsinh Jadeja stated that he looked after all the work related to Customs Clearance for imports to Fasttrack CFS Pvt Ltd and for DTA Sale to Tapisserie Homes Pvt Ltd among others; that for Customs clearance work related to Tapisserie Homes Pvt Ltd he used to talk with Shri Mohit Gupta.

7.2. Further, on being asked he stated that whenever an import consignment came, he received Bill of Lading, CoO and Packing List (PL) by mail from Shri Mohit Gupta for Tapisserie Homes Pvt Ltd firms; that after that his company filed DTA Bill of Entry in which his company submitted Proforma Invoice, Transfer Permit, Out of charge Copy, BL, Packing List, CoO (all filed with Transfer Permit); that after getting Out of Charge his company used to inform Shri Mohit Gupta about the same after which he arranged transportation.

7.3. Further, after perusing the Certificates-of-Origin submitted by the firms against clearance of import/DTA consignment pertaining to Tapisserie Homes Pvt Ltd he stated that the CoOs produced by the firm before Indian Customs appears to be fake and that he had no knowledge regarding the same.

RELEASE OF IMPORT CONSIGNMENT PUT ON HOLD

8. Tapisserie vide letter dated 09.05.2023 **(RUD-9)**, requested to release their containers undertaking that they would not avail any CoO benefit and would pay the applicable merit import duty on these containers.

8.1. DRI, Surat vide letter F. No. DRI/AZU/SRU/B/INV-07(INT-04)/2023 dated 15.05.2023 **(RUD-10)** addressed to Specified Officer, Adani Port and Special Economic Zone, Mundra communicated that this office had no objection if the DTA Bills of Entry pertaining to Tapisserie are assessed without benefit under Notification No 46/2011-Cus dated 01.06.2011, as amended, and the said DTA consignments are released as per the Customs and SEZ Act and Rules.

SCRUTINY OF DOCUMENTS AND DUTY CALCULATION:

9. Tapisserie had cleared several consignments imported at APSEZ, Mundra from Malaysia to its DTA Unit and had availed the preferential tariff rate benefit of Certificates of Origin under the ASEA-India FTA as notified vide Notification No. 46/2011-Customs dated 01.06.2011, as amended. From the documents submitted by CHA vide email dated 01.05.2023 **(RUD-11)** and 29.05.2023 **(RUD-12)** and letter dated 31.07.2023 **(RUD-13)**, it was evident that Tapisserie had cleared a total of 7 consignments of imported Polyester Knitted Fabrics, Polyester Knitted Bonded Fabrics, Polyester Knitted Pile Bonded Fabrics and Polyester Woven Bonded Fabrics falling under CTIs 60063200, 60019200 and 54076900 of the first Schedule to the Customs Tariff Act, 1975, to their DTA unit and it appears that the importer had wrongly availed the benefit of Notification No. 46/2011-Cus dated 01.06.2011, as amended and had therefore not paid the applicable Customs duties of **Rs. 1,37,35,328/-** (details as per Annexure-A attached) at APSEZ, Mundra, summarized in Table-3 below:

Table-3: Summary of DTA Clearance

Port for DTA Clearance and Import	Total No. of Consignments	Value of goods (in Rs.)	Total differential Customs duty involved (in Rs.)
Adani Ports And Special Economic Zone (INAJM6)	07	6,03,20,491	1,37,35,328

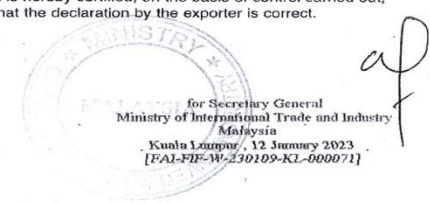
VERIFICATION UNDER CAROTAR, 2020:

10. The verification of genuineness of the CoOs used in the clearance of 07 consignments were verified from the official Malaysian govt. portal

(https://newepco.dagangnet.com.my/dnex/login/) and found to be fake/unauthentic. On sample basis, a scan image of CoO No. KL-2023-AI-21-003397 submitted by Tapisserie before Customs and scan image of CoO found during verification from the official Malaysian govt. portal are attached below:

Scan Image of CoO produced by Tapisserie before Customs

ORIGINAL 2

<p>1. Goods consigned from (Exporter's business name, address, country) HUBKING RESOURCES A-9-1, 9TH FLOOR, BBT ONE THE TOWERS LEBUH BATU NILAM 1, BANDAR BUKIT TINGGI, 41200 KLANG, SELANGOR, MALAYSIA</p>		<p>Reference No. KL-2023-AI-21-003397</p> <p style="text-align: center;">ASEAN-INDIA FREE TRADE AREA PREFERENTIAL TARIFF CERTIFICATE OF ORIGIN (Combined Declaration and Certificate)</p> <p style="text-align: center;">FORM AI MALAYSIA</p> <p>Issued in _____ (Country) (See Notes Overleaf)</p>			
<p>2. Goods consigned to (Consignee's name, address, country) TAPISSERIE HOMES PRIVATE LIMITED E-59, INDUSTRIAL AREA, MODEL TOWN, PANIPAT, HARYANA, 132103-INDIA IEC: AAHCT3015C</p>		<p>3. Means of transport and route (as far as known) Departure Date: 11 January 2023 by MARITIME TRANSPORT Vessel's Name/Aircraft, etc.: D ANGELS V. 017A Port of Discharge: MUNDRA</p>			
<p>3. Means of transport and route (as far as known) Departure Date: 11 January 2023 by MARITIME TRANSPORT Vessel's Name/Aircraft, etc.: D ANGELS V. 017A Port of Discharge: MUNDRA</p>		<p>4. For official use</p> <p><input type="checkbox"/> Preferential Tariff Treatment Given Under ASEAN-INDIA Free Trade Area Preferential Tariff</p> <p><input type="checkbox"/> Preferential Tariff Treatment Not Given (Please state reason/s)</p> <p style="text-align: center;">_____ Signature of Authorised Signatory of the Importing Country</p>			
5. Item number	6. Marks and numbers on Packages	7. Number and type of packages, description of goods (including quantity where appropriate and HS number of the importing country)	8. Origin criterion (see Notes overleaf)	9. Gross weight or other quantity and value (FOB)	10. Number and date of invoices
1.	N/M	1711 ROLLS 2 X D40H CONTAINER STC POLYESTER KNITTED PILE BONDED FABRICS IMPORTING COUNTRY HS CODE 600192 EXPORTING COUNTRY HS CODE 600192	RVC77.15% +CTSH	34,662.00 KGS USD 145,139.51	05622797 11/12/2022
2.		POLYESTER KNITTED BONDED FABRICS IMPORTING COUNTRY HS CODE 600632 EXPORTING COUNTRY HS CODE 600632	RVC77.15% +CTSH		
3.		POLYESTER KNITTED PILE FABRICS IMPORTING COUNTRY HS CODE 600192 EXPORTING COUNTRY HS CODE 600192	RVC77.15% +CTSH		
		Page 1 of 1	TOTAL:	34,662.00 KGS USD 145,139.51	<i>Assured</i> <i>16/05/23</i>
<p>11. Declaration by the exporter The undersigned hereby declares that the above details and statement are correct; that all the goods were produced in MALAYSIA (Country)</p> <p>and that they comply with the origin requirements specified for these goods in the ASEAN-INDIA Free Trade Area Preferential Tariff for the goods exported to INDIA (Importing Country) SELANGOR, 09 January 2023 Place and date, signature of authorised signatory</p>			<p>12. Certification It is hereby certified, on the basis of control carried out, that the declaration by the exporter is correct.</p> <p style="text-align: center;"> for Secretary General Ministry of International Trade and Industry Malaysia Kuala Lumpur, 12 January 2023 [FAI-FRE-W-230109-KL-000071] Place and date, signature and stamp of certifying authority</p>		
<p>13. Where appropriate please tick: <input type="checkbox"/> Third Country Invoicing <input type="checkbox"/> Exhibition <input type="checkbox"/> Back-to-Back CO <input type="checkbox"/> Cumulation</p>					

Scan Image of CoO downloaded from Malaysian Govt. Portal

PREVIEW

<p>1. Goods consigned from (Exporter's business name, address, country)</p> <p>SONY EMCS (MALAYSIA) SDN. BHD. LOT 5, JALAN KEMAJUAN KAWASAN PERINDUSTRIAN BANGI 43650 BANDAR BARU BANGI, SELANGOR, MALAYSIA</p>		<p>Reference No. KL-2023-AI-21-003397</p> <p>ASEAN-INDIA FREE TRADE AREA PREFERENTIAL TARIFF CERTIFICATE OF ORIGIN (Combined Declaration and Certificate)</p> <p>FORM AI Issued in <u> MALAYSIA </u> (Country) (See Notes Overleaf)</p>	
<p>2. Goods consigned to (Consignee's name, address, country)</p> <p>COMPETITION TEAM TECHNOLOGY (INDIA) PVT LTD 600B, 800B, 900 INDOSPACE INDUSTRIAL PARK ORAGADAM BLOCK B PANRUTTI VILLAGE WALLAJABAD ROAD 631604 SRIPERUMBUDUR TK KANCHIPURAM INDIA</p>		<p>4. For official use</p> <p><input type="checkbox"/> Preferential Tariff Treatment Given Under ASEAN-INDIA Free Trade Area Preferential Tariff</p> <p><input type="checkbox"/> Preferential Tariff Treatment Not Given (Please state reason/s)</p> <p>_____ Signature of Authorised Signatory of the Importing Country</p>	
<p>3. Means of transport and route (as far as known)</p> <p>Departure Date: 21 March 2023 by MARITIME TRANSPORT</p> <p>Vessel's Name/Aircraft, etc.: GANTA BHUM V.019W</p> <p>Port of Discharge: KATTUPALLI PORT</p>		<p>5. Item number</p> <p>6. Marks and numbers on Packages</p> <p>7. Number and type of packages, description of goods (including quantity where appropriate and HS number of the importing country)</p> <p>8. Origin criterion (see Notes overleaf)</p> <p>9. Gross weight or other quantity and value (FOB)</p> <p>10. Number and date of invoices</p>	
<p>1. USD</p> <p>1050 PIECE M.NAME : BAG, PROTECTION PEHD (0.05T) C.NAME : 500032082 PO : 420012376-280 IMPORTING COUNTRY HS CODE 39232119</p>		<p>RVC 100% + CTSH</p> <p>137 KGM</p> <p>2047560 16/03/2023</p>	
<p>2. SONY</p> <p>500 PIECE M.NAME : COVER, TOP (SEP) C.NAME : 503544821 PO : 420012376-300 IMPORTING COUNTRY HS CODE 85299099</p>		<p>RVC 74.47% + CTSH</p> <p>65 KGM</p> <p>2047560 16/03/2023</p>	
<p>Page 1 of 1</p>		<p>TOTAL : 202 KGM</p>	
<p>11. Declaration by the exporter</p> <p>The undersigned hereby declares that the above details and statement are correct; that all the goods were produced in</p> <p><u> MALAYSIA </u> (Country)</p> <p>and that they comply with the origin requirements specified for these goods in the ASEAN-INDIA Free Trade Area Preferential Tariff for the goods exported to</p> <p><u> INDIA </u> (Importing Country)</p> <p><u> SELANGOR, 22 March 2023 </u> Place and date, signature of authorised signatory</p>		<p>12. Certification</p> <p>It is hereby certified, on the basis of control carried out, that the declaration by the exporter is correct.</p> <p></p> <p></p> <p>for Secretary General Ministry of International Trade and Industry Malaysia Kuala Lumpur, 23 March 2023 [FAI-FIF-W-230322-KL-000010] SITI NADIRAH NASARUDIN</p> <p>_____ Place and date, signature and stamp of certifying authority</p>	
<p>13. Where appropriate please tick:</p> <p><input type="checkbox"/> Third Country Invoicing <input type="checkbox"/> Exhibition <input type="checkbox"/> Back-to-Back CO <input type="checkbox"/> Cumulation</p>			

10.1 Scanned image of CoO reference no. KL-2023-AI-21-003397 dated 12.01.2023 produced by Tapisserie before Customs Authority at the time of import shows the exporter as Hubking Resources and consignee as Tapisserie for 'Polyester Knitted Pile bonded fabrics and other fabrics' while the Scanned Image of CoO reference no KL-2023-AI-21-003397 (same

reference number as in CoO produced by Tapisserie during Import of its consignment into India) dated 23.03.2023 downloaded from Malaysian Govt. Portal by the statement recording officer in the presence of Shri Anshul Jain, shows the exporter as 'Sony EMCS (Malaysia) SDN BHD' and consignee as 'Competition Team Technology (India) Pvt Ltd for goods 'Bag and Cover', implying that Tapisserie had used a CoO issued for a different consignment for clearance of their imported consignment by forging the supplier and importer details in the CoO. The same pattern was found in all the 07 consignments imported by Tapisserie.

LEGAL PROVISIONS RELATING TO THE CASE:

The provisions of law pertaining to the matter at hand are as follows:

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11. SEZ ACT 2005:

11.1. As per Section 2 (i) of SEZ Act, 2005, "*Domestic Tariff Area*" means the whole of India (including the territorial waters and continental shelf) but does not include the areas of the Special Economic Zones

11.2. As per Section 2 (m) of SEZ Act, 2005, "*export*" means--

(i) taking goods, or providing services, out of India, from a Special Economic Zone, by land, sea or air or by any other mode, whether physical or otherwise; or

(ii) supplying goods, or providing services, from the Domestic Tariff Area to a Unit or Developer; or

(iii) supplying goods, or providing services, from one Unit to another Unit or Developer, in the same or different Special Economic Zone;

11.3. As per Section 2 (o) of SEZ Act, 2005, "*import*" means--

(i) bringing goods or receiving services, in a Special Economic Zone, by a Unit or Developer from a place outside India by land, sea or air or by any other mode, whether physical or otherwise; or

(ii) receiving goods, or services by a Unit or Developer from another Unit or Developer of the same Special Economic Zone or a different Special Economic Zone

11.4. As per Section 30 of SEZ Act, 2005, Subject to the conditions specified in the rules made by the Central Government in this behalf,--

(a) any goods removed from a Special Economic Zone to the Domestic Tariff Area shall be chargeable to duties of customs including anti-dumping, countervailing and safeguard duties under the Customs

Tariff Act, 1975 (51 of 1975), where applicable, as leviable on such goods when imported; and

(b) the rate of duty and tariff valuation, if any, applicable to goods removed from a Special Economic Zone shall be at the rate and tariff valuation in force as on the date of such removal, and where such date is not ascertainable, on the date of payment of duty.

11.5. *As per Section 53 of the SEZ Act, 2005, a Special Economic Zone shall, on and from the appointed day, be deemed to be a territory outside the Customs territory of India for the purposes of undertaking the authorized operations.*

12. SEZ RULES, 2006

12.1. *As per Rule 27 (1) of the SEZ Rules, 2006,*

A Unit or Developer may import or procure from the Domestic Tariff Area without payment of duty, taxes or cess or procure from Domestic Tariff Area after availing export entitlements or procure from other Units in the same or other Special Economic Zone or from Export Oriented Unit or Software Technology Park unit or Electronic Hardware Technology Park unit or Biotechnology Park unit,⁸⁹[or warehouse] all type of goods, including capital goods (new or second hand), raw materials, semi-finished goods, (including semi-finished Jewellery) component, consumables, spares goods and materials for making capital goods required for authorized operations except prohibited items under the Import Trade Control (Harmonized System) Classifications of Export and Import Items.

Provided *that exemptions from payment of duty, taxes or cess drawbacks and concessions on all types of goods and services, required for setting up and maintenance of the factory building allowed to a unit shall also be available to the contractors ⁹⁰[including sub-contractors] appointed by such unit and all the documents in such cases shall bear the name of the unit along with the contractor and these shall be filed jointly in the name of the unit and the contractor*

Provided *further that the unit shall be responsible and liable for proper utilization of such goods and services in all cases.*

12.2. *As per Rule 27 (10) of the SEZ Rules, 2006,*

The assessment of imports and domestic procurement by a Developer or a Unit, shall be on the basis of self-declaration and shall not be subjected to routine examination except in case of procurement from the Domestic Tariff Area under the claim of export entitlements

12.3. As per Rule 29 (2) of the SEZ Rules, 2006,

The Unit or Developer, hereinafter referred to as the Special Economic Zone Importer, shall follow the following procedure for imports, namely:—

(a) *the Special Economic Zone Importer shall file Bill of Entry for home consumption in quintuplicate giving therein, description with specially stamped endorsement as “Special Economic Zone Cargo” along with Bill of Lading or Airway Bill and invoice and packing list with the Authorized Officer who shall register and assign a running annual serial number and assess the Bill of Entry, on the basis of transaction value, which shall not require any counter signature of the Specified Officer:*

Provided that *where the Bill of Entry is not assessed on the date of filing itself, the goods shall be allowed to be transferred to Special Economic Zone Importer on the basis of the registered Bill of Entry, if an endorsement to this effect has been made by the Authorized Officer:*

Provided further *that where the goods including Capital Goods are supplied free of cost or on loan or lease basis, the Bill of Entry shall be filed jointly in the name of the Special Economic Zone importer, and the supplier:*

Provided also *that where the goods including Capital Goods are supplied on loan or lease basis by a domestic supplier, the Bill of Entry shall be filed jointly in the name of the Special Economic Zone importer and domestic supplier;*

(b) *the registered or assessed Bill of Entry shall be submitted to the Customs Officer at the place of import and the same shall be treated as permission for transfer of goods to the Special Economic Zone Importer;*

12.4. As per Rule 47(1) of the SEZ Rules, 2006, *Sales in Domestic Tariff Area.*-

A Unit may sell goods and services including rejects or wastes or scraps or remnants or broken diamonds or by products arising during the manufacturing process or in connection therewith, in the Domestic Tariff Area on payment of Customs duties under section 30, subject to the following conditions, namely. –

(a) *Domestic Tariff Area sale under sub-rule (1), of goods manufactured by a Unit shall be on submission of import licence, as applicable to the import of similar goods into India, under the provisions of the Foreign Trade Policy: Provided that goods imported or procured from the Domestic Tariff Area and sold as such without being subjected to any manufacturing process shall be subject to the provisions of the Foreign Trade Policy as applicable to import of similar goods into India.*

12.5. As per Rule 48 of the SEZ Rules, 2006, *Procedure for Sale in Domestic Tariff Area.*-

(1) *Domestic Tariff Area buyer shall file Bill of Entry for home consumption giving therein complete description of the goods and/or services namely, make and model number and serial number and specification along with invoice and packing list with the Authorised Officers:*

Provided *that the Bill of Entry for home consumption may also be filed by a Unit on the basis of authorization from a Domestic Tariff Area buyer.*

(2) *Valuation of the goods and/or services cleared into Domestic Tariff Area shall be determined in accordance with provisions of Customs Act and rules made thereunder as applicable to goods when imported into India*

12.6. As per Rule 75 of the SEZ Rules, 2006, *Self-Declaration:*

Unless otherwise specified in these rules all inward or outward movement of goods into and from the zone by the Unit or Developer shall be based on self-declaration made and no routine examination of these goods shall be made unless specific orders of the Development Commissioner or the Specified Officer are obtained;

13. CUSTOMS ACT, 1962

13.1. As per Section 2(4) of Customs Act, 1962: *“Bill of entry” means a bill of entry referred to in Section 46;*

13.2. As per Section 2(23) of Customs Act, 1962: *“import”, with its grammatical variations and cognate expressions, means bringing into India from a place outside India;*

13.3. As per Section 2(25) of Customs Act, 1962: *“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;*

13.4. As per Section 2(26) of Customs Act, 1962: *“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;*

13.5. As per Section 2(39) of Customs Act, 1962: “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.

13.6. As per Section 11A of Customs Act, 1962: “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.

13.7. As per Section 28(4) of Customs Act, 1962

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

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

(a) collusion; or

(b) any wilful mis-statement; or

(c) suppression of facts,

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

(5) Where any duty has not been levied or not paid or has been short-levied or short paid or the interest has not been charged or has been part-paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under sub-section (4) by the proper officer, such person may pay the duty in full or in part, as may be accepted by him, and the interest payable thereon under section 28AA and the penalty equal to fifteen per cent. of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing.

13.8. As per Section 28AA of Customs Act, 1962,

Interest on delayed payment of duty. —

(1) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at

the rate fixed under sub-section 2, whether such payment is made voluntarily or after determination of the duty under that section.

(2) Interest at such rate not below ten per cent. and not exceeding thirty-six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

(3) Notwithstanding anything contained in sub-section (1), no interest shall be payable where,—

(a) the duty becomes payable consequent to the issue of an order, instruction or direction by the Board under section 151A; and

(b) such amount of duty is voluntarily paid in full, within forty-five days from the date of issue of such order, instruction or direction, without reserving any right to appeal against the said payment at any subsequent stage of such payment.

13.9. As per Section 28DA of Customs Act, 1962:

Procedure regarding claim of preferential rate of duty.

(1) An importer making claim for preferential rate of duty, in terms of any trade agreement, shall -

(i) make a declaration that goods qualify as originating goods for preferential rate of duty under such agreement;

(ii) possess sufficient information as regards the manner in which country of origin criteria, including the regional value content and product specific criteria, specified in the rules of origin in the trade agreement, are satisfied;

(iii) furnish such information in such manner as may be provided by rules;

(iv) exercise reasonable care as to the accuracy and truthfulness of the information furnished.

(2) The fact that the importer has submitted a certificate of origin issued by an Issuing Authority shall not absolve the importer of the responsibility to exercise reasonable care.

(3) Where the proper officer has reasons to believe that country of origin criteria has not been met, he may require the importer to furnish further

information, consistent with the trade agreement, in such manner as may be provided by rules.

(4) Where importer fails to provide the requisite information for any reason, the proper officer may,-

(i) cause further verification consistent with the trade agreement in such manner as may be provided by rules;

(ii) pending verification, temporarily suspend the preferential tariff treatment to such goods:

Provided that on the basis of the information furnished by **the importer or the information available with him or on the relinquishment of the claim for preferential rate of duty by the importer, the Principal Commissioner of Customs or the Commissioner of Customs may, for reasons to be recorded in writing, disallow the claim for preferential rate of duty, without further verification.**

(5) Where the preferential rate of duty is suspended under sub-section (4), the proper officer may, on the request of the importer, release the goods subject to furnishing by the importer a security amount equal to the difference between the duty provisionally assessed under section 18 and the preferential duty claimed:

Provided that the Principal Commissioner of Customs or the Commissioner of Customs may, instead of security, require the importer to deposit the differential duty amount in the ledger maintained under section 51A.

(6) Upon temporary suspension of preferential tariff treatment, the proper officer shall inform the Issuing Authority of reasons for suspension of preferential tariff treatment, and seek specific information as may be necessary to determine the origin of goods within such time and in such manner as may be provided by rules.

(7) Where, subsequently, the Issuing Authority or exporter or producer, as the case may be, furnishes the specific information within the specified time, the proper officer may, on being satisfied with the information furnished, restore the preferential tariff treatment.

(8) Where the Issuing Authority or exporter or producer, as the case may be, does not furnish information within the specified time or the information furnished by him is not found satisfactory, the proper

officer shall disallow the preferential tariff treatment for reasons to be recorded in writing:

Provided that in case of receipt of incomplete or non-specific information, the proper officer may send another request to the Issuing Authority stating specifically the shortcoming in the information furnished by such authority, in such circumstances and in such manner as may be provided by rules.

(9) Unless otherwise specified in the trade agreement, any request for verification shall be sent within a period of five years from the date of claim of preferential rate of duty by an importer.

(10) Notwithstanding anything contained in this section, the preferential tariff treatment may be refused without verification in the following circumstances, namely:-

- (i) the tariff item is not eligible for preferential tariff treatment;
- (ii) complete description of goods is not contained in the certificate of origin;
- (iii) any alteration in the certificate of origin is not authenticated by the Issuing Authority;
- (iv) the certificate of origin is produced after the period of its expiry, and in all such cases, the certificate of origin shall be marked as "INAPPLICABLE".

(11) Where the verification under this section establishes non-compliance of the imported goods with the country of origin criteria, the proper officer may reject the preferential tariff treatment to the imports of identical goods from the same producer or exporter, unless sufficient information is furnished to show that identical goods meet the country of origin criteria.

Explanation-For the purposes of this Chapter,-

- (a)"certificate of origin" means a certificate issued in accordance with a trade agreement certifying that the goods fulfil the country of origin criteria and other requirements specified in the said agreement;
- (b)"identical goods" means goods that are same in all respects with reference to the country of origin criteria under the trade agreement;
- (c)"Issuing Authority" means any authority designated for the purposes of issuing certificate of origin under a trade agreement;
- (d)"trade agreement" means an agreement for trade in goods between the Government of India and the Government of a foreign country or territory or economic union.

13.10. As per Section 46 of Customs Act, 1962

Entry of goods for importation:

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

[Provided that the [Principal Commissioner of Customs or Commissioner of Customs] may, in cases where it is not feasible to make entry by presenting electronically [on the customs automated system], allow an entry to be presented in any other manner:

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

(2) *Save as otherwise permitted by the proper officer, a bill of entry shall include all the goods mentioned in the bill of lading or other receipt given by the carrier to the consignor.*

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

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

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

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

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

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

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

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

13.11. As per Section 111 of Customs Act, 1962,

Confiscation of improperly imported goods, etc. –

The following goods brought from a place outside India shall be liable to confiscation: -

(a) ...

(o) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer;

(p)...

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

13.12. As per Section 112 of Customs Act, 1962,

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.

13.13. As per Section 114A of Customs Act, 1962,
Penalty for short-levy or non-levy of duty in certain cases. –

Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-section (8) of section 28] shall also be liable to pay a penalty equal to the duty or interest so determined:

Provided that where such duty or interest, as the case may be, 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 the 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 duty or interest, as the case may be, so determined:

Provided further that the benefit of reduced penalty under the first proviso shall be available subject to the condition that the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso :

Provided also that where the duty or interest determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, for the purposes of this section, the duty or interest as reduced or increased, as the case may be, shall be taken into account:

Provided also that in case where the duty or interest determined to be payable is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, the benefit of reduced penalty under the first proviso shall be available if the amount of the duty or the interest so increased, along with the interest payable thereon under section 28AA, and twenty-five per cent of the consequential increase in penalty have also been paid within thirty days of the communication of the order by which such increase in the duty or interest takes effect:

Provided also that where any penalty has been levied under this section, no penalty shall be levied under section 112 or section 114.

Explanation - For the removal of doubts, it is hereby declared that -

(i) the provisions of this section shall also apply to cases in which the order determining the duty or interest sub-section (8) of section 28 relates to notices issued prior to the date on which the Finance Act, 2000 receives the assent of the President;

(ii) any amount paid to the credit of the Central Government prior to the date of communication of the order referred to in the first proviso or the fourth proviso shall be adjusted against the total amount due from such person.

13.14. As per Section 114AA of Customs Act, 1962,
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.

PAYMENT DURING INVESTIGATION:

14. During the investigation, Tapisserie, vide letter dated 10.05.2023 (**RUD-14**), submitted one (1) Demand Draft of Rs. 20,00,000/- stating that “We are voluntarily submitting a duty of Rs. 20 Lacs out of total Rs. 1.37 crores in understanding with the concerned department/office that no show cause notice or any further penalty will be issued under this case”. Further, Tapisserie, on 17.07.2023 vide Speed post to DRI, Regional Unit, Surat, submitted one (1) Demand Draft of Rs. 30,00,000/-.Further, Tapisserie, vide letter dated 17.08.2023 (**RUD-15**), submitted one (1) Demand Draft of Rs. 20,00,000/- again stating that “We are voluntarily submitting a duty of Rs. 20 Lacs out of total Rs. 1.37 crores in understanding with the concerned department/office that no show cause notice or any further penalty will be issued under this case”. Further, Tapisserie, vide letter dated 21.09.2023 (**RUD-16**), submitted one (1) Demand Draft of Rs. 67,35,328/- stating that “We are voluntarily submitting a duty of Rs. 67,35,328 as final balance out of total Rs. 1.37 crores in understanding with the concerned department/office that no show cause notice or any further penalty will be issued under this case”. Further, Tapisserie, vide letter dated 13.11.2023 (**RUD-17**), submitted one (1) Demand Draft of Rs. 10,85,389/- stating that “We are submitting a duty Interest of Rs. 10,85,389/- on Rs. 1.37 crores in understanding with the concerned department/office that no show cause notice or any further penalty will be issued under this case”. The said DDs were deposited under challans (**RUD-18**), details of which are tabulated in Table-4 under:

Table-4: Details of challan and amount

SI No	DD No & date	Challan No & date	Duty/ Interest	Amount (Rs.)
1	070801 dt. 09.05.2023	04/2023-24 dt 11.05.2024	Duty	20,00,000
2	071097 dt. 14.07.2023	11/2023-24 dt 18.07.2023	Duty	30,00,000
3	071158 dt. 17.08.2023	14/2023-24 dt 21.08.2023	Duty	20,00,000
4	071174 dt. 21.09.2023	15/2023-24 dt 29.09.2023	Duty	67,35,328
5	071983 dt. 13.11.2024	24/2024-25 dt 18.11.2024	Interest	10,85,389
TOTAL				1,48,20,717

14.1. Tapisserie has admitted their duty liability and voluntarily discharged differential duty under various challans totally amounting to Rs. 1,37,35,328/- (Differential Duty), along with applicable Interest Rs. 10,85,389/- (Interest @15%) on delayed payment in respect of the Bills of Entry for Home Consumption (SEZ to DTA) mentioned in **Annexure-A**.

SUMMARY OF THE INVESTIGATION:

15. From the investigation conducted and the foregoing discussions, it appears that:

- a.** Tapisserie had imported seven consignments of “Polyester Knitted Fabrics, Polyester Knitted Bonded Fabrics, Polyester Knitted Pile Bonded Fabrics and Polyester Woven Bonded Fabrics”, supplied by the various suppliers between 20.12.2022 to 28.02.2023 vide various Bills of Entry filed at APSEZ, Mundra and had wrongly availed the AIFTA (ASEAN India Free trade Agreement) duty benefit of preferential treatment issued vide Notification No. 46/2011-Customs dated 01.06.2011, while clearing the said goods to their DTA unit vide various Bills of Entry for Home Consumption (SEZ to DTA) as mentioned in Annexure-A.
- b.** Further, CoOs used in the clearance of 07 consignments in respect of “Polyester Knitted Fabrics, Polyester Knitted Bonded Fabrics, Polyester Knitted Pile Bonded Fabrics and Polyester Woven Bonded Fabrics” were verified from the official Malaysian govt. portal (<https://newepco.dagangnet.com.my/dnex/login/>) and found to be non-existent/unauthentic.
- c.** A search was conducted on 20.04.2023 at the factory at E-59, 1st Floor, Industrial Area, Model town, Panipat, Haryana, 132103 of Tapisserie and documents related to import from Malaysia were resumed for further investigation under the provisions of the Customs Act, 1962.
- d.** Shri Anshul Jain, Director of Tapisserie stated in his statement that Shri Mohit Gupta used to communicate with the foreign supplier regarding the import and that their company does not possess sufficient information as specified in Section 28DA (ii) of the Customs Act, 1962. Further, on being shown the online verification of the CoO reference no. KL-2023-AI-21-003397 on the official Malaysian government portal, he stated that CoO produced by him before Indian Customs appears to be unauthentic and the one

downloaded from the official Malaysian government portal seems to be genuine.

- e. Shri Mohit Gupta stated in his statement that he was dealing with the foreign supplier on behalf of Tapisserie and he did not possess any information as specified in Section 28DA (ii) of the Customs Act, 1962 of their suppliers. He also stated that the supplier had forwarded only Certificates of Origin in support of Malaysia Origin. Further, he stated that Mr Jeson, (person related to the foreign supplier companies) had informed him that their Chinese company had established their manufacturing units in Malaysia, but he had not verified its existence in Malaysia.
- f. Shri Ashul Jain stated that Tapisserie had imported a total of 8 consignments of import from Mundra SEZ till date. He further stated that 07 CoO produced by Tapisserie before Indian Customs appeared to be unauthentic/ non-existent and the supplier in Malaysia has not provided any other documents in support of it.
- g. However, the Certificates-of-origin were verified from the portal of Malaysian Government and found to be fake/ un-authentic which confirms that the said Certificates-of-origin used for availing the benefit of preferential treatment of duty are fake/ un-authentic.
- h. Tapisserie vide letters dated 10.05.2023, 17.07.2023, 17.08.2023 and 21.09.2023, submitted Demand Drafts for voluntarily paying the differential Customs duty in respect of Bills of entry mentioned in Annexure-A. Further, Tapisserie vide letter dated 13.11.2024, submitted Demand Draft and paid the interest in respect of delayed payment of differential Customs Duty as mentioned in aforesaid paras.
- i. Tapisserie had wrongly availed the benefit of Notification No. 46/2011-Cus dated 01.06.2011, and have voluntarily paid the differential Customs duty of **Rs.1,37,35,328/-** and interest of **Rs.10,85,389/-**.
- j. Further, vide letter dated 13.11.2024, the importer had requested to issue a closure letter as they had paid the differential Customs duty of **Rs.1,37,35,328/- and interest of Rs.10,85,389/-**. In the instant case, analysis of the facts and evidences brought out that not only did the importer not exercise due diligence as mandated in

Section 28DA of Customs Act, 1962 but also got imported goods cleared on the basis of fake/un-authentic Certificates of Origin. Hence the case is covered under section 28(4) and not section 28(2) of the Customs Act, 1962.

OBLIGATIONS UNDER SELF-ASSESSMENT AND DEMAND INVOKING EXTENDED PERIOD:

16. The subject Bill of Entries for Home Consumption as summarized in Table-3 above, filed by the importer, wherein they had declared the description, classification of goods and Certificate of origin were self-assessed by them.

16.1. Whereas, vide the Finance Act, 2011, "Self-Assessment" has been introduced w.e.f. from 08.04.2011 under the Customs Act, 1962. Section 17 of the said Act provides for self-assessment of duty on import and export goods by the importer or exporter himself by filing a Bill of Entry or Shipping Bill as the case may be, in the electronic form, as per Section 46 or 50 respectively. Thus, under self-assessment it is the responsibility of the importer or exporter to ensure that he declares the correct classification, applicable rate of duty, value, benefit or exemption notification claimed, if any, in respect of the imported goods, while presenting Bill of Entry. Section 28DA of Customs Act, 1962 was introduced vide Finance Bill 2020 wherein importer making claim of preferential rate of duty, in terms of any trade agreement shall possess sufficient information with regard to the origin criteria. In view of the same, by submitting un-authentic Certificate of Origin, it appears that the importer willfully evaded Customs duty on the impugned goods. In the present case, importer has wrongly availed benefit of exemption Notification on the basis of unauthentic CoO. The importer has failed to exercise reasonable care and precaution with regard to the accuracy and truthfulness of the information provided by exporter/ seller to them, as was entrusted to them by the Act while providing benefit of the CoO. The importer has agreed to the fact and has paid the differential duty along with interest.

MIS-DECLARATION BY THE IMPORTER – LIABILITY OF GOODS TO CONFISCATION, DEMAND OF DIFFERENTIAL DUTY AND LIABILITY TO PENALTY:-

17. Whereas, sub-section (4) of Section 46 of the Customs Act, 1962, specifies that the importer while presenting a Bill of Entry shall at the foot

thereof make and subscribe to a declaration as to the truth of the contents of such Bill of Entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods. From the verification report discussed above, it appears that the importer knowingly and deliberately availed exemption Notification without authentic and valid of Certificate of Origin document supporting the import as prescribed under Section 46 of Customs Act, 1962 and has suppressed the relevant facts and intentionally evaded Customs duty on the impugned goods and hence, contravened the provisions of section 46 of the Customs Act, 1962.

17.1. The imported goods under the Bills of Entry for Home Consumption, as summarized in Table-3 above, have been found to be imported under the cover of unauthentic Certificates of Origin (CoOs) and hence do not satisfy the criteria for claiming exemption under Notification No. 46/2011-Cus dated 01.06.2011, as amended. Hence, the goods cleared to its DTA Unit having assessable value of **Rs.6,03,20,491/- (Rupees Six Crore Three Lac Twenty Thousand Four Hundred Ninety One only)** are liable for confiscation under Section 111(o) & Section 111(q) of the Customs Act, 1962. Therefore, it appears that the importer is also liable for imposition of penalty under **Section 112(a) and 112 (b)** of the Customs Act, 1962.

17.2. That as per the discussion above, it appears that the importer knowingly availed exemption Notification which was not available to them. By the provisions of Section 28 DA of the Customs Act, it appears that the importer failed to exercise due diligence while availing benefit of exemption notification and by his act of willfully availing exemption Notification No. 46/2011-Cus dated 01.06.2011, as amended, during filing of the Bills of Entry for Home Consumption at APSEZ, Mundra the importer has evaded applicable Customs duty. Accordingly, it appears that provisions of Section 28(4) of the Customs Act, 1962 are invocable in this case. For the same reasons, the importer also appears liable to penalty under **Section 114A** of the Customs Act, 1962.

17.3. That as per the discussion above, it appears that the importer had failed to follow the procedure as prescribed under Section 28DA (1) of Customs Act, 1962, and due diligence with regard to the authenticity of documents and truthfulness of the information provided by the manufacturer/supplier. The importer was not eligible for the exemption benefit as available under Notification No. 46/2011-Cus dated 01.06.2011, as amended. The importer has intentionally submitted

unauthentic documents for claiming the exemption benefit before the Customs Authorities. Therefore, it appears that they are also liable for imposition of penalty under **Section 114AA** of the Customs Act, 1962.

18. It appears that **Shri Mohit Gupta** was looking after the import activities of Tapisserie and dealt with placing purchase order to overseas supplier and as well as import clearance at APSEZ Mundra. It also appears that Shri Mohit Gupta dealt with CHA and directed him to file the Bills of Entry from time to time. It appears that Shri Mohit Gupta abetted Tapisserie in availing the exemption benefit on the strength of unauthentic CoOs. It appears that he was having culpable mental state and the act of omission and commission made on his part for evasion of Customs duties on the basis of unauthentic documents and clearance of goods which are liable for confiscation, have rendered himself liable for penalty under **Section 112 (b)** of the Customs Act, 1962.

19. With the insertion of **Section 110AA** in the Customs Act, 1962 enforced vide Finance Act, 2022, the proper officers for issuance and adjudication of demand notices under Section 28 and Section 28AAA have been appointed under the Customs Act, 1962 in cases of single and multiple jurisdictions. Further, vide Notification No. 28/2022-Customs (N.T.) dated 31.03.2022, CBIC has appointed officers of Customs to exercise powers under Section 28, Section 28AAA or Chapter X of the said Act, and assigned the functions to such officers in the cases of single and multiple jurisdictions as referred in Section 110AA of Customs Act, 1962.

20. Whereas, it appears that the DTA Clearance of the disputed imported goods viz. "Polyester Knitted Fabrics, Polyester Knitted Bonded Fabrics, Polyester Knitted Pile Bonded Fabrics and Polyester Woven Bonded Fabrics" was made at the port of APSEZ, Mundra falling under the jurisdiction of Pr. Commissioner/ Commissioner of Customs, Mundra. Therefore, in terms of Section 110AA read with Notification No. 28/2022 Customs (NT) dated 31.03.2022 the proper officer in the instant case is the Pr. Commissioner/ Commissioner of Customs, Mundra.

21. Now, therefore in view of foregoing paras, **M/s Tapisserie Homes Private Limited**, (IEC: **AAHCT3015C**) registered at E-59, 1st Floor, Industrial Area, Model town, Panipat, Haryana, 132103 are hereby called upon to show cause within thirty days from the date of receipt of this notice to **the Pr. Commissioner of Customs**, Customs House Mundra, First Floor, Port User Building, Custom House Mundra, Kutch, Gujarat-370421, as to why:-

- i.** The Certificate-of-Origin in respect of Bills of Entry for Home Consumption provided by importer and CHA (detailed as per Annexure-A) as summarized in Table-3, issued by Ministry of International Trade and Industry (MITI) for the “Polyester Knitted Fabrics, Polyester Knitted Bonded Fabrics, Polyester Knitted Pile Bonded Fabrics and Polyester Woven Bonded Fabrics” supplied from Malaysia are un-authentic, as discussed above, in terms of provisio to Section 28DA(4) of the Customs Act, 1962. Thus, the exemption benefit of Notification No. 46/2011-Cus dated 01.06.2011, as amended, availed by the importer against the import and DTA Clearance of goods under various Bills of Entry filed at APSEZ, Mundra, as summarized in Table-3, may be disallowed in terms of Section 28DA of the Customs Act, 1962 and the Bills of Entry for Home Consumption should not be reassessed by disallowing the benefit of Notification No. 46/2011-Cus dated 01.06.2011 as amended.
- ii.** The impugned goods having total assessable value of **Rs.6,03,20,491/-** (Rupees Six Crore Three Lac Twenty Thousand Four Hundred Ninty One only) as summarized in Table-3 should not be held liable for confiscation as per the provisions of Section 111(o) and 111 (q) of the Customs Act, 1962. However, the said goods are not physically available for confiscation.
- iii.** The differential Customs duty amounting to **Rs.1,37,35,328/-** (Rupees One Crores Thirty-Seven Lacs Thirty-Five Thousand Three Hundred Twenty-Eight only) should not be demanded and recovered from the importer under Section 28(4) of the Customs Act, 1962, as per Annexure-A. Since the differential duty amount of **Rs.1,37,35,328/-** (Rupees One Crores Thirty Seven Lacs Thirty Five Thousand Three Hundred Twenty Eight only) has already been paid by them vide Challan no. mentioned in Table-4 above, the same should not be appropriated and adjusted against the aforesaid demand of duty.
- iv.** The Interest at the applicable rate should not be demanded and recovered from them on the said differential Customs Duty as mentioned in Table-3 above under Section 28AA of the Customs Act, 1962. Since the interest amount of **Rs.10,85,389/-** (Rupees Ten Lacs Eighty-Five Thousand Three Hundred Eighty-Nine only)

has already been paid by them, the same should not be appropriated and adjusted against the aforesaid demand of interest.

- v. Penalty should not be imposed upon Tapisserie separately under **Section 112(a) and 112(b)** of the Customs Act, 1962 for improper importation of goods which were liable to confiscation under Section 111 of Customs Act, 1962 as discussed in para 18.1 above.
- vi. Penalty should not be imposed upon Tapisserie under **Section 114A** of the Customs Act, 1962 for evasion of Custom Duty by claiming ineligible exemption on the strength of unauthentic certificate of origin as discussed in para 18.2 above.
- vii. Penalty should not be imposed upon Tapisserie under **Section 114AA** of the Customs Act, 1962 for using fake/unauthentic certificate of origin for claiming the exemption benefit as discussed in para 18.3 above.

21.1 Shri Mohit Gupta, Son of Shri Haridass Gupta, Resident of K-1/25, 1st Floor, Model Town-II, Delhi- 110009 are hereby called upon to show cause within thirty days from the date of receipt of this notice to the **Pr. Commissioner of Customs**, Customs House Mundra, First Floor, Port User Building, Custom House Mundra, Kutch, Gujarat-370421, as to why:

- i. Penalty should not be imposed upon them under **Sections 112 (b)** of the Customs Act, 1962, for the reason as discussed above.

WRITTEN SUBMISSION AND PERSONAL HEARING

22. Following the principles of natural justice, opportunities of personal hearing were granted to the importer. During the personal hearing held on 12.01.2026 and 10.03.2026 through virtual mode, Shri Swetang Jain, Director, M/s Tapisserie Homes Private Limited, re-iterated his submission dated 05.01.2026 and 10.01.2026 wherein he interalia stated as below:

- i. Section 28(5)- complete compliance: Section 28(5) of the Customs Act, 1962 provides a complete and self-contained statutory mechanism for closure of proceedings once the prescribed conditions are fulfilled. In the present case, all such statutory conditions stand satisfied, as the differential duty has been paid in

full along with the applicable interest, and the payment has been made prior to adjudication. Further, there is no subsisting or continuing revenue loss. In view of the fulfillment of these conditions, the statute itself mandates closure of proceedings, and the adjudicating authority does not retain any discretion to continue penalty proceedings in the absence of the required statutory ingredients.

- ii. Absence of Allegation of Mens Rea or conscious wrongdoing: It is respectfully submitted that the Show Cause Notice does not allege any fabrication or forgery of Certificates of Origin by the Noticee, nor does it allege any conscious knowledge or intentional use of false documents. Further, it does not attribute any mens rea or deliberate intent to evade duty. The Certificates of Origin are merely stated to be “appearing to be unauthentic,” which, by itself, is legally insufficient to invoke penal provisions that require intent, knowledge, or conscious wrongdoing. In the absence of such foundational allegations, the invocation of penalty under Sections 112, 114A, or 114AA is legally untenable.
- iii. Section 28(4) - Conditions not satisfied: Invocation of Section 28(4) requires a wilful misstatement or suppression of facts with intent to evade payment of duty. In the present case, the Show Cause Notice does not allege any deliberate act of concealment by the Noticee, nor does it point to any falsification of records, parallel accounting, or clandestine activity. Mere reliance on documents that were subsequently found to be defective, followed by immediate and voluntary payment of duty and interest, does not amount to wilful suppression or an intent to evade duty. Accordingly, the invocation of Section 28(4) is not sustainable in law and deserves to be set aside.
- iv. Penalty fails as Section 28(4) not attracted: Penalty under Section 114A is strictly contingent upon the valid invocation of Section 28(4), which requires wilful misstatement or suppression of facts with intent to evade duty. In the present case, the Show Cause Notice does not establish any act of suppression, concealment of material facts, or deliberate misdeclaration on the part of the Noticee. Mere reliance on documents supplied by the overseas supplier, followed by immediate voluntary payment upon being informed, does not meet the legal threshold required under Section 28(4). Consequently, the very foundation for initiating penalty proceedings under Section 114A does not survive.

22.1 Personal Hearing notices were also issued to Shri Mohit Gupta (Noticee No. 2) however, he did not appear for the hearing. Instead, he furnished a written submission dated 13.01.2026, wherein he categorically stated that he has no connection whatsoever with M/s

Tapisserie or its import activities. He further clarified that he has neither signed, filed, nor authorized any document or declaration on behalf of M/s Tapisserie. He has also asserted that his name has been incorrectly mentioned or inadvertently linked to the present case.

DISCUSSION AND FINDINGS

23. I have carefully gone through the facts of the case, Show Cause Notice and the noticee's submissions filed both, in written and in person advanced during the course of personal hearing. The principles of natural justice, particularly audi alteram partem, have been duly complied with by granting adequate opportunity to the noticees to present their defence. Accordingly, I proceed to examine the issues involved in the present case in the light of the available records, statutory provisions, and judicial precedents. On a careful perusal of the subject show Cause Notice and case records, I find that following main issues are involved in this case, which are required to be decided:

- i.** Whether the importer is eligible for Notification benefit of Notification No. 46/2011-Cus dated 01.06.2011, in respect of the impugned goods.
- ii.** Whether the impugned goods having total assessable value of Rs.6,03,20,491/-, are liable to confiscation under Section 111(o) and 111 (q) of the Customs Act, 1962.
- iii.** Whether the differential Customs duty amounting to Rs.1,37,35,328/- is recoverable from the importer under Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA.
- iv.** Whether the penalty is imposable upon the importer, M/s Tapisserie Homes Private Limited under Section 112(a) and/or 112(b), 114A and 114AA of the Customs Act, 1962 or otherwise.
- v.** Whether the penalty is imposable upon Shri Mohit Gupta under Section 112(b) of the Customs Act, 1962.

24. I find that the present proceedings arise out of an investigation initiated by the DRI on the basis of specific intelligence that M/s Tapisserie Homes Private Limited was availing preferential tariff benefit under the ASEAN-India Free Trade Agreement (AIFTA) by using Certificates of Origin purportedly issued by Malaysian authorities, which were suspected to be non-existent or unauthentic. I observe that M/s Tapisserie Homes Private Limited had claimed benefit under Notification No. 46/2011-Cus dated 01.06.2011 in respect of imports of polyester woven/knitted fabrics. It is

on record that the importer had cleared 8 consignments of polyester fabrics since December 2022 by claiming exemption under Notification No. 46/2011-Cus dated 01.06.2011, resulting in payment of NIL Basic Customs Duty.

24.1 The basis of the allegation lies in the verification of the CoOs undertaken during investigation, wherein the reference numbers of the certificates submitted by the importer were cross-checked on the official Malaysian Government portal. Such verification revealed that the CoOs were either non-existent or corresponded to entirely different exporters, consignees and goods, thereby establishing that the documents relied upon by the importer were not genuine.

24.2 The Show Cause Notice further relies upon the statements recorded under Section 108 of the Customs Act, 1962, wherein the importer M/s Tapisserie Homes Private Limited admitted lack of documents regarding origin criteria and further admitted that the Certificates of Origin produced before Indian Customs appeared to be fake when compared with the data downloaded from the Malaysian Government portal. On this basis, it has been alleged that the importer wrongly availed the benefit of exemption notification, resulting in evasion of customs duty amounting to Rs. 1,37,35,328/-.

24.3 Upon careful consideration of the material on record, I find that the discrepancies in the Certificates of Origin are substantial and have a significant bearing on the case. The fact that the same CoO reference numbers corresponded to different importers and different goods as per the official Malaysian database clearly indicates that the documents produced before Indian Customs were not genuine Certificates of Origin issued for the consignments imported by the Noticee. For sake of reference, certain screenshots taken from the Malaysian Government portal are reproduced here. It is pertinent to note that the details available on the said portal still verifiable, and the present status of the COO Certificates produced by the importer before Customs, as on the date of issuance of this order, is as per the Table-A below.

(I) COO submitted by M/s Tapisserie to Customs:
 (Reference No. KL-2023-AI-21-003397)

2



ORIGINAL

1. Goods consigned from (Exporter's business name, address, country) HUBKING RESOURCES A-9-1, 9TH FLOOR, BBT ONE THE TOWERS LEBUH BATU NILAM 1, BANDAR BUKIT TINGGI, 41200 KLANG, SELANGOR, MALAYSIA		Reference No. KL-2023-AI-21-003397 ASEAN-INDIA FREE TRADE AREA PREFERENTIAL TARIFF CERTIFICATE OF ORIGIN (Combined Declaration and Certificate) FORM AI MALAYSIA Issued in _____ (Country) (See Notes Overleaf)			
2. Goods consigned to (Consignee's name, address, country) TAPISSERIE HOMES PRIVATE LIMITED E-59, INDUSTRIAL AREA, MODEL TOWN, PANIPAT, HARYANA, 132103-INDIA IEC: AAHCT3015C		3. Means of transport and route (as far as known) Departure Date: 11 January 2023 by MARITIME TRANSPORT Vessel's Name/Aircraft, etc.: D ANGELS V. 017A Port of Discharge: MUNDRA			
4. For official use <input type="checkbox"/> Preferential Tariff Treatment Given Under ASEAN-INDIA Free Trade Area Preferential Tariff <input type="checkbox"/> Preferential Tariff Treatment Not Given (Please state reason/s)		Signature of Authorised Signatory of the Importing Country			
5. Item number	6. Marks and numbers on Packages	7. Number and type of packages, description of goods (including quantity where appropriate and HS number of the importing country)	8. Origin criterion (see Notes overleaf)	9. Gross weight or other quantity and value (FOB)	10. Number and date of invoices
1.	N/M	1711 ROLLS 2 X D40H CONTAINER STC POLYESTER KNITTED PILE BONDED FABRICS IMPORTING COUNTRY HS CODE 600192 EXPORTING COUNTRY HS CODE 600192	RVC77.15% +CTSH	34,662.00 KGS USD 145,139.51	05622797 11/12/2022
2.		POLYESTER KNITTED BONDED FABRICS IMPORTING COUNTRY HS CODE 600632 EXPORTING COUNTRY HS CODE 600632	RVC77.15% +CTSH		<i>Assured</i> <i>16/05/23</i>
3.		POLYESTER KNITTED PILE FABRICS IMPORTING COUNTRY HS CODE 600192 EXPORTING COUNTRY HS CODE 600192	RVC77.15% +CTSH		
TOTAL:				34,662.00 KGS USD 145,139.51	
11. Declaration by the exporter The undersigned hereby declares that the above details and statement are correct; that all the goods were produced in MALAYSIA (Country) and that they comply with the origin requirements specified for these goods in the ASEAN-INDIA Free Trade Area Preferential Tariff for the goods exported to INDIA (Importing Country) SELANGOR, 09 January 2023 Place and date, signature of authorised signatory			12. Certification It is hereby certified, on the basis of control carried out, that the declaration by the exporter is correct.  for Secretary General Ministry of International Trade and Industry Malaysia Kuala Lumpur, 12 January 2023 [FAL-FIP-W-230109-KL-000071] Place and date, signature and stamp of certifying authority		
13. Where appropriate please tick: <input type="checkbox"/> Third Country Invoicing <input type="checkbox"/> Exhibition <input type="checkbox"/> Back-to-Back CO <input type="checkbox"/> Cumulation					

Page 1 of 1


Genuine COO issued by Malaysian Government and downloaded from portal:

PREVIEW

1. Goods consigned from (Exporter's business name, address, country) SONY EMCS (MALAYSIA) SDN. BHD. LOT 5, JALAN KEMAJUAN KAWASAN PERINDUSTRIAN BANGI 43650 BANDAR BARU BANGI, SELANGOR, MALAYSIA		Reference No. <u>KL-2023-AI-21-003397</u>		ASEAN-INDIA FREE TRADE AREA PREFERENTIAL TARIFF CERTIFICATE OF ORIGIN (Combined Declaration and Certificate) FORM AI Issued in <u>MALAYSIA</u> (Country) (See Notes Overleaf)	
2. Goods consigned to (Consignee's name, address, country) COMPETITION TEAM TECHNOLOGY (INDIA) PVT LTD 600B, 800B, 900 INDOSPACE INDUSTRIAL PARK ORAGADAM BLOCK B PANRUTTI VILLAGE WALLAJABAD ROAD 631604 SRIPERUMBUDUR, TK KANCHIPURAM INDIA		3. Means of transport and route (as far as known) Departure Date: 21 March 2023 by MARITIME TRANSPORT Vessel's Name/Aircraft, etc.: GANTA BHUM V.019W Port of Discharge: KATTUPALLI PORT			
5. Item number	6. Marks and numbers on Packages	7. Number and type of packages, description of goods (including quantity where appropriate and HS number of the importing country)	8. Origin criterion (see Notes overleaf)	9. Gross weight or other quantity and value (FOB)	10. Number and date of invoices
1.	USD	1050 PIECE MNAME : BAG, PROTECTION PEHD (0.05T) C.NAME : 500032082 PO : 420012376-280 IMPORTING COUNTRY HS CODE 39232119	RVC 100% + CTSH	137 KGM USD 1190.42	2047560 16/03/2023
2.	SONY	500 PIECE MNAME : COVER_TOP (SEP) C.NAME : 503544821 PO : 420012376-300 IMPORTING COUNTRY HS CODE 85299099	RVC 74.47% + CTSH	65 KGM USD 87.21	2047560 16/03/2023
TOTAL :				202 KGM USD 1277.63	
Page 1 of 1					
11. Declaration by the exporter The undersigned hereby declares that the above details and statement are correct; that all the goods were produced in <u>MALAYSIA</u> (Country) and that they comply with the origin requirements specified for these goods in the ASEAN-INDIA Free Trade Area Preferential Tariff for the goods exported to <u>INDIA</u> (Importing Country) <u>SELANGOR, 22 March 2023</u> Place and date, signature of authorised signatory			12. Certification It is hereby certified, on the basis of control carried out, that the declaration by the exporter is correct.   for Secretary General Ministry of International Trade and Industry Malaysia Kuala Lumpur, 23 March 2023 [FAI-FIF-W-230322-KL-000010] SITI NADIRAH NASARUDIN Place and date, signature and stamp of certifying authority		
13. Where appropriate please tick: <input type="checkbox"/> Third Country Invoicing <input type="checkbox"/> Exhibition <input type="checkbox"/> Back-to-Back CO <input type="checkbox"/> Cumulation					


(II) COO submitted by M/s Tapisserie to Customs:
 (Reference No. KL-2023-AI-21-004954)

ORIGINAL

1. Goods consigned from (Exporter's business name, address, country) HUBKING RESOURCES A-9-1, 9TH FLOOR, BET ONE THE TOWERS LEBUH BATU NILAM 1, BANDAR BUKIT TINGGI, 41200 KLANG, SELANGOR, MALAYSIA		Reference No. KL-2023-AI-21-004954 ASEAN-INDIA FREE TRADE AREA PREFERENTIAL TARIFF CERTIFICATE OF ORIGIN (Combined Declaration and Certificate) FORM AI MALAYSIA Issued in _____ (Country) (See Notes Overleaf)			
2. Goods consigned to (Consignee's name, address, country) TAPISSERIE HOMES PRIVATE LIMITED E-59, INDUSTRIAL AREA, MODEL TOWN, PANIPAT, HARYANA, 132103-INDIA GSTIN: 06AAHCT3015C1ZV CIN: U45500DL2019PTC349285 IEC: AAHCT3015C		3. Means of transport and route (as far as known) Departure Date: 10 February 2023 by MARITIME TRANSPORT Vessel's Name/Aircraft, etc.: URU BHUM V. 114W Port of Discharge: MUNDRA			
		4. For official use <input type="checkbox"/> Preferential Tariff Treatment Given Under ASEAN-INDIA Free Trade Area Preferential Tariff <input type="checkbox"/> Preferential Tariff Treatment Not Given (Please state reason/s) _____ Signature of Authorised Signatory of the Importing Country			
5. Item number	6. Marks and numbers on Packages	7. Number and type of packages, description of goods (including quantity where appropriate and HS number of the importing country)	8. Origin criterion (see Notes overleaf)	9. Gross weight or other quantity and value (FOB)	10. Number and date of invoices
1.	N/M	1334 ROLLS 2 X 40'HC CONTAINER STC:- POLYESTER KNITTED PILE BONDED FABRICS IMPORTING COUNTRY HS CODE 600192 EXPORTING COUNTRY HS CODE 600192	RVC77.15% +CTSH	32,430.00 KGS USD 90,034.13	CFX230113 17/01/2023
2.		POLYESTER KNITTED PILE BONDED FABRICS IMPORTING COUNTRY HS CODE 600192 EXPORTING COUNTRY HS CODE 600192			
Page 1 of 1			TOTAL:	32,430.00 KGS USD 90,034.13	<i>Aushine</i> <i>16/5/23</i>
11. Declaration by the exporter The undersigned hereby declares that the above details and statement are correct; that all the goods were produced in MALAYSIA _____ (Country) and that they comply with the origin requirements specified for these goods in the ASEAN-INDIA Free Trade Area Preferential Tariff for the goods exported to INDIA _____ (Importing Country) SELANGOR, 10 February 2023 Place and date, signature of authorised signatory		12. Certification It is hereby certified, on the basis of control carried out that the declaration by the exporter is correct.  _____ SITI NADIRAH NASARUDIN Place and date, signature and stamp of certifying authority			
13. Where appropriate please tick: <input type="checkbox"/> Third Country Invoicing <input type="checkbox"/> Exhibition <input type="checkbox"/> Back-to-Back CO <input type="checkbox"/> Cumulation					

(III) COO submitted by M/s Tapisserie to Customs:
 (Reference No. KL-2022-AI-22-0101060)

106442327941502 13
ORIGINAL

<p>1. Goods consigned from (Exporter's business name, address, country)</p> <p>MULTI RESOURCES VENTURES SDN BHD LOT 11892, JALAN TELOK GONG, TELOK GONG, 42000 PORT KLANG, SELANGOR DARUL EHSAN, MALAYSIA</p>		<p>Reference No. KL-2022-AI-22-0101060</p> <p style="text-align: center;">ASEAN-INDIA FREE TRADE AREA PREFERENTIAL TARIFF CERTIFICATE OF ORIGIN (Combined Declaration and Certificate)</p> <p style="text-align: center;">FORM AI MALAYSIA</p> <p>Issued in _____ (Country) (See Notes Overleaf)</p>			
<p>2. Goods consigned to (Consignee's name, address, country)</p> <p>TAPISSERIE HOMES PRIVATE LIMITED E-59, INDUSTRIAL AREA, MODEL TOWN, PANIPAT, HARYANA, 132103-INDIA</p>		<p>3. Means of transport and route (as far as known)</p> <p>Departure Date: 04 December 2022 by MARITIME TRANSPORT</p> <p>Vessel's Name/Aircraft, etc.: CELSIUS NAIROBI / 891W</p> <p>Port of Discharge: MUNDRA, INDIA</p>			
<p>4. For official use</p> <p><input type="checkbox"/> Preferential Tariff Treatment Given Under ASEAN-INDIA Free Trade Area Preferential Tariff</p> <p><input type="checkbox"/> Preferential Tariff Treatment Not Given (Please state reason/s)</p> <p>_____ Signature of Authorised Signatory of the Importing Country</p>					
5. Item number	6. Marks and numbers on Packages	7. Number and type of packages, description of goods (including quantity where appropriate and HS number of the importing country)	8. Origin criterion (see Notes overleaf)	9. Gross weight or other quantity and value (FOB)	10. Number and date of invoices
1	N/M	2 X 40'HC CONTAINERS STC :- 1365 ROLLS OF POLYESTER KNITTED FABRIC POLYESTER BONDED FABRIC IMPORTING COUNTRY HS CODE 6001929000 EXPORTING COUNTRY HS CODE 6001929000	WO	33320.000KGS USD122186.040	M1001/1002 08.11.2022
Page 1 of 1				TOTAL:	33320.000KGS USD122186.040
<p>11. Declaration by the exporter</p> <p>The undersigned hereby declares that the above details and statement are correct; that all the goods were produced in</p> <p style="text-align: center;">MALAYSIA (Country)</p> <p>and that they comply with the origin requirements specified for these goods in the ASEAN-INDIA Free Trade Area Preferential Tariff for the goods exported to</p> <p style="text-align: center;">INDIA (Importing Country)</p> <p style="text-align: center;">SELANGOR, 07 December 2022 Place and date, signature of authorised Signatory</p>			<p>12. Certification</p> <p>It is hereby certified, on the basis of control carried out, that the declaration by the exporter is correct.</p> <div style="text-align: center;">  <p>NUR ZAIHIRA MOHD LAZIN</p> </div> <p>Place and date, signature and stamp of certifying authority</p>		
<p>13. Where appropriate please tick:</p> <p><input type="checkbox"/> Third Country Invoicing <input type="checkbox"/> Exhibition <input type="checkbox"/> Back-to-Back CO <input type="checkbox"/> Cumulation</p>					

Screenshot from the Malaysian Government portal wherein the reference number used by M/s. Tapisserie found not existed:

The screenshot shows the ePCO COO Verification System interface. At the top, there is a red header with 'ePCO' and 'COO Verification System'. Below this is a search bar with the text 'PLEASE CLICK HERE TO SEARCH'. The search input field contains 'Endorsement No' and the value 'KL-2022-AI-22-0101060'. There are 'RESET' and 'SEARCH' buttons. Below the search bar, a blue message box states 'Endorsement No does not exist.'

Table-A: Details of CoOs verified on portal of Malaysian Government

Sr. No.	B.E./ B.E. (SEZ To DTA) No.	CoO No. submitted by M/s Tapisserie	Consignee name as per CoO issued from the portal	Remarks
1	2001599	KL-2023-AI-21-003397	Competition Team Technology (India) Pvt Ltd	COO issued to the different Consignee/entity. Hence, found to be fake/forged
2	2003685	KL-2023-AI-21-004453	Diach Chemicals and Pigments Pvt Ltd	COO issued to the different Consignee/entity. Hence, found to be fake/forged
3	2004008	KL-2023-AI-21-004954	Rockman Industries Ltd.	COO issued to the different Consignee/entity. Hence, found to be fake/forged
4	2003687	KL-2023-AI-21-004541	RSPL Ltd.	COO issued to the different Consignee/entity. Hence, found to be fake/forged
5	2003684	KL-2023-AI-21-004357	Endorsement No. doesnot exists	Endorsement No. does not exists

6	2020305	KL-2022-AI-22-0101060	Endorsement No. does not exist	Endorsement No. does not exist
7	2020306	KL-2022-AI-22-0101059	Endorsement No. does not exist	Endorsement No. does not exist
8	2004518	PP-2023-AI-21-000604	Tapisserie Homes Pvt Ltd	CoO produced before Indian Customs was genuine

25. Discussion on applicability of Section 28DA of the Customs Act, 1962:

25.1 The entire structure of the importer's claim for preferential tariff benefit under Notification No. 46/2011-Cus dated 01.06.2011 rests upon the Certificates of Origin purportedly issued by the Ministry of International Trade and Industry (MITI), Malaysia. Under the ASEAN-India Free Trade Agreement (AIFTA), the Certificate of Origin is not merely a procedural document but a substantive instrument certifying that the goods satisfy the prescribed origin criteria, including Regional Value Content (RVC) and Product Specific Rules (PSR). However, in the present case, verification undertaken through the official Malaysian Government portal revealed that out of the Eight Certificates of Origin relied upon by M/s. Tapisserie, Seven were found to be non-authentic/fake, while only one (mentioned at Serial Nos. 8 above) was found to be authentic and genuine. Of the Seven non-authentic Certificates of Origin, Three bore endorsement numbers that were non-existent in the official database, and in Four cases, the same reference numbers corresponded to entirely different exporters, consignees, and descriptions of goods. For example, CoO no. KL-2023-AI-21-003397 dated 12.01.2023 submitted by M/s Tapisserie before Customs Authority reflected 'Hubking Resources' as exporter and M/s Tapisserie as the consignee for polyester fabrics, whereas the official portal reflected 'Sony EMCS (Malaysia) SDN BHD' as exporter and 'Competition Team Technology (India) Pvt Ltd' as the consignee, for goods i.e Bag and Cover. Such discrepancies cannot be explained as clerical irregularities; rather, they strike at the very authenticity of the documents and establish fabrication. Once the foundational document evidencing origin is found to be forged or fake, the preferential claim collapses in its entirety. In such circumstances, the Certificates of Origin become invalid for the purposes of AIFTA and attract the consequences contemplated under Section 28DA(10)(iii) of the Customs Act, 1962, which provides that preferential treatment may be

refused where the Certificate of Origin is not authentic or contains unauthenticated alterations.

25.2 At this stage, it becomes necessary to examine the statutory framework of Section 28DA of the Customs Act, 1962, which governs claims of preferential rate of duty under trade agreements. Section 28DA(1) imposes four cumulative obligations upon the importer: first, to make a declaration that the goods qualify as originating goods; second, to possess sufficient information regarding the manner in which origin criteria are satisfied; third, to furnish such information in the prescribed manner; and fourth, to exercise reasonable care as to the accuracy and truthfulness of the information furnished. These are not empty formalities; they constitute substantive statutory duties designed to prevent abuse of trade agreements. Section 28DA(2) further clarifies that submission of a Certificate of Origin issued by the designated authority does not absolve the importer from the responsibility to exercise reasonable care. The legislative intent is clear: the importer cannot act as a passive conduit merely forwarding whatever certificate is supplied by the exporter. The importer is statutorily obligated to ensure that the origin claim is supported by verifiable and sufficient information.

25.3 In the present case, the record reveals that Shri Anshul Jain, Director of M/s Tapisserie, in his statement dated 20.04.2023, admitted that he did not possess any information regarding regional value content or product specific origin criteria and that he had relied solely upon the Certificates of Origin forwarded by the supplier, who had not provided any other supporting documents. This admission is further corroborated by the statement of Shri Mohit Gupta dated 04.05.2023, who was intermediary between the importer and foreign supplier. Further, the failure to verify the authenticity of the issuing authority or the manufacturing activity reflects absence of “reasonable care” as contemplated under Section 28DA (1)(iv) of the Customs Act, 1962. When repeated consignments involving substantial revenue implication are cleared at nil Basic Customs Duty, elementary prudence would require verification of origin credentials, particularly when the supplier is primarily a Chinese entity claiming manufacturing shift to Malaysia. The importer’s omission to undertake even basic verification cannot be characterized as a minor lapse; it constitutes a clear breach of statutory obligation.

25.4 Section 28DA (3) empowers the proper officer, where he has reasons to believe that origin criteria have not been met, to require the importer to furnish further information. In the instant case, the proper officer had

cogent reasons to doubt the origin claim, as portal verification revealed non-existent or mismatched CoO numbers. Once such prima facie doubt arose, the statutory burden shifted to the importer to substantiate the origin claim by producing requisite supporting information. However, the importer failed to provide any documentary evidence regarding manufacturing, regional value addition, or product specific compliance. In such circumstances, Section 28DA (4) authorizes the proper officer to disallow the claim for preferential rate of duty. The proviso to Section 28DA(4) empowers the Principal Commissioner or Commissioner to disallow the preferential claim without further verification, on the basis of information available or where the importer fails to provide requisite information.

25.5 Further, Section 28DA(10) permits refusal of preferential tariff treatment without verification in specified circumstances, including where the certificate of origin is not authentic, contains not authenticated alterations, or is otherwise invalid. In the present case, the Certificates of Origin have been found to bear non-existent endorsement numbers or mismatched exporter/consignee details, thereby rendering them inherently invalid and not authentic. Once the foundational document is fabricated, insistence on diplomatic or inter-governmental verification becomes unnecessary, as the document fails at the threshold of authenticity. The statutory framework thus clearly contemplates summary refusal of preferential benefit where the certificate itself is apparently false.

25.6 Thus, when Section 28DA is interpreted harmoniously, it becomes evident that the statutory scheme places primary responsibility upon the importer to ensure authenticity and origin compliance. The importer in the present case failed to possess requisite origin information, failed to exercise reasonable care, relied upon fabricated Certificates of Origin, and failed to rebut official verification evidence. Consequently, the claim for preferential benefit under Notification No. 46/2011-Cus is unsustainable in law. Further, during the entire investigation and adjudication proceedings, the importer has not disputed the fact that the COO Certificates were fake, forged or non-exist. The disallowance of the AIFTA benefit is therefore fully justified under Sections 28DA (1), 28DA (2), 28DA (4) and 28DA (10) of the Customs Act, 1962.

26. Burden of Proof in Respect of Exemption Claim – Onus on the Importer:

I find it necessary to reiterate the settled legal position that the burden to prove eligibility to an exemption notification lies squarely upon the person

who claims the benefit thereof. An exemption notification is in the nature of an exception to the general rule of levy of duty, and therefore its conditions must be strictly complied with. The claimant must establish, through cogent and affirmative evidence, that all statutory requirements and conditions prescribed therein are fully satisfied. In the present case, M/s Tapisserie claimed preferential tariff benefit under Notification No. 46/2011-Cus (AIFTA). Consequently, the burden was upon the importer to demonstrate that the goods qualified as originating goods under the applicable Rules of Origin and that valid Certificates of Origin were produced in compliance with Section 28DA of the Customs Act, 1962. Mere production of a document styled as a Certificate of Origin does not discharge this burden, particularly when serious discrepancies regarding its authenticity have been brought on record. In the absence of supporting origin-compliance documents or any evidence establishing fulfillment of origin criteria, the importer has failed to discharge the onus cast upon it. Therefore, the benefit of the notification cannot be granted to the Importer. The burden to prove the eligibility of exemption notification is on importer; and the exemption notification are subject to strict interpretation. I place reliance upon following relevant legal pronouncements:

- *Hon'ble Supreme Court in the case of **Hotel Leela Venture Ltd. Vs. Commr. of Customs (General), Mumbai [2009(234) ELT-389(SC)** held that the burden was on the appellant to prove that the appellant satisfies the terms and conditions of the Exemption Notification. It is well settled that Exemption Notification have to be read in the strict sense.*
- *Hon'ble Supreme Court in the case of **Krishi Upaj Mandi Samiti v/s. CCE reported in 2022 (58) GSTL 129 (SC)** held that law of the issue of interpretation of taxing statute has been laid down in catena of decisions that plain language capable of defined meaning used in a provision has to be preferred and strict interpretation has to be adopted except in cases of ambiguity in statutory provisions.*
- *Hon'ble Supreme Court in the case of **Uttam Industries V/s. CCE reported in 2011 (265) ELT 14(SC)** held that it is well settled law that exemption notification should be construed strictly and exemption notification is subject to strict interpretation by reading it literally.*
- *The constitutional bench dated July 30, 2018 of Hon'ble Supreme Court of India in the case of **COMMISSIONER OF CUSTOMS (IMPORT), MUMBAI ...APPELLANT(S) VERSUS M/S. DILIP KUMAR AND COMPANY & ORS. (CIVIL APPEAL NO. 3327 OF 2007)** held that the benefit of ambiguity in exemption notification cannot be claimed by the subject/assessee and it must be interpreted in favour of the revenue/ state. Exemption notifications*

are subject to strict interpretation. Relevant Para the said judgement is reproduced hereunder;

“41. After thoroughly examining the various precedents some of which were cited before us and after giving our anxious consideration, we would be more than justified to conclude and also compelled to hold that every taxing statute including, charging, computation and exemption clause (at the threshold stage) should be interpreted strictly. Further, in case of ambiguity in a charging provisions, the benefit must necessarily go in favour of subject/assessee, but the same is not true for an exemption notification wherein the benefit of ambiguity must be strictly interpreted in favour of the Revenue/State.”

52. To sum up, we answer the reference holding as under

(1) Exemption notification should be interpreted strictly; the burden of proving applicability would be on the assessee to show that his case comes within the parameters of the exemption clause or exemption notification.

(2) When there is ambiguity in exemption notification which is subject to strict interpretation, the benefit of such ambiguity cannot be claimed by the subject/assessee and it must be interpreted in favour of the revenue.

(3) The ratio in Sun Export case (supra) is not correct and all the decisions which took similar view as in Sun Export Case (supra) stands overruled.”

27. Invocation of Extended Period under Section 28(4) of the Customs Act, 1962:

27.1 I have discussed in detail that the importer has failed to comply with the statutory obligations under Section 28DA of the Customs Act, 1962 and that the Certificates of Origin relied upon were forged/not authentic/non-exist, it now becomes necessary to examine whether such violation attracts the extended period under Section 28(4) of the Customs Act, 1962. Section 28(4) of the Customs Act, 1962 provides that where duty has not been levied or has been short-levied by reason of collusion, wilful misstatement or suppression of facts, the proper officer may issue notice within five years from the relevant date. The provision requires existence of a positive act or omission attributable to the importer that results in non-payment or short-payment of duty. In the present case, the importer filed Bills of Entry claiming preferential benefit under AIFTA, thereby declaring that the goods qualified as originating goods and that

valid Certificates of Origin were being furnished in support of such claim. This declaration is not a passive procedural formality but a substantive representation made under the self-assessment regime.

27.2 In the present case, the Importer had claimed preferential rate of duty by declaring the country of origin of the imported goods as Malaysia and by submitting Certificates of Origin purportedly issued by the Ministry of International Trade and Industry (MITI), Malaysia. The Importer has filed Bills of Entry while claiming concessional rate of BCD on the basis of Importer's declaration in the subject Bills of Entry- ***"I/We declare that content of this Bill of entry for goods imported against above mentioned Bill of Lading number are in accordance with the above mentioned invoice(s) No(s) and other documents presented herewith. I/We also declare that the contents of the above mentioned invoice and documents are true and correct in every respect"***. The Importer have accordingly declared in the all said Bill of entries confirming to the veracity and genuineness of all the documents.

27.3 I find that; the importer had subscribed to a declaration as to the truthfulness of the contents of the bills of entry in terms of Section 46(4) of the Act in all their import declarations. Section 17 of the Act, w.e.f. 08.04.2011, provides for self-assessment of duty on imported goods by the importer themselves by filing a bill of entry, in the electronic form. Thus, under the scheme of self-assessment, it is the importer who has to diligently ensure that he declares the correct description of the imported goods, its correct classification, the applicable rate of duty, value, benefit of exemption notification claimed, if any, in respect of the imported goods while presenting the bill of entry. Further, with the introduction of self-assessment by amendment to Section 17, there is an added and enhanced responsibility of the importer to declare the correct description, value, notification, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods. In terms of the provisions of Section 47 of the Customs Act, 1962, the importer shall pay the appropriate duty payable on imported goods and then clear the same for home consumption. In the instant case, the impugned Bills of Entry being self-assessed were substantially mis-declared by the importer in respect of the country of origin while being presented to the Customs. However, in the present case, as discussed under foregoing paras, it is evident that the importer had deliberately evaded customs duty by producing fake/forged Country of Origin Certificates under AIFTA under wrongful and fraudulent claims and by availing exemption of Basic Customs Duty under Customs Notification No. 46/2011 dated 01.06.2011. These findings are further corroborated by the online verification of the authenticity of the

Certificates of Origin used for claiming preferential tariff benefit, undertaken through the official Malaysian Government portal, namely the DagNet/ePCO system (<https://newepco.dagangnet.com.my/dnex/login/>). The verification revealed that the Certificate of Origin reference numbers pertaining to the 7 impugned Bills of Entry were either fake or non-existent, with the system displaying the remark “Endorsement No does not exist,” or were found to have been issued to other exporters in Malaysia and other importers in India for goods entirely unrelated to the consignments imported by M/s. Tapisserie. This verification clearly establishes that the Certificates of Origin relied upon by the importer were not authentic and were not issued by the said authority in respect of the impugned consignments.

27.4 A thorough examination of the above facts undoubtedly establishes that the Noticee deliberately suppressed material facts while importing the subject goods, with the intent to circumvent the provisions of the Customs Act, 1962 and the relevant exemption notifications, and to obtain undue benefits. I have no doubt that the origin of the imported goods was misrepresented in order to wrongfully avail benefits under the ASEAN-India Free Trade Agreement. Such a modus operandi enabled the Noticee to misuse the Free Trade Agreement between India and Malaysia and thereby evade payment of the applicable customs duties on the imported goods. The Importer during the course of investigation have never contested that the subject Country of Origin certificate submitted by the Importer were authentic. On being confronted with the genuine COO Certificates and screenshot of the Malaysian Government portal, Shri Anshul Jain, Director of M/s Tapisserie stated that later COO (actual one) seems to be genuine as the same is downloaded from the Govt. Portal of Malaysia. He further acknowledged and stated that COO produced by him before Indian Customs appears to be fake. Under Section 46(4A), the importer presenting a Bill of Entry is statutorily obligated to ensure the authenticity and validity of supporting documents. Read conjointly with Section 28DA(1)(iv), which mandates exercise of reasonable care as to the accuracy and truthfulness of information furnished, it is evident that the importer bears a statutory duty not merely to submit documents but to ensure their genuineness. In the present case, the importer submitted Certificates of Origin which have been established to be fabricated or not authentic. The verification conducted from the official Malaysian portal demonstrated that several CoO numbers were either non-existent or corresponded to entirely different exporters, consignees and goods. Such fundamental falsity could not have gone unnoticed had even minimal due diligence been exercised.

27.5 In the present case, the importer failed to disclose that no verification of manufacturing activity had been undertaken, that no origin compliance information was possessed, and that the supplier was primarily a Chinese entity, routing goods through Malaysia. These facts were material to determination of eligibility under AIFTA. The non-disclosure of such material circumstances, coupled with submission of fabricated certificates, squarely attracts the ingredients of suppression and wilful misstatement. It is also relevant that the discrepancies were not discovered through routine scrutiny of documents furnished by the importer but were unearthed through independent verification by the DRI. The subsequent admission by the person handling the operations that the Certificates of Origin “appeared to be fake” further reinforces the conclusion that the importer was aware of the doubtful authenticity of the documents. Therefore, I find that the ingredients necessary for invocation of the extended period under Section 28(4) are fully satisfied. In support of this finding of invoking extended period, I rely upon the following court decisions:

(a) 2013(294) E.L.T.222 (Tri. - LB): **Union Quality Plastic Ltd. Versus Commissioner of C.E. & S.T., Vapi** [Misc. Order Nos. M/12671-12676/2013-WZB/AHD, dated 18.06.2013 in Appeal Nos. E/1762-1765/2004 and E/635- 636/2008]

“In case of non-levy or short-levy of duty with intention to evade payment of duty, or any of circumstances enumerated in proviso ibid, where suppression or wilful omission was either admitted or demonstrated, invocation of extended period of limitation was justified”

(b) 2013(290) E.L.T.322 (Guj.): **Salasar Dyeing & Printing Mills (P) Ltd. Versus C.C.E. & C., Surat-I**; Tax Appeal No. 132 of 2011, decided on 27.01.2012.

“Demand – Limitation – Fraud, collusion, willful misstatement, etc. – Extended period can be invoked up to five years anterior to date of service of notice – Assessee’s plea that in such case, only one year was available for service of notice, which should be reckoned from date of knowledge of department about fraud, collusion, willful misstatement, etc., rejected as it would lead to strange and anomalous results;”

(c) 2005 (191) E.L.T. 1051 (Tri. – Mumbai): **Winner Systems Versus Commissioner of Central Excise & Customs, Pune**: Final Order Nos. A/1022-1023/2005-WZB/C-I, dated 19- 7-2005 in Appeal Nos. E/3653/98 & E/1966/2005-Mum.

"Demand – Limitation – Blind belief cannot be a substitute for bona fide belief – Section 11A of Central Excise Act, 1944. [para 5]"

(d) 2006 (198) E.L.T. 275 (Tri. Bom) –Interscape v. CCE, Mumbai-I: in the case, it has been held by the Hon'ble Tribunal that a bona fide belief is not blind belief. A belief can be said to be bona fide only when it is formed after all the reasonable considerations are taken into account;

28. Violation of the provisions of Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020 (CAROTAR, 2020):

Further, it is observed that the Importer is required to possess information and knowledge as per Rule 4 read with Rule 5 of the CAROTAR (Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020. The said Provisions of Rule 4 and Rule 5 are reproduced below:

- Rule 4.

Origin related information to be possessed by importer. –

The importer claiming preferential rate of duty shall-

- (a) possess information, as indicated in Form I, to demonstrate the manner in which country of origin criteria, including the regional value content and product specific criteria, specified in the Rules of Origin, are satisfied, and submit the same to the proper officer on request.
- (b) keep all supporting documents related to Form I for at least five years from date of filing of bill of entry and submit the same to the proper officer on request.
- (c) exercise reasonable care to ensure the accuracy and truthfulness of the aforesaid information and documents.

Rule 5.

Requisition of information from the importer. -

(1) Where, during the course of customs clearance or thereafter, the proper officer has reason to believe that origin criteria prescribed in the respective Rules of Origin have not been met, he may seek information and supporting documents, as may be deemed necessary, from the importer in terms of rule 4 to ascertain correctness of the claim.

(2) Where the importer is asked to furnish information or documents, he shall provide the same to the proper officer within ten working days from the date of such information or documents being sought.

(3) Where, on the basis of information and documents received, the proper officer is satisfied that the origin criteria prescribed in the respective Rules of Origin have been met, he shall accept the claim and inform the importer in writing within fifteen working days from the date of receipt of said information and documents.

(4) Where the importer fails to provide requisite information and documents by the prescribed due date or where the information and documents received from the importer are found to be insufficient to conclude that the origin criteria prescribed in the respective Rules of Origin have been met, the proper officer shall forward a verification proposal in terms of rule 6 to the nodal officer nominated for this purpose.

(5) Notwithstanding anything contained in this rule, the Principal Commissioner of Customs or the Commissioner of Customs may, for the reasons to be recorded in writing, disallow the claim of preferential rate of duty without further verification, where:

(a) The importer relinquishes the claim; or

(b) The information and documents furnished by the importer and available on record provide sufficient evidence to prove that goods do not meet the origin criteria prescribed in the respective Rules of Origin.

28.1 From the above, I observe that:

- In the instant case that there is no dispute about the fact that the Noticee has taken no step or ensured any due diligence to prove the said vital information to be eligible for the concessional rate of Basic Custom Duty, as prescribed in Rule 4 (c) of the CAROTAR, 2020.
- Further, Noticee has failed to provide the above said vital information along with supporting documents as prescribed in Rule 4 (b) of the CAROTAR, 2020 at any relevant point of time namely i) at the time of recording of his statement under section 108 of the Customs Act, 1962, or (ii) in its defence reply.
- Additionally, Form-I of Rule 4 requires from importer to possess a very elaborate information with supporting documents to be eligible for BCD benefits. In terms of the said rule and Section 28DA of the

Customs Act 1962, an importer making a claim for preferential rate of duty is required to possess sufficient information as regards the manner in which country of origin criteria, including the regional value content and product specific criteria, specified in the rules of origin in the trade agreement, are satisfied. However, there is no dispute about the fact that importer has completely failed to furnish any of such information. Therefore, I find that the Noticee has violated Rule 4 & 5 of CAROTAR (Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020. Further, as mandated by Section 28DA of the Customs Act, 1962 read with Rule 4 of CAROTAR, 2020, The Importer has failed to possess sufficient information as per Form I of the said rules along with supporting documents of the same.

Therefore, in terms of Section 28DA of the Customs Act, 1962, Noticee cannot avoid responsibility of ensuring accuracy and truthfulness of COO certificate, facing the consequences in terms of payment of related duty, interest, fine and penalties.

29. Discussion on the applicability of Section 28(5) of the Customs Act, 1962.

29.1 I find that the importer has contended that, having paid the differential duty along with applicable interest prior to adjudication, the requirements of Section 28(5) of the Customs Act, 1962 stand complied with and the proceedings are liable to be concluded under Section 28(6). However, I find that this contention is not in accordance with the statutory scheme. Section 28(5) provides for a specific mechanism whereby the importer is required to pay the duty along with interest and a penalty equal to 15% of such duty within 30 days of receipt of the Show Cause Notice, and only upon such complete compliance can the benefit of closure under Section 28(6) be availed.

29.2 In the present case, although the importer has paid the differential duty and applicable interest, there is no evidence on record to show that the penalty equivalent to 15% of duty has been paid within the prescribed period of 30 days from the date of receipt of the Show Cause Notice. Thus, the mandatory conditions stipulated under Section 28(5) remain unfulfilled. Consequently, the importer cannot claim the benefit of closure of proceedings under Section 28(6), and the case is required to be adjudicated on merits.

30. Confiscation of goods under Section 111(o) & 111(q) of the Customs Act, 1962:

30.1 I find that the Show Cause Notice proposes confiscation of the imported goods under the provisions of Section 111(o) and 111(q) of the Customs Act, 1962. Section 111(o) renders goods liable to confiscation if they are exempted from duty subject to any condition under the Act or any other law, and such condition is not observed, unless the non-observance is sanctioned by the proper officer. In this case, the importer availed conditional exemption from Basic Customs Duty (BCD) under Notification No. 46/2011-Customs dated 01.06.2011, as amended, which provides preferential tariff treatment for goods originating from ASEAN countries under the AIFTA and govern by the rules issued vide Notification No. 189/2009-Customs (Non-Tariff). Rule 13 of Notification No. 189/2009-Customs (Non-Tariff) is reproduced for better appreciation:

“Rule 13 Certificate of Origin- A claim that a product shall be accepted as eligible for preferential tariff treatment shall be supported by a Certificate of Origin issued by a government authority designated by the exporting Party and notified to the other Parties in accordance with the Operational Certification Procedures as set out in Appendix D.”

From the above Rule 13, it is evident that the condition for this exemption is the production of a valid Certificate of Origin (CoO) certifying that the goods meet the origin criteria specified in the AIFTA Rules of Origin. As discussed under foregoing paras, the importer is not eligible for the AIFTA benefit as the CoOs submitted were not authentic and were fake. This act on the part of the importer rendered the goods liable to confiscation under Section 111(o) of the Customs Act, 1962.

30.2 Section 111(q), inserted vide Finance Act, 2020 (12 of 2020) dated 27.03.2020, specifically addresses goods imported on a claim of preferential rate of duty that contravene any provision of Chapter VAA (Special Provisions Relating to Preferential Rate of Duty under Trade Agreements) or rules thereunder. Chapter VAA, covering Sections 28DA to 28DC, mandates importers to declare origin qualification, possess and furnish information on origin criteria, and exercise reasonable care regarding the accuracy of such information. The importers by submitting forged CoOs violates Section 28DA, as they failed to ensure the authenticity of the documents and did not possess verifiable details. Consequently, the goods contravene Chapter VAA provisions, which makes them liable to confiscation under Section 111(q) of the Customs Act, 1962.

30.3 As the impugned goods are found to be liable for confiscation under Section 111 of the Customs Act, 1962, I find that it is necessary to consider as to whether redemption fine under Section 125 of Customs Act, 1962, is liable to be imposed in lieu of confiscation. I find that, in the present case, the subject goods are not physically available for confiscation at this stage. The goods have already been cleared and are no longer under the control of the Customs. Therefore, physical confiscation of the goods is not feasible. However, I note that the Hon'ble CESTAT, Ahmedabad, in the case of *M/s. Van Oord India Pvt. Ltd. vs. Commissioner of Customs, Ahmedabad* [Customs Appeal No. 10679 of 2024-DB], has held that redemption fine can be imposed even when the goods are not physically available for confiscation. Further, this points were already settled in case of Judgment dated 11.08.2017 of Hon'ble High Court of Madras in **C.M.A. No. 2857 of 2011 in the case of Visteon Automotive Systems India Ltd. Vs. CESTAT, Chennai [2018 (9) G.S.T.L. 142 (Mad.)]**. Para 23 of the said Judgment is as follows:

“The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields. The fine under Section 125 is in lieu of confiscation of the goods. The payment of fine followed up by payment of duty and other charges leviable, as per sub-section (2) of Section 125, fetches relief for the goods from getting confiscated. By subjecting the goods to payment of duty and other charges, the improper and irregular importation is sought to be regularised, whereas, by subjecting the goods to payment of fine under sub-section (1) of Section 125, the goods are saved from getting confiscated. Hence, the availability of the goods is not necessary for imposing the redemption fine. The opening words of Section 125, “Whenever confiscation of any goods is authorised by this Act”, brings out the point clearly. The power to impose redemption fine springs from the authorisation of confiscation of goods provided for under Section 111 of the Act. When once power of authorisation for confiscation of goods gets traced to the said Section 111 of the Act, we are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing from Section 111 only. Hence, the payment of redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act.”

30.4 I further find that the above view of Hon'ble Madras High Court in case of *M/s Visteon Automotive Systems India Limited* reported in 2018 (9) G.S.T.L. 142 (Mad), has been cited by Hon'ble Gujarat High Court in

case of M/s Synergy Fertichem Pvt. Ltd reported in 2020 (33) G.S.T.L. 513 (Guj.) and the same has not been challenged by any of the parties concerned. Hence, from the above discussion and relying on the above judgements. I find that goods are liable for confiscation and redemption fine can be imposed. I note that the case involves availment of exemption from Basic Customs Duty (BCD) under Notification No. 46/2011-Customs dated 01.06.2011, as amended, but does not involve prohibited goods or smuggled goods. I find it appropriate to maintain proportionality between the gravity of offence and the extent of revenue implication. Considering the nature of the violation and the principle that redemption fine should not be excessive, the ends of justice would be met if the redemption fine is restricted to approx. 50% of the differential duty.

31. Penalty under Section 112(a), 112(b), 114A & 114AA of the Customs Act, 1962 on M/s Tapisserie.

I observe that the Show Cause Notice proposed penalties on M/s Tapisserie Homes Pvt. Ltd. under Section 112(a) & (b)/ 114A & 114AA of The Customs Act, 1962. In order to examine the same, it is necessary to refer to the provisions of Section 112(a) & (b)/ 114A & 114AA of the Customs Act, 1962, which are reproduced as follows:

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

Any person, -

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

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under [section 111](#),

shall be liable, -

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is the greater;

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

Section 114A. Penalty for short-levy or non-levy of duty in certain cases.

“Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-section (8) of section 28] shall also be liable to pay a penalty equal to the duty or interest so determined

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.

31.1 The language of Section 114A is imperative: where duty has not been levied or has been short-levied by reason of collusion or wilful misstatement or suppression of facts, the person liable to pay such duty shall also be liable to penalty equal to the duty so determined. Since the duty has been short levied by reason of suppression and wilful mis-statement and the importer is liable to pay differential duty as determined under Section 28(8) of the Customs Act, 1962, the importer, M/s Tapisserie, is liable for penalty equal to the duty amount under the provisions of **Section 114A** of the Customs Act, 1962. However, in terms of fifth proviso to Section 114A, once penalty is imposed under Section 114A, no penalty under Section 112 is imposable.

31.2 Section 114AA of the Customs Act, 1962 provides for penalty where a person knowingly or intentionally makes, signs or uses any declaration or document which is false or incorrect in any material particular in the transaction of business under the Act. In the present case, M/s. Tapisserie, while filing Bills of Entry and claiming preferential benefit under Notification No. 46/2011-Cus, used Certificates of Origin which have been found to be fake/not authentic. The COO reference numbers were either non-existent or corresponded to entirely different exporters, consignees and goods. The repeated use of such false Certificates of Origin for availing undue preferential tariff benefit clearly establishes intentional

use of incorrect documents in customs transactions. Accordingly, the importer, M/s. Tapisserie, is liable to penalty under **Section 114AA** of the Customs Act, 1962.

32. Penalty under Section 112(b) of the Customs Act, 1962 on Shri Mohit Gupta:

32.1 I find that Shri Mohit Gupta did not appear for the personal hearing despite being given an opportunity and has instead filed a written submission denying any connection with M/s Tapisserie Homes Private Limited, stating that his name has been wrongly linked with the present proceedings. He has claimed that he is neither associated with the importer in any capacity nor has he undertaken any activity relating to import or customs clearance on their behalf.

32.2 However, I find that this contention is not supported by the evidences on record. The statement of Shri Anshul Jain, Director of the importer, recorded on 20.04.2023 and 10.05.2023, clearly establishes that Shri Mohit Gupta was the person through whom imports were arranged and who was coordinating with the overseas supplier. Further, in his own statement dated 04.05.2023 recorded under Section 108 of the Customs Act, 1962, Shri Mohit Gupta has admitted that he was dealing with the foreign supplier on behalf of the importer and had instructed the Customs House Agent to file Bills of Entry for clearance of consignments. The statement of Shri Krushnrajsinh Jadeja, Partner of the CHA firm, recorded on 22.05.2023, also confirms that all import-related documents were received through Shri Mohit Gupta and that he was the point of contact for clearance activities. Thus, the denial made in his written submission is clearly contradicted by his own statement as well as other evidences on record and appears to be an afterthought.

32.3 In view of the above, I find that Shri Mohit Gupta has played an active and crucial role in facilitating the import of goods by M/s Tapisserie Homes Private Limited, including placing orders with overseas suppliers, coordinating with the foreign supplier, and directing the Customs House Agent for filing of Bills of Entry from time to time. Further, he was actively involved in handling the import activities and had abetted the importer in availing the benefit of exemption on the strength of unauthentic Certificates of Origin. Further, I note that this is not an isolated instance, but part of a repeated pattern wherein Shri Mohit Gupta has been found to be the key person in other similar cases, namely **M/s Gurukripa Textiles** [O-i-O no. MUN-CUSTM-000-COM-60-25-26 dated 03.03.2026

wherein penalty of Rs. 6,43,87,890/- (under section 114A) and Rs. 1,00,00,000 (under Section 114AA) were imposed on Shri Mohit Gupta], **M/s Saanvi Impex** [O-i-O no. MUN-CUSTM-000-COM-61-25-26 dated 03.03.2026 wherein penalty of Rs. 60,00,000/- under section 112(b)(ii) was imposed on Shri Mohit Gupta] **and M/s Harihar Enterprises** [O-i-O no. MUN-CUSTM-000-COM-59-25-26 dated 03.03.2026 wherein penalty of Rs. 25,00,000/- under section 112(b)(ii) was imposed on Shri Mohit Gupta], involving identical modus operandi of importing polyester fabrics through Malaysia and availing preferential duty benefit on the basis of fake/non-authentic CoOs, resulting in substantial evasion of duty. Such repeated involvement in similar transactions clearly establishes his knowledge of the nature of documents being used and rules out any possibility of innocence or lack of awareness. His acts of commission and omission, coupled with his continued participation in similar cases, demonstrate a clear culpable mental state and conscious involvement in the improper importation of goods. Since the goods are liable to confiscation under Section 111 of the Customs Act, 1962, I find that Shri Mohit Gupta, being a person who has abetted and is knowingly concerned in such improper importation, is liable for imposition of penalty under **Section 112(b)(ii)** of the Customs Act, 1962.

33. Voluntary payment:

I find that the importer, M/s Tapisserie Homes Private Limited, has, during the course of investigation, voluntarily paid the customs duty amounting to ₹1,37,35,328/- along with interest of ₹10,85,389/-, as duly acknowledged in para 14 of the Show Cause Notice. I further note that the Show Cause Notice has specifically proposed appropriation of the aforesaid amounts towards the duty and interest found recoverable. In view thereof, I hold that the amount already paid by the importer is liable to be appropriated against the demand of duty and interest under the relevant provisions of the Customs Act, 1962.

34. In view of the aforesaid discussions and findings, I pass the following order:

ORDER

- i. I order to deny the exemption benefit of Notification No. 46/2011-Cus dated 01.06.2011, as amended, availed by the importer against the Bills of Entry, as per Annexure-A to the SCN, and disallowed the benefit in terms of Section 28DA of the Customs Act, 1962 and order for re-assessment of subject Bills of Entry by

disallowing the benefit of Notification No. 46/2011-Cus dated 01.06.2011, as amended.

- ii. I order to confiscate the impugned goods having total assessable value of **Rs. 6,03,20,491/-** (Rupees Six Crore Three Lakh Twenty Thousand Four Hundred and Ninety One only), as per Annexure-A to the SCN, under the provisions of Section 111(o) and 111 (q) of the Customs Act, 1962. I impose redemption fine of **Rs.70,00,000/-** (Rupees Seventy Lakh only) under Section 125(1) of the Customs Act, 1962, in lieu of confiscation.
- iii. I determine and confirm the demand of the differential duty amounting to **Rs. 1,37,35,328/-** (Rupees One Crore Thirty Seven Lakh Thirty Five Thousand Three Hundred and Twenty Eight only) under the provisions of Section 28(8) of the Customs Act, 1962 and order to recover the same from M/s Tapisserie Homes Pvt. Ltd. under Section 28(4) of the Customs Act, 1962 along with interest under Section 28AA of the Customs Act, 1962.
- iv. I order to appropriate **Rs. 1,37,35,328/-** (Rupees One Crore Thirty Seven Lakh Thirty Five Thousand Three Hundred and Twenty Eight only) against the duty liability and **Rs. 10,85,389/-** (Rupees Ten Lakh Eighty Five Thousand Three Hundred and Eighty Nine only) against the interest liability, voluntarily paid by the Noticee during the investigation.
- v. I impose a penalty of **Rs. 1,37,35,328/-** (Rupees One Crore Thirty Seven Lakh Thirty Five Thousand Three Hundred and Twenty Eight only) upon M/s. Tapisserie Homes Pvt. Ltd. under the provisions of Section 114A of the Customs Act, 1962. However, I do not impose any penalty under Section 112(a)/112(b) of the Customs Act, 1962.
- vi. I impose a penalty of **Rs. 20,00,000/-** (Rupees Twenty Lakh only) upon M/s. Tapisserie Homes Pvt. Ltd. under the provisions of Section 114AA of the Customs Act, 1962.
- vii. I impose a penalty of **Rs. 10,00,000/-** (Rupees Ten Lakh only) upon Shri Mohit Gupta under the provisions of Section 112(b)(ii) of the Customs Act, 1962.

35. 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.

(NITIN SAINI)

Commissioner of Customs,
Custom House Mundra.

File No: GEN/ADJ/COMM/211/2025-Adjn

DIN: 20260471MO000000B54D

To, (The Noticees),

- (i)** M/s Tapisserie Homes Private Limited, (IEC: AAHCT3015C) registered at E-59, 1st Floor, Industrial Area, Model town, Panipat, Haryana, 132103.
- (ii)** Shri Mohit Gupta, Son of Shri Haridass Gupta
Resident of K-1/25, 1st Floor,
Model Town-II, Delhi- 110009

Copy to:

- (i)** The Additional Director, Directorate of Revenue Intelligence (DRI), Ahmedabad Zonal Unit Zonal Unit 15, Magnet Corporate Park, Off S.G. Highway, Near Sola Over Bridge, Thaltej, Ahmedabad-380054.
- (ii)** The Deputy/ Assistant Commissioner (EDI), Custom House, Mundra.
- (iii)** Notice Board.
- (iv)** Guard File.