



सीमा शुल्क के प्रधान आयुक्त का कार्यालय
सीमा शुल्क सदन, मुंद्रा, कच्छ, गुजरात
OFFICE OF THE COMMISSIONER OF CUSTOMS
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A. File No.	:	GEN/ADJ/COMM/306/2024-Adjn-O/o Pr Commr-Cus-Mundra
B. Order-in-Original No.	:	MUN-CUSTM-000-COM-26-2025-26
C. Passed by	:	Nitin Saini, Commissioner of Customs, Customs House, AP & SEZ, Mundra.
D. Date of order and Date of issue:	:	23.09.2025. 23.09.2025
E. SCN No. & Date	:	GEN/ADJ/COMM/306/2024 dated 26.09.2024
F. Noticee(s) / Party / Importer	:	M/s. Alia International (IEC No. AVVPM6801D)
G. DIN b	:	20250971MO0000019786

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 - / 1000रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज, दंड या शास्ति रूपये पाँच लाख या कम माँगा हो 5000/- रुपये 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/- रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, दंड व्याज या शास्ति पचास लाख रूपये से अधिक माँगा हो। शुल्क का भुगतान खण्ड पीठ बैंच 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 paisa 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-

M/s. Alia International (IEC No. AVVPM6801D) having address at H No.135, Gali No.2, Rajiv Gandhi Nagar New Mustafabad, North East Delhi, Delhi – 110094, was engaged in import of PU-coated Fabrics and other fabrics from China for home consumption. M/s. Alia International used to clear their import goods for DTA clearance through Mundra SEZ Warehousing Units at Mundra Port, Mundra. Intelligence indicated that M/s. Alia International was indulged in evasion of Anti-dumping duty and Customs duty by way of mis-declaration of description and value of the import goods and by way of mis-classification thereof. The intelligence further indicated that M/s. Alia International has imported 05 consignments from China through Container Nos. IAAU1905960, EITU1069828, EITU9114841, TLLU7681284 and TCNU8074730 and mis-declared the same as 'Mix Lot of Artificial Coated Fabric for Auto Seat cover HS Code 59031090' and 'Fabrics HS Code 60064200'. As per the details available on the Bills of Lading, the said import consignments were to be cleared through M/s. Empezar Logistics Private Limited, Mundra SEZ. Consignment wise brief details and declared description/classification of the import consignments of M/s. Alia International are given as under;

Table-1

Sr. No	Container No.	Name of the importer	Bill of Lading No. and date	IGM No. and Date	Description & HS code Mentioned in Bill of Lading / IGM	Declared HS Code
1	IAAU1905960	M/s. Alia International	A92CX10316 dated 24.08.2022 (RUD No. 1)	2321965 dated 16.09.2022	Mix Lot of Artificial Coated Fabric for auto seat cover	59031090
2	EITU1069828		EGLV143258083192 dated 27.08.2022 (RUD No. 2)	2321620 dated 12.09.2022	Fabrics	59031090 & 60064200
3	EITU9114841		EGLV143258083264 dated 27.08.2022 (RUD No. 3)	2321620 dated 12.09.2022	Fabrics	59031090 & 60064200
4	TLLU7681284		EGLV143258081164 dated 24.08.2022 (RUD No. 4)	2321965 dated 16.09.2022	Mix Lot of Artificial Coated Fabric for auto seat cover	59031090
5	TCNU8074730		HASLC56220800967 dated 07.09.2022 (RUD No. 5)	2322469 dated 22.09.2022	Fabrics	59031090 & 60064200

3. The above import consignments were put on hold vide letter dated 12.10.2022 and examination of the said import consignments was conducted by the officers of DRI under Panchnama dated 04.11.2022 & 05.11.2022. After the investigation had started, it was noticed that the importer filed Warehouse Bills of Entry No. 1014708, 1014710, 1014709, 1014711 all dated 17.10.2022 and BE No. 1014809 dated 18.10.2022 for warehousing of the same at M/s. OWS Warehouse Services LLP, Mundra SEZ. It was also noticed that the importer had changed the description of the goods as PU-coated Fabrics (HS Code 59032090) alongwith a little quantity (24409 sq. meter) of Interlining Fabric (HS Code 59039090). It was further noticed that the average assessable value of the PU-coated fabric as declared by the importer at the time of filing warehouse Bill of Entry was of Rs. 16.49/- per Sq. Meter (for thickness of

the goods as 0.4-0.6 mm). Also, the average assessable value of the goods declared as Interlining Fabric was of Rs. 78.33/- per Kg. Total declared assessable value of the goods by M/s. Alia International as PU-coated Fabric was **Rs. 70,25,779/-** for total quantity **426063 Sq. Meter (except the quantity of declared interlining fabric)** and the assessable value of the goods which was declared as 'Interlining fabric' was of **Rs. 3,64,301 for 24409 Sq. Meter** of declared quantity. In this regard, the Customs Broker M/s. Lara Exim provided the copies of corresponding invoices Nos. N525 dated 15.08.2022, N527 dated 20.08.2022, N529 dated 20.08.2022, N525 dated 15.08.2022 and N567 dated 29.08.2022.

4. During examination it was noticed that the imported goods pertaining to all the above 05 import consignments prima facie appeared to be PU-coated fabric whereas the same was mis-declared as 'Mix Lot of Artificial Coated Fabric for auto seat cover'(HS Code 59031090) and 'Fabric' (HS Code 60064200) at the time of filing IGM and the same were also mis-declared in corresponding Bills of Lading with intention to evade the applicable Anti-dumping duty. Although M/s. Alia International changed the description and HS Code at the time of filing Warehouse Bills of Entry for said import consignments, however the same appeared to be afterthought of the importer as the DRI had already initiated inquiry in the matter. Further, the quantity of the goods was also found mis-declared even at the time of filing warehouse Bills of Entry. Moreover, assessable value of the goods also appeared to have been grossly mis-declared to evade the applicable Customs duty. Brief details of the goods found during examination are as under;

Table-2

Sr. No.	Contain er No.	Bill of Lading No. and date	IGM No. and Date	Description & HS code Mentioned in Bill of Lading/IGM	W Bill of Entry No.	Declared description in the W BE	Quanti ty declare d (Sq Mts)	Quantit y found during examin ation (Sq Mts)	Declared assessabl e value (in Rs.)
1	IAAU19 05960	A92CX103 16 dated 24.08.2022	2321965 dated 16.09.2022	Mix Lot of Artificial Coated Fabric for auto seat cover	1014708 dated 17.10.2022	PU Coated Fabric (Used for car seat cover) (59032090)	65831	68110	1085553
						Interlining Fabric (59039090)	24409	25800	364301
2	EITU10 69828	EGLV14325 8083192 dated 27.08.22	2321620 dated 12.09.2022	Fabrics	1014710 dated 17.10.2022	PU Coated Fabric (Used for car seat cover) (59032090)	102217	112425	1685558
3	EITU91 14841	EGLV1432 58083264 dated 27.08.2022	2321620 dated 12.09.2022	Fabrics	1014709 dated 17.10.2022	PU Coated Fabric (Used for car seat cover) (59032090)	88830	97200	1464807
4	TLLU76 81284	EGLV1432 58081164 dated 24.08.2022	2321965 dated 16.09.2022	Mix Lot of Artificial Coated Fabric for auto seat cover	101-711 dated 17.10.2022	PU Coated Fabric (Used for car seat cover) (59032090)	89534	98175	1476416
5	TCNU80 74730	HASLC562 20800967 dated 07.09.2022	2322469 dated 22.09.2022	Fabrics	101-809 dated 18.10.2022	PU Coated Fabric (Used for car seat cover) (59032090)	79651	94125	1313445
Total									7390080

5. Representative samples from the import goods were drawn during examination and under panchnama dated 30.12.2022. The said representative samples were sent to the Customs House Laboratory for necessary testing thereof under Test Memo No. 80/2022, 81/2022, 82/2022, 83/2022, 84/2022. In response, the Customs House, Laboratory provided the Test Reports of the representative samples of the subject import goods to the DRI. Brief details of Test Reports of the representative samples (container wise) are as under;

Table-3

Sr. No	Container No.	Actual description of goods	Thickness as per Test Reports
1	IAAU190 5960	Polyester spun yarn and coating is composed of polyurethane (PU) alongwith inorganic additives, while further adhered with pigmented polyurethane (PU) film	0.60 mm
		Base non-woven fabric composed of polyester fibers and coating is composed of polyurethane	0.40 mm
2	EITU106 9828	Knitted fabric is composed of polyester multifilament yarns and coating layer is composed of Polyurethane	0.70 mm
3	EITU911 4841	Knitted fabric is composed of polyester multifilament yarns and coating layer is composed of Polyurethane	0.6 mm
4	TLLU768 1284	Knitted fabric is composed of polyester multifilament yarns and coating layer is composed of Polyurethane	0.72 mm
5	TCNU807 4730	Woven fabric is composed of Viscose Spun yarns having Polyurethane coating	0.80 mm

6. The test reports of the import goods indicated that whole import consignments pertaining to all 05 containers were of Pu-Coated Fabric and the same have been imported from Chinese suppliers. The subject goods attract Anti-dumping duty as per Notification No. 14/2022-Customs (ADD) dated 20.05.2022. The subject goods were found mis-declared in respect of description, quantity and value thereof, hence the subject goods appeared to be liable to confiscation under the provisions of Section 111 of the Customs Act, 1962. Accordingly, the subject goods were placed under seizure under provisions of Section 110 of the Customs Act, 1962 vide seizure Memo dated 10.11.2022.

7. Further M/s. Alia International vide letter dated 18.01.2023 addressed to the Specified officer, Mundra SEZ conveyed that they have filed DTA Bills of Entry No. 2000246, 2000259, 2000265, 2000266 and 2000260 all dated 05.01.2023 for release of the import goods on provisional basis. The competent authority considering the request of the importer granted provisional release of the goods in terms of Board's Circular No. 35/2017-Customs dated 16.08.2017.

8. During investigation, it was noticed that while filing Bills of Entry for DTA Clearance, the importers had changed the description and classification of the goods. The description of the goods at the time of filing Bills of Entry was declared as PU-coated Fabrics and Lining Fabrics whereas the same were mis-declared as 'Mix Lot of

Artificial Coated Fabric for auto seat cover' (HS Code-59031090 /60064200) and 'Fabrics' (HS Code-59039090) in the IGM and Bill of Lading. Also, at the time of filing Bill of entry the importer had again mis-declared the description and quantity of the goods pertaining to Bill of Lading No. A92CX10316 dated 24.08.2022 (DTA Bill of Entry No. 2000266 dated 05.01.2023) as 'Interlining Fabric (total quantity 24409 Sq. Mtrs)' whereas the said goods were also found PU-coated Fabric as per Test Report No. DRI-8278 dated 23.01.2023. Therefore, the whole consignments covered under subject 05 Bills of Entries as mentioned in the forgoing paras including the goods mis-declared as Interlining Fabrics, attract anti-dumping duty as per Notification No. 14/2022-Customs (ADD) dated 20.05.2022. M/s. Alia International declared the classification of the said goods as HS Code 59039090 whereas the same was also to be classified under HS Code 59032090 having total quantity 25800 Sq. Mtrs.

9. From the forgoing paras, it appeared that M/s. Alia International imported total 05 import consignments covered under IGM No. 2321965 dated 16.09.2022, 2321620 dated 12.09.2022, 2321620 dated 12.09.2022, 2321965 dated 16.09.2022 and 2322469 dated 22.09.2022 for which they had filed DTA Bills of Entry No. 2000266 dated 05.01.2023, 2000265 dated 05.01.2023, 2000259 dated 05.01.2023, 2000260 dated 05.01.2023 and 2000246 dated 05.01.2023. The actual declared description of the goods were '*Mix Lot of Artificial Coated Fabric for auto seat cover and the same were classified under HS code 59031090/60064200 and lining Fabric classified under HS Code 59039090. Total declared quantity of the goods was 426063 Sq. Mtrs. of Mix Lot of Artificial Coated Fabric for auto seat cover and 24409 Sq. Mtrs of Lining Fabric*'. Whereas, the actual goods found in all the subject 05 import consignments was PU-coated Fabric of different thickness and total quantity of the goods was 495835 Sq. Mtrs. Although M/s. Alia International had changed the description and classification of the goods at the time of filing Bills of Entry for these import consignments but same clearly appeared the afterthought of the importer as the DRI had already initiated investigation in the matter by way of putting on hold of the said import consignments.

9.1. Further, on going through the declared value of the goods in the corresponding invoices, it was noticed that the importer earlier mis-declared the rate of the goods of subject 05 import consignments @ US\$ 0.20 per/Sq. Mtrs. (i.e. Rs. 16.78 per Sq. Mtrs.) The importer had also submitted the invoices and other documents for the said import consignments. The declared rate of the import goods in the said invoices are consolidated as under;

Sr. No.	Container No.	Invoice Number and date	Declared description of the goods in invoice	Total declared quantity (Sq. Mtrs.)	Unit price declared (in US\$)	Total Declared value (in US\$)
1	IAAU190 5960	N527 dated 15.08.2022 (RUD No. 14)	PU Coated Fabric	65831	0.20	13166.20
			Interlining Fabric	24409	0.95	4418.45
2	EITU106 9828	N527 dated 20.08.2022	PU Coated Fabric	102217	0.20	20443.4

		(RUD No. 15)				
3	EITU911 4841	NS29 dated 20.08.2022 (RUD No. 16)	PU Coated Fabric	88830	0.20	17766
4	TLLU768 1284	N525 dated 15.08.2022 (RUD No. 17)	PU Coated Fabric	89534	0.20	17906.8
5	TCNU807 4730	N567 dated 29.08.2022 (RUD No. 18)	PU Coated Fabric	79651	0.20	15930.20

9.2. The test reports of the above subject import consignments indicated that the goods pertaining to all the subject import consignments were PU-coated fabric of different thickness. The goods were of prime quality and deserve higher rate for calculation of applicable Customs Duty. However, it appeared that the importer in connivance of the supplier had intentionally mis-declared the value of the goods at the time of filing Warehouse Bills of Entry with deliberate intention of evasion of Customs Duty.

9.3. The present import consignments have been imported from a Chinese Supplier M/s. Zhejiang Sino Rich International, China. Various importers are used to import Pu-coated Fabric from M/s. Zhejiang Sino Rich International, China and M/s. LishuiHaihe International Enterprises Co. Ltd. As appeared from the statement of Shri Kunal Kamra, the business activities of these firms were looking after by Ms. Lucy and Ms. Tracy whom he used to communicate. During investigation, it appears that the declared value of the import goods of M/s. Alia International was much less than the actual assessable value of the goods therefore the same appeared to be grossly undervalued. Accordingly, import data of the said goods was analysed and it is revealed that the subject import consignments have been grossly mis-declared in order to evade the applicable Customs Duty. M/s. LishuiHaihe International Enterprises Co. Ltd. also used to export their similar product to other importers into India at higher rates. Some of their major clients into India are M/s. Miqat International, Ananyaa Impex, M/s. Mangla Trading Corporation etc. On going through the available data of import of the subject fabrics, imported from M/s. LishuiHaihe International Enterprises Co. Ltd., there appears a big difference in the value of goods when supplies have been made to the above-mentioned importers in comparison to the rate as declared by M/s. Alia International. In this regard, a comparative chart of rate of similar goods in respect of M/s. Alia International and other importers on sample basis is given hereunder : -

Sr. No.	Name of the Chinese supplier	Declared goods	Thickness of the goods	Quantity	Rate declared by M/s. Alia International (USD per Qty)	Average rate of the goods when supplied to other companies (USD per Qty)	Difference in (USD per Qty)
1	LISHUI HAIHE INTERNATIONAL	PU coated Fabric (HS Code 59032090)	0.43	8476	0.2	1.25	1.05

2	LISHUI HAIHE INTERNATIONAL	PU coated Fabric (HS Code 59032090)*	0.79	10000	0.2	1.45	1.25
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9.4. Further, during recording of the statement of Shri Kunal Kamra on 21.07.2023, printouts of whatsapp conversation of Shri Kunal Kamra on behalf of the importer and the supplier 'Tracy (No. 8615057886730) on behalf of the supplier were resumed wherein it was revealed that Shri Kunal Kamra was used to make conversations for bargaining, price fixation, placing orders etc. The whatsapp conversation dated 29.04.2022 between Shri Kunal Kamra and Tracy clearly indicated that the Unit price of the subject import goods were finalized between 1.26 to 1.43 US \$ (RUD No. 19). The whatsapp conversation not only indicates that Shri Kunal Kamra visited China and meet Tracy for business purpose but also used to arrange the payment to the supplier.

9.5. From the above, it appeared that Shri Kunal Kamra indulged in evasion of Customs Duty and anti-dumping duty on import of Pu-coated fabrics from China. The importer in connivance with the supplier had not only mis-declared the description and HS Code of the goods with intention to evasion of Anti-dumping duty but also mis-declared the value of the goods with further intention of evasion of Customs duty on their import consignments. The conversations indicate that Shri Kunal Kamra was handling all the work of importing of pu-coated fabrics from China on behalf of M/s. Alia International.

10. As per Notification No. 14/2022-Customs (ADD) dated 20.05.2022, PU-coated fabric falling HS code 59032090 when imported from any Country including China and produced other than by M/s. Anhui Anli Material Technology Limited, attracts Anti-dumping duty @USD 0.46 per Meters. Therefore, total 333800 Meters of pu-coated Fabric which was found in the subject 05 import consignments attract Anti-dumping duty as per Notification No. 14/2022-Customs (ADD) dated 20.05.2022.

10.1. The above notification further clarified that 'for the purposes of this notification, rate of exchange applicable for the purposes of calculation of such anti-dumping duty shall be the rate which is specified in the notification of the Government of India, Ministry of Finance (Department of Revenue), issued from time to time, in exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and the relevant date for the determination of the rate of exchange shall be the date of presentation of the bill of entry under section 46 of the said Act.' Accordingly, in the present case, the rate of exchange is to be taken as per Notification No. 02/2023-Customs (N.T.) dated 05.01.2023.

11. During the course of investigation, in order to collect the evidence/corroborative evidence statement of persons who were directly/indirectly involved in export of goods were recorded by the DRI under the provisions of Section 108 of Customs Act,1962. The facts of statements of such persons have been mentioned in the Show Cause Notice and the records of statements thereof have been attached to Show Cause Notice as RUDs. For

sake of brevity contents of statements of such persons are not produced hereunder. The details of the persons whose statements were recorded are as under:-

- Statement of Shri Jignesh Khimji Noriya, Assistant Manager of Shipping Agent M/s. Evergreen Shipping Agency (India) Pvt. Ltd. was recorded on 07.12.2022 u/s 108 of the Customs Act, 1962
- Statement of Shri Farhad Proprietor of M/s. Alia International, New Delhi was recorded on 22.12.2022 under Section 108 of the Customs Act, 1962
- Statement of Shri Sabu George Kottackal, G-Card holder of M/s Lara Exim Pvt. Ltd. was recorded on 27.12.2020 under Section 108 of the Customs Act, 1962 on 27.12.2022.
- Statement of Shri Santosh Kumar, Branch Manager of M/s. Samsara Shipping Pvt. Ltd. sub-agent of M/s. Sinokor India Pvt. Ltd agent of M/s. Heung A Line, South Korea was recorded on 30.12.2022 under Section 108 of the Customs Act, 1962.
- Statement of Shri Kunal Kamra associate and beneficial owner of M/s. Alia International, Delhi was recorded on 21.07.2023 under Section 108 of the Customs Act, 1962.

11.6. Further Summons to M/s. ABS Logistics was issued to record statement and to seek relevant documents from them. M/s. ABS Logistics in response to the Summons issued to M/s. ABS Logistics, have submitted vide letter dated 02.01.2023 that ABS Logistics Pvt. Ltd. was an International Freight Forwarding & Logistics company; that they had been approached by Alia International for the Custom clearance of Import consignment of PU Coated Fabric from China; that they collected KYC documents of Alia International and found KYC in order; that they received all documents pertaining to Import shipment of M/s. Alia International (mail id khan.parvez2309@gmail.com). They have provided copies of email conversations received for M/s. Alia International. M/s. ABS Logistics further submitted that they regularly outsource custom clearance work at Mundra Port to Rainbow Shipping Services, Gandhidham and they forwarded the documents received from Alia International to Rainbow shipping Services (mail id: rainbowshipp@gmail.com) for custom clearance of the said import consignment.

12. Valuation of the goods imported by M/s. Alia International covered under Bills of Entry No. 1014708, 1014710, 1014709, 1014711 all dated 17.10.2022 and BE No. 1014809 dated 18.10.2022 imported through Container Nos. IAAU1905960, EITU1069828, EITU9114841, TLLU7681284 and TCNU8074730:-

12.1 M/s. Alia International have imported PU-coated fabric of **total quantity 495835 Sq. Mtrs (i.e. 333800 Meters)** which attracts anti-dumping duty as per Notification No. 14/2022-Customs (ADD) dated 20.05.2022. The said consignments were having the declared description of the goods as 'Mix Lot of Artificial Coated Fabric for auto seat cover, HS code 59031090' and 'Fabrics 59031090 & 60064200' in the BL and IGM, whereas the total declared quantity of the goods was **450472 Sq. Mtrs**.

12.2. Although after initiation of the action by DRI, the importer had declared the description of the subject goods as PU-coated fabric alongwith a little quantity of interlining fabric, but it was also noticed that the importer had grossly mis-declared the value of the goods at the time of filing of warehouse Bills of Entry. M/s. Alia

International had declared the value of the goods as USD 0.20 USD/ meter (approx.) whereas the appropriate rate of the goods as noticed during investigation was \$1.26 per meter to \$1.43 per meter. The conversations of Shri Kunal Kamra with their Chinese suppliers confirmed that the rate of the declared value of the subject goods were grossly mis-declared. Therefore, M/s. Alia International not only indulged in the evasion of Anti-dumping duty by way of mis-declaration and mis-classification of the subject goods but was also found indulging in evasion of Customs duty by way of gross undervaluation thereof. The said facts have been admitted by Shri Kunal Kamra and Shri Farhad in their statements. The total value of the goods declared by the importer at the time of filing warehouse Bills of Entry was Rs. 73,90,080/- only. However, during his statement Shri Kunal Kamra admitted that the total value of the subject import consignments was more than Rs. 3.5 Crores. These facts were also supported by the mobile phone conversations of Shri Kunal Kamra with the Chinese suppliers i.e. Ms. Lucy and Ms. Tracy.

12.3. During investigation, it was noticed that the appropriate value of the subject 05 import consignments covered under Bills of Entry No. 2000266, 2000265, 2000259, 2000260, and 2000246 all dated 05.01.2023 comes to Rs. 3,80,93,837/- as given in the Annexure-A to this show cause notice. Shri Kunal Kamra confirmed that the import consignment of M/s. Alia International was approx. 3.5 Crores which he and Shri Farhad had imported. He also stated that Shri Farhad and he had paid 50-50% amounts for the said import consignment. Shri Kunal Kamara during his statement specifically confirmed that the unit price of \$0.20 per meter as declared by M/s. Alia International cannot be the actual rate of PU coated fabric imported from China.

12.4. M/s. Alia International sought provisional release of the subject consignments. Since the DRI noticed gross undervaluation in the subject import consignment, the importer while filing DTA Bills of Entry for the subject consignments had escalated the assessable value of the goods to some extent and the provisional assessment of the goods was done to Rs. 2,42,19,525/-. However, this time too, the importer appears to have mis-declared the value of the goods which was much less than the appropriate assessable value.

12.5. The present import consignments have been imported from a Chinese Supplier M/s. Zhejiang Sino Rich International, China. Various importers are used to import Pu-coated Fabric from M/s. Zhejiang Sino Rich International, China and M/s. LishuiHaihe International Enterprises Co. Ltd. As appeared from the statement of Shri Kunal Kamra, the business activities of these firms were looking after by Ms. Lucy and Ms. Tracy whom he used to communicate. During investigation, it appears that the declared value of the import goods of M/s. Alia International was much less than the actual assessable value of the goods therefore the same appeared to be grossly undervalued. Accordingly, import data of the said goods was analysed and it is revealed that the subject import consignments have been grossly mis-declared in order to evade the applicable Customs Duty. M/s. LishuiHaihe International Enterprises Co. Ltd. also used to export their similar product to other importers into India at higher rates. Some of their major clients into India are M/s. Miqat International, Ananyaa

Impex, M/s. Mangla Trading Corporation etc. On going through the available data of import of the subject fabrics, imported from M/s. LishuiHaihe International Enterprises Co. Ltd., there appears a big difference in the value of goods when supplies have been made to the above-mentioned importers in comparison to the rate as declared by M/s. Alia International. In this regard, a comparative chart of rate of similar goods in respect of M/s. Alia International and other importers on sample basis is given hereunder :-

Sr. No.	Name of the Chinese supplier	Declared goods	Thickness of the goods	Quantity	Rate declared by M/s. Alia International (USD per Qty)	Average rate of the goods when supplied to other companies (USD per Qty)	Difference in (USD per Qty)
1	LISHUI HAIHE INTERNATIONAL	PU coated Fabric (HS Code 59032090)	0.43	8476	0.2	1.25	1.05
2	LISHUI HAIHE INTERNATIONAL	PU coated Fabric (HS Code 59032090)*	0.79	10000	0.2	1.45	1.25

12.6. From the above, it appeared that M/s. Alia International also indulged in the evasion of Customs Duty by way of undervaluation of import goods besides deliberate intention of evasion of anti-dumping duty. On the basis of facts discussed above, it appeared that there was a total quantity of **495835 Sq. Mtrs (333800 Mtrs)** of pu-coated fabric having different thickness as appeared from Test-reports thereof. Whereas, M/s. Alia International declared total quantity **450472 Sq. Mtrs (426063 Sq. Mtrs of Pu-coated fabric+24409 Sq. Mtrs of Interlining fabrics)** at the time of filing of warehouse Bills of Entry. Initially total declared value of the subject goods was of **Rs. 73,90,080/-** only at the time of filing Warehouse Bill of Entry. However, as discussed in the forgoing paras, the appropriate assessable value of the goods comes to **Rs. 3,80,93,837/-** for all the subject 05 import consignments.

13. In view of the above, the value declared by the importer in the corresponding Bills of Entry and invoices do not appear to be the true transaction value under the provisions of Section 14 of the Customs Act, 1962 read with the provisions of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and thus the same appear liable to be rejected in terms of Rule 12 of CVR, 2007.

14. While the investigation was going on, M/s. Alia International sought provisional release of the subject consignments. Since the DRI noticed gross undervaluation in the subject import consignment, the importer while filing DTA Bills of Entry for the subject consignments had escalated the assessable value of the goods to some extent and the provisional assessment of the goods was done at **Rs. 2,42,19,525/-**. However, this time too, the importer appeared to have declared the value of the goods much less than the appropriate assessable value. As during investigation, the appropriate value of the subject 05 import consignments covered under Bills of Entry No. 2000266, 2000265, 2000259, 2000260, and 2000246 all dated 05.01.2023 comes to **Rs. 3,80,93,837/-** as given in the Annexure-A to the SCN. Therefore, neither the declared assessable value of the goods as **Rs. 73,90,080/-** nor **Rs.2,42,19,525/-** is the actual

transaction value for the subject import consignments. The same have been mis-declared with clear intention of evasion of appropriate Customs duty and anti-dumping duty applicable thereon.

14.1. As mentioned above, the transaction value of **Rs. 73,90,080/-** declared by the importer while filing Warehouse Bills of Entry and the value of **Rs. 2,42,19,525/-** declared by the importer at the time of filing DTA Bills of Entry are liable to be rejected under Rule 12 of Customs Valuation Rules 2007 as there has been significant mis-declaration in respect of description, classification and value thereof. Therefore, the declared value of the goods covered under warehouse Bills of Entry and DTA Bills of Entry as mentioned above **Rs. 73,90,080/-** and **Rs. 2,42,19,525/-** is liable to be rejected under Rule 12 of the Customs Valuation (Determination of value of imported goods) Rules, 2007 and re-determined under Section 14 of the Customs Act, 1962 under Rule 5 Customs Valuation (Determination of value of imported goods) Rules, 2007 as **Rs. 3,80,93,837/-**.

15. *Mis-declaration and liability of confiscation of import goods of M/s. Alia International imported through Container Nos. IAAU1905960, EITU1069828, EITU9114841, TLLU7681284 and TCNU8074730:-*

15.1. During investigation it was revealed that M/s. Alia International imported PU-coated fabric (**total quantity 333800 Meters**) which attracts anti-dumping duty as per Notification No. 14/2022-Customs (ADD) dated 20.05.2022. Although the importers had mis-declared the goods as 'Mix Lot of Artificial Coated Fabric for auto seat cover, HS code 59031090' and 'Fabrics 59031090 & 60064200' in the BL and IGM, however, consequently when the import consignments were intercepted by the DRI, M/s. Alia International had declared goods as PU-coated Fabric and some quantity of interlining fabric. The corresponding Bills of Lading were also containing the Classification of the goods alongwith description of the import goods which were other than the classification of PU-coated fabric whereas whole consignments were found as Pu-coated fabric. This shows that the goods were intentionally mis-declared to escape from the payment of applicable Customs duty and anti-dumping duty. Since the DRI had already initiated action against the said import consignments after filing of IGM, the importer had changed the description and classification of the goods and arranged to declare PU-coated fabrics and other fabrics at the time of filing warehouse Bills of Entry. It further appears that M/s. Alia International, while filing Warehouse Bills of Entry had changed the HS code and declared the same as different from the HS codes as mentioned in the IGM and Bills of Lading, but the same appears to be afterthought of the importer in order to escape the interception of enforcement agency. The Importer had declared total quantity of the import goods as at the time of filing warehouse Bills of entry **450472 Sq. Mtrs** (**426063 Sq. Mtrs of pu-coated fabric+24409 Sq. Mtrs of Interlining fabrics**), whereas during examination it was noticed that the subject 05 import consignments were containing total **495835 Sq. Mtrs of (333800 Mtrs) of pu-coated fabric**. It is therefore appearing that the import consignments were found to be mis-declared in respect of their description, classification and

quantity of the goods. Accordingly, the subject import consignments appear to be liable to confiscation under Section 111 (f), 111(l), 111(m) of the Customs Act, 1962.

15.2. Although after initiation of the action by DRI, the importer had declared the description of the subject goods as Pu-coated Fabric alongwith a little quantity of Interlining fabric, but it was also noticed that the importer had grossly mis-declared the value of the goods at the time of filing of warehouse Bills of Entry. M/s. Alia International had declared the value of the goods as USD 0.20 USD/ meter (approx.) whereas the appropriate rate of the goods as noticed during investigation was \$1.26 per meters to \$1.43 per meter. It appeared that the importer wanted to manage the payment of anti-dumping duty through undervaluation of the import goods. The conversations of Shri Kunal Kamra with their Chinese suppliers confirmed the appropriate rate of the subject goods. Therefore, M/s. Alia International not only found indulged in the evasion of Anti-dumping duty by way of mis-declaration and mis-classification of the subject goods but also indulged in evasion of Customs duty by way of grossly undervaluation thereof. The said facts have been admitted by Shri Kunal Kamra and Shri Farhad in their statements. The total value of the goods declared by the importer at the time of filing warehouse Bills of Entry was **Rs. 73,90,080/-** only. However, during his statement Shri Kunal Kamra admitted that the total value of the subject import consignments were more than Rs. 3.5 Crores. These facts were also supported by the mobile phone conversations of Shri Kunal Kamra with the Chinese suppliers i.e. Ms. Lucy and Ms. Tracy. M/s. Alia International sought provisional release of the subject consignments. Since the DRI noticed gross undervaluation in the subject import consignment, the importer while filing DTA Bills of Entry for the subject consignments had escalate the assessable value of the goods to some extent and the provisional assessment of the goods was done to **Rs. 2,42,19,525/-**. However, this time too, the importer appears to have declared the value of the goods much less than the appropriate assessable value. As during investigation, the appropriate value of the subject 05 import consignments covered under Bills of Entry No. 2000266, 2000265, 2000259, 2000260, and 2000246 all dated 05.01.2023 comes to **Rs. 3,80,93,837/-** as given in the Annexure-A to this investigation Report. Therefore, it appears that the subject goods have also been mis-declared in terms of value thereof. Hence the same liable to confiscation under **Section 111(m) of the Customs Act, 1962.**

15.3. In view of the above, all the 05 import consignments imported by M/s. Alia International having total quantity of **333800 Meters have been found mis-declared** in respect of description, classification, value, quantity and other material particulars in order to evade the applicable Customs duty thereon. M/s. Alia International in connivance with their Chinese suppliers knowingly and deliberately mis-declared the description and classification of subject import consignments. Such act of omission and commission of M/s. Alia International rendered the subject goods having total quantity **333800 Meters**, liable to confiscation under Section 111(f) and 111(m) of the Customs Act, 1962.

16. Demand of Customs Duty and anti-dumping duty on the subject goods of M/s. Alia International imported through Container Nos. IAAU1905960, EITU1069828, EITU9114841, TLLU7681284 and TCNU8074730:-

16.1. From forgoing paras, it is revealed that the importer intentionally mis-declared the PU-coated fabric as Mix Lot of artificial Coated Fabric in the corresponding Bills of Lading and IGM with deliberate intention of evasion of Anti-dumping duty. The importer was very well aware with the applicability of anti-dumping duty on the said goods as per Notification No. 14/2022-Customs (ADD) dated 20.05.2022. However, it was revealed that M/s. Alia International imported PU-coated fabric (**total quantity 333800 Meters**) which attracts anti-dumping duty as per Notification No. 14/2022-Customs (ADD) dated 20.05.2022. The importers had mis-declared the goods as 'Mix Lot of Artificial Coated Fabric for auto seat cover, HS code 59031090' and 'Fabrics 59031090 & 60064200' in the BL and IGM (**total quantity 450472 Sq. Mtrs**). The import consignments were not only mis-declared in respect of description but also in respect of classification, whereas during examination the whole import consignments were found of PU-coated fabric and no quantity of declared fabric was available in the import consignments. These facts indicated that the sole intention of the importer was to escape from the payment of applicable anti-dumping duty.

16.2. Also, when the import consignments were intercepted by the DRI, M/s. Alia International declared the subject goods as Pu-coated Fabric and interlining fabric at the time of filing of warehouse Bills of Entry. Moreover, it is noticed that the importer had also mis-declared the quantity of the goods. It further appeared that M/s. Alia International, while filing Warehouse Bills of Entry changed the HS code and declared the same as different from the HS codes as mentioned in the IGM and Bills of Lading, but the same appeared to be afterthought of the importer in order to escape of the interception of enforcement agency.

Since all the 05 import consignments having total quantity 333800 Mtrs of M/s. Alia International were of PU-coated fabric falling under HS Code 59032090, the same attract Anti-dumping duty as per Notification No. 14/2022-Customs (ADD) dated 20.05.2022. Therefore, the Anti-Dumping Duty on 333800 *Meters* of PU-coated Fabric covered under Bills of Entry No. 2000266, 2000265, 2000259, 2000260, and 2000246 all dated 05.01.2023 comes to **Rs. 1,28,51,968/-** As per Annexure A to the SCN.

16.3. Although after initiation of the action by DRI, the importer had declared the description of the subject goods as Pu-coated Fabric alongwith a little quantity of Interlining fabric, but it was also noticed that the importer had grossly mis-declared the value of the goods at the time of filing warehouse Bills of Entry. M/s. Alia International had declared the value of the goods as USD 0.20 USD/ meter (approx.) whereas the appropriate rate of the goods as noticed during investigation was \$1.26 per meters to \$1.43 per meter. It appeared that the importer wanted to manage the payment of anti-dumping duty through undervaluation of the import goods. The conversations of Shri Kunal Kamra with their Chinese suppliers confirmed the

appropriate rate of the subject goods. Therefore, it appeared that M/s. Alia International was not only indulged in the evasion of Anti-dumping duty by way of mis-declaration and mis-classification of the subject goods but also found indulged in evasion of Customs duty by way of gross undervaluation thereof. The said facts have been admitted by Shri Kunal Kamra and Shri Farhad in their statements. The total value of the goods declared by the importer at the time of filing warehouse Bills of Entry was **Rs. 73,90,080/-** only. However, during his statement Shri Kunal Kamra admitted that the total value of the subject import consignments was more than Rs. 3.5 Crores. These facts were also supported by the mobile phone conversations of Shri Kunal Kamra with the Chinese suppliers. M/s Alia International sought provisional release of the subject consignments. Since the DRI noticed gross undervaluation in the subject import consignment, the importer while filing DTA Bills of Entry for the subject consignments had escalated the assessable value of the goods and the provisional assessment of the goods was done at **Rs. 2,42,19,525/-**. The goods were released provisionally by the competent authority of Mundra Customs House. However, this time too, the importer appeared to have declared the value of the goods much less than the appropriate value of the import goods. As during investigation, the appropriate value of the subject 05 import consignments covered under Bills of Entry No. 2000266, 2000265, 2000259, 2000260, and 2000246 all dated 05.01.2023 comes to **Rs. 3,80,93,837/-** as given in the Annexure-A to the SCN.

16.4. In view of the above, total Customs duty (BCD + SWS+ Anti dumping duty + IGST) on import consignments of M/s. Alia International covered under DTA Bills of Entry No. 2000266, 2000265, 2000259, 2000260, and 2000246 all dated 05.01.2023 comes to **Rs. 2,83,51,786/-** as given in Annexure-A. However, the importer had initially mis-declared the value of goods as **Rs. 73,90,080/-**, however as the DRI had initiated investigation in this matter, the importer declared the assessable value of the goods as **Rs. 2,42,19,525/-** and total Customs duty liability alongwith anti-dumping duty of **Rs. 2,22,60,889/-**. However, the said assessable value of the goods was also found to have been mis-declared as the appropriate assessable value of the subject goods comes to **Rs. 3,80,93,837/-** on which the total Customs duty liability alongwith the anti-dumping duty comes to **Rs 2,83,51,786/-** with applicable interest under the provisions of Customs Act, 1962. A detailed chart of duty calculation is given hereunder;

Container No.	Description & HS code Mentioned in Bill of Lading/IGM	total Assessable value of the goods declared by the importer	DTA Bill of Entry No. and date (Provisional)	Declared description of goods in the DTA Bill of Entry	Declared Ass. Value in Rs.	Total duty (BCD+SWS+ADD+GST) declared (in Rs.)	Quantity of the goods in Mtrs.	Description of goods as Test Report	Appropriate assessable value of the goods (in Rs.)	Total duty to be paid	Total differential duty to be paid
IAAU19 05960	Mix lot of Artificial Coated Fabric for auto seat cover, HS code 59031090	1085553	2000266 dated 05.01.2023	PU-coated Fabric thickness	3685121	3418625	48650	PU Coated Fabric	5130726	3977795	559170.0923
		364301	2000266 dated 05.01.2023	Interlining Fabric	369157	135255	17200	PU Coated Fabric	1813946	1406332	1271073.489

TLLU76 81284	Mix lot of Artificial Coated Fabric for auto seat cover, HS code 59031090	1476416	200026 9 dated 05.01.2 023	PU- coated Fabric thicknes s	5011979	4649550	65450	PU Coated Fabric	7833776	5692646	1043096.11 6
EITU10 69828	Fabrics 59031090 & 60064200	1685558	200025 9 dated 05.01.2 023	PU- coated Fabric thicknes s	5721954	5308152	74950	PU Coated Fabric	8970840	6518928	1210775.82 9
EITU91 14841	Fabrics 59031090 & 60064200	1464807	200026 0 dated 05.01.2 023	PU- coated Fabric thicknes s	4972570	4612985	64800	PU Coated Fabric	6833938	5298276	685290.888 6
TCNU80 74730	Fabrics 59031090 & 60064200	1313445	200024 6 dated 05.01.2 023	PU- coated Fabric thicknes s	4458744	4136318	62750	PU Coated Fabric	7510610	5457808	1321490.15 6
Total					2421952	2226088	333800		3809383	2835178	6090896.57

17. Role and culpability on the importer/person/firm involved:-

17.1. Role and culpability of Shri Farhad proprietor of M/s. Alia International, Delhi.

17.1.1. From the investigation conducted in the present case, it was revealed that M/s. Alia International imported PU-coated fabric **total quantity 495835 Sq. Mtrs. (i.e.333800 Meters)** which attracts anti-dumping duty as per Notification No. 14/2022-Customs (ADD) dated 20.05.2022. Although the importers had mis-declared the goods as 'Mix Lot of Artificial Coated Fabric for auto seat cover, HS code 59031090' and 'Fabrics 59031090 & 60064200' in the BL and IGM (**total quantity 450472 Sq. Mtrs**), however, consequently when the import consignments were intercepted by the DRI, M/s. Alia International declared most goods as PU-coated Fabric. The corresponding Bills of Lading were also containing the Classification of the goods other than the classification of PU-coated fabric whereas whole consignment was found of Pu-coated fabric. This shows that the goods were intentionally mis-declared to escape from the payment of applicable Customs duty and anti-dumping duty. In spite of the same, it is noticed that the importer had also mis-declared the quantity of the goods. Since the DRI had already initiated action against the said import consignments after filing of IGM, the importer arranged to declare PU-coated fabrics and other fabrics at the time of filing warehouse Bills of Entry by declaring the total quantity of PU-coated fabric having quantity **450472 Sq. Mtrs** alongwith other declared fabrics. It further appears that M/s. Alia International, while filing Warehouse Bills of Entry had changed the HS code and declared the same as different from the HS codes as mentioned in the IGM and Bills of Lading, but the same appears to be afterthought of the importer in order to escape of the interception of enforcement agency.

17.1.2. Further, it was also noticed that the importer had mis-declared the value of the goods at the time of filing warehouse Bills of Entry. As mentioned above in the forgoing paras, M/s. Alia International had declared the value of the goods as USD

0.20 USD/ meter (approx.) whereas the appropriate rate of the goods as noticed during investigation was \$1.26 per meters to \$1.43 per meter. The conversations of Shri Kunal Kamra with their Chinese suppliers confirmed the appropriate rate of the subject goods. Therefore, M/s. Alia International was not only found involved in the evasion of Anti-dumping duty by way of mis-declaration and mis-classification but was also found indulged in evasion of Customs duty by way of gross undervaluation of the import goods. Shri Farhad proprietor of M/s. Alia International has confirmed that Shri Kunal Kamra used to deal with the Chinese supplier in the present case. The total value of the goods declared by the importer at the time of filing warehouse Bills of Entry was **Rs. 73,90,080/-** only. However, at the time of provisional release of the goods, M/s. Alia International had increased the value and declared the value of the goods as **Rs. 2,42,19,525/-**. This time too, the importer appears to have declared the value of the goods much less than the actual appropriate value of the import goods. As during investigation, the appropriate value of the subject 05 import consignments covered under Bills of Entry No. 2000266, 2000265, 2000259, 2000260, and 2000246 all dated 05.01.2023 was found to be **Rs. 3,80,93,837/-**.

17.1.3. Since all the 05 import consignments having total quantity 333800 Mtrs. of M/s. Alia International were of Pu-coated fabric falling under HS Code 59032090, the same attract Anti-dumping duty as per Notification No. 14/2022-Customs (ADD) dated 20.05.2022. Therefore, 333800 **Meters** of PU-coated Fabric covered under Bills of Entry No. 2000266, 2000265, 2000259, 2000260, and 2000246 all dated 05.01.2023 comes to **Rs. 1,28,51,968/-** as per Annexure A to this Investigation Report. Therefore, total Customs duty (BCD + SWS + Anti dumping duty + IGST) on import consignments of M/s. Alia International covered under DTA Bills of Entry No. 2000266, 2000265, 2000259, 2000260, and 2000246 all dated 05.01.2023 comes to **Rs. 2,83,51,786/-** as given in Annexure-A. Whereas the importer initially mis-declared lesser assessable value of the goods i.e. **Rs. 73,90,080/-**, however as the DRI had initiated investigation in this matter, the importer declared the assessable value of the goods as **Rs. 2,42,19,525/-** and Customs duty liability of **Rs. 2,22,60,889/-**. However, this value too has been found to be grossly mis-declared as the total Customs duty liability on the import goods comes to **Rs. 2,83,51,786/-**. Even now, the differential Customs duty liability of **Rs. 60,90,897/-**.

17.1.4. During investigation, it is revealed that Shri Farhad proprietor of M/s. Alia International in connivance with Shri Kunal Kamra and his other accomplices, mis-declared the subject goods having total quantity of 495835 Sq. Mtrs (**333800 Meters**) in respect of description, classification, value, quantity and other material particulars in order to evade the applicable Customs duty thereon. M/s. Alia International in connivance with their Chinese suppliers knowingly and deliberately mis-declared the description and classification of all subject 05 import consignments. Shri Farhad admitted that all the conversations of his firm were made by Shri Kunal Kamra, it appears that Shri Farhad deliberately allowed his firm's business to be run by Shri Kunal Kamra which resulted into evasion of Customs duty and anti-dumping duty. As

per the provisions of Section 46 of the Customs Act, 1962, an importer is required to furnish the correct and true information/documents to the proper officer, however, in the present case the importer failed to furnish the correct and true information/documents to the proper officer of Customs. Such act of commission and omission on the part of M/s. Alia International, rendered the subject goods mentioned in Annexure-A to this investigation Report liable to confiscation under Section 111(f), 111(m) and 111 (l) of the Customs Act, 1962 and thereby rendered himself liable to penalty under **Section 112(a), 112 (b) and 117** of the Customs Act, 1962.

17.1.5. M/s. Alia International has submitted documents to the Customs broker which were not containing correct and true declaration of the subject goods. He provided the incorrect details/documents to the Customs authorities for import, warehousing and clearance of the subject offending goods. He also forwarded incorrect documents for filing of import documents for these consignments with false declarations. He knowingly and intentionally made/signed/used and/or caused to be made/signed/used the import documents and other related documents which were false or incorrect in material particular such as description, classification, value etc., with mala-fide intention, and it appears that M/s. Alia International is also liable to penalty under **Section 114AA of the Customs Act, 1962.**

17.2. Role and culpability of Kunal Kamra, the beneficial owner of the goods imported by M/s. Alia International:-

17.2.1. During investigation, it was noticed that Shri Kunal Kamra was the actual person who was handling all the import related work of M/s. Alia International. He used to communicate the overseas Chinese suppliers regarding placing of Orders, bargaining of the prices of the goods to be imported by M/s. Alia International. From the evidences retrieved from his mobile phone, it was noticed that he used to communicate Ms. Tracy and Ms. Lucy of China who were handling the export and documents at suppliers end. During his statement he admitted that he visited China twice for the said business purpose. He stated that he maintained trusted connections with the Chinese suppliers. The data recovered from his mobile phone specifically indicated that he had transferred \$ 30000 twice, and \$ 50000 to Chinese suppliers once during 15.09.2022 to 18.10.2022 i.e. during the period the subject goods were imported in the name of M/s. Alia International. Shri Kunal Kamra confirmed that the import consignment of M/s. Alia International was approx. 3.5 Crores which he and Shri Farhad had imported. He also stated that Shri Farhad and he had paid 50-50% amounts for the said import consignment. Further, when a Summons dated 29.03.2023 was issued to Shri Kunal Kamra to appear on 06.04.2023, an email dated 14.04.2023 was received from email id alainternational@gmail.com i.e. of M/s. Alia International wherein he informed that he was unable to appear due to unhealthy medical condition. It appears that he was also handling the email conversations of M/s. Alia International. This shows his deliberate indulgence in the business activities of M/s. Alia International. Various Summons were issued to him i.e. dated

29.12.2022, 31.01.2023, 29.03.2023, 20.07.2023, however initially he did not bother to respond to the Summons. Ultimately his statement could be recorded on 21.07.2023 only.

17.2.2. Shri Kunal Kamara during his statement specifically confirmed that the unit price of \$0.20 per meter as declared by M/s. Alia International cannot be the actual rate of PU coated fabric imported from China. The said facts also confirmed in the statement of Shri Farhad that Shri Kunal Kamra had discussed with the foreign supplier, made bargaining and was looking after the work related to placing Orders for the imports. It was submitted by Shri Farhad that neither he nor any of his relatives ever visited China for business purpose of Pu coated Fabric. It was Shri Kunal Kamra who was handling all the import related work on behalf of M/s. Alia International.

17.2.3. The above facts indicated that Shri Kunal Kamra placed the orders for the goods imported by M/s. Alia International. It is evident that he visited China for the said business purpose. Shri Farhad the actual proprietor of M/s. Alia International had not dealt with Chinese suppliers. These facts also confirmed by Shri Kunal Kamra and evident by the data retrieved from his mobile phone. Therefore, these facts indicated that the idea of mis-declaration of description and mis-classification of the subject goods. Also, since Shri Kunal Kamra was involved in the bargaining of the subject goods, the idea of mis-declaration of import price of the goods cannot be of any person other than Shri Kunal Kamra. He was also very well aware with the applicability of Anti-dumping duty on the imported goods of M/s. Alia International as per Notification No. 14/2022-Customs (ADD) dated 20.05.2022.

17.2.4. M/s. Alia International have imported PU-coated fabric of **total quantity 495835 Sq. Mtrs. (i.e. 333800 Meters)** which attracts anti-dumping duty as per Notification No. 14/2022-Customs (ADD) dated 20.05.2022. The said consignment was mis-declared the goods as 'Mix Lot of Artificial Coated Fabric for auto seat cover, HS code 59031090' and 'Fabrics 59031090 & 60064200' in the BL and IGM (**total quantity 450472 Sq. Mtrs**). However, consequently when the import consignments were intercepted by the DRI, M/s. Alia International had declared most goods as PU-coated Fabric. The corresponding Bills of Lading were also containing the Classification of the goods other than the classification of PU-coated fabric whereas whole consignment was found of PU-coated fabric. This shows that the goods were intentionally mis-declared to escape from the payment of applicable Customs duty and anti-dumping duty. In spite of the same, it is noticed that the importer had also mis-declared the quantity of the goods. Since the DRI had already initiated action against the said import consignments after filing of IGM, the importer arranged to declare PU-coated fabrics and other fabrics at the time of filing warehouse Bills of Entry by declaring the total quantity of PU-coated fabric having quantity **450472 Sq. Mtrs** alongwith other declared fabrics. It further appears that M/s. Alia International, while filing Warehouse Bills of Entry had changed the HS code and declared the same as different from the HS codes as mentioned in the IGM and Bills of Lading, but the same

appears to be afterthought of the importer in order to escape of the interception of enforcement agency.

17.2.5. Also, from the forgoing paras, M/s. Alia International had declared the value of the goods as USD 0.20 USD/ meter (approx.) whereas the appropriate rate of the goods as noticed during investigation was \$1.26 per meters to \$1.43 per meter. The conversations of Shri Kunal Kamra with their Chinese suppliers confirmed the appropriate rate of the subject goods. Therefore, M/s. Alia International was not only found involved in the evasion of Anti-dumping duty by way of mis-declaration and mis-classification but was also found indulged in evasion of Customs duty by way of gross undervaluation of the import goods. The total value of the goods declared by the importer at the time of filing warehouse Bills of Entry was **Rs. 73,90,080/-** only. However, at the time of provisional release of the goods, M/s. Alia International had increased the value and declared the value of the goods as **Rs. 2,42,19,525/-**. This time too, the importer appears to have declared the value of the goods much less than the actual appropriate value of the import goods. During investigation the appropriate value of the subject 05 import consignments covered under Bills of Entry No. 2000266, 2000265, 2000259, 2000260, and 2000246 all dated 05.01.2023 comes to **Rs. 3,80,93,837/-**

17.2.6. During investigation, it is revealed that Shri Kunal Kamra with his other accomplices, mis-declared the subject goods having total quantity of **495835 Sq. Mtrs. (333800 Meters)** in respect of description, classification, value, quantity and other material particulars in order to evade the applicable Customs duty and Anti-dumping duty thereon. Shri Kunal Kamra in connivance with their Chinese suppliers knowingly and deliberately mis-declared the description and classification of all subject 05 import consignments. Shri Kunal Kamra was actually handling the import related work of M/s. Alia International. As per the provisions of Section 46 of the Customs Act, 1962, an importer is required to furnish the correct and true information/documents to the proper officer, however, in the present case the Shri Kunal Kamra handling the subject imports, failed to furnish the correct and true information/documents to the proper officer of Customs. Such act of commission and omission on the part M/s. Alia International rendered the subject goods mentioned in Annexure-A to this investigation Report liable to confiscation under Section 111(f), 111(m) and 111 (l) of the Customs Act, 1962 and thereby rendered himself liable to penalty under Section 112(a), 112 (b) and 117 of the Customs Act, 1962.

17.2.7. Shri Kunal Kamra used to deal with the Chinese Suppliers for import of PU-coated Fabric. He made payment for subject goods to the Chinese Supplier. He also shared all the business activities in the firm. From the forgoing paras, it appears that he caused to prepared false and incorrect documents for the import consignments of M/s. Alia International. He knowingly and intentionally made/signed/used and/or caused to be made/signed/used the import documents and other related documents which were false or incorrect in material particular such as description, classification,

value etc., with mala-fide intention, and it appears that M/s. Alia International is also liable to penalty under Section 114AA of the Customs Act, 1962.

17.3. Role and culpability of M/s. Lara Exim the Customs Broker who dealt with import documents of import consignments of by M/s. Alia International:-

17.3.1. M/s. Lara Exim was the Customs Broker of M/s. Alia International. They have dealt with the documents of import consignments of the subject importer. During investigation, it was noticed that M/s. Lara Exim were not aware with the actual importer. It was noticed that a forwarder M/s. ABS Logistics approached M/s. Lara Exim for and submitted the related documents to the Customs Broker. M/s. Lara Exim was working as Customs Broker for more than 14 years, and also possessing their business activities not only at Mundra and Kandla port but also at Delhi. They have regularly been handling the import goods such as fabrics and also PU-coated fabrics of different importers. Shri Sabu George Kottackal during recording his statement dated 27.12.2022 admittedly stated that he received documents from a person of a forwarder M/s. ABS Logistics. He simply received the KYC documents through email and proceeded for filing Bills of Entry. He admittedly did not know the actual importer or person.

17.3.2. During statement M/s. Lara Exim stated that they had filed the Bills of Entry on the basis of invoices provided by some third person who was not the actual importer. The corresponding Bills of Lading and IGM of all the 05 import consignments were containing different description and classification than the actual ones. The import goods were PU-coated fabric falling under HS code 59032090, whereas the same were mis-declared as Mix Lot of Artificial coated fabric cover (HS code 59031090) and Fabrics (HS code 60064200) with clear intention of evasion of applicable Anti-dumping duty. Had the DRI not put the said import consignments on hold, the importer would have continued to clearance of the said goods with declared description and classification of the goods in the Bills of Lading and IGM. M/s. Lara Exim, being an experienced Customs Broker not bothered to ask the importer the actual reason thereof. They simply accepted the forwarder arguments that some mistakes have been done on the shipper's end. However, M/s. Lara Exim did not seek any supporting documents for mentioning of the description and classification of the goods in the BL and IGM. M/s. Lara Exim could not provide any such supporting document. It appears that M/s. Lara Exim handled the subject consignments in very casual manner in spite of the facts that the importer was of clear mala-fide intention. The import goods were of sensitive nature and the facts were showing clear intention of evasion of applicable anti-dumping duty, however, it appears that M/s. Lara Exim intentionally and willingly dealt irresponsibly with the import consignments of M/s. Alia International.

17.3.3. Further, the whole import consignments of M/s. Alia International were above 3.5 Crores, whereas the importer provided the invoices of the total subject goods

of **Rs. 73,90,080/-** only at the time of filing of warehouse Bill of Entry. The declared price of the goods in the corresponding invoices were of \$ 0.20 per Sq. Meters (approx. Rs. 16/- to Rs.17/- per Square Mtrs.) As per the contemporary data of import of PU-coated Fabric, the appropriate rate of the goods and as the same noticed during investigation was \$1.26 per meters to \$1.43 per meter (depending on the thickness of the goods). During his statement the actual beneficial owner of the goods admitted that the declared rate \$ 0.20 per Sq. Meters (approx. Rs. 16/- to Rs.17/- per Square Mtrs.) cannot be the actual price of the subject goods. He further stated that the whole import consignment was of more than Rs. 3.5 Crores. Further, from the conversations of Shri Kunal Kamra with the suppliers, it was corroborated that the subject goods was not only mis-declared in respect of description but also have been mis-declared in respect of value thereof with clear intention of evasion of Customs Duty. The declared value of the subject goods was only **Rs. 73,90,080/-**, whereas, the actual assessable value of the goods comes to **Rs. 3,80,93,837/-** as given in Annexure-A to this Investigation report. The said facts show the clear intention of evasion of Customs duty by the importer. M/s. Lara Exim was engaged in the clearance of PU-coated fabric as well as other type of fabrics, however, it appears that they have not asked the importer about actual rate of the subject goods. It appears that they have casually received the invoices and filed the Bills of Entry.

17.3.4. M/s. Lara Exim were very well aware with the applicability of Notification No. 14/2022-Customs (ADD) dated 20.05.2022, and the description of the goods mentioned in the IGM and BLs were showing clear intention of evasion of anti-dumping duty. However, as the DRI put the said import consignments on hold, the importer arranged the invoices containing the goods declared as PU-coated fabrics and some lining fabric, however whole consignments were found of PU-coated fabrics. Further, it appears that the importer wanted to adjust the payment of anti-dumping duty by way of undervaluation of the subject goods. Accordingly, they also found indulged in gross mis-declaration of assessable value of the import goods. The description and classification of the subject import goods were plainly different from the actual description and classification; however, M/s. Lara Exim was not bothered to take any written reply or reason thereof from the importer. Such act of commission and omission on the part M/s. Lara Exim rendered the subject goods mentioned in Annexure-A to this investigation Report liable to confiscation under Section 111(f), 111(m) and 111 (l) of the Customs Act, 1962 and thereby rendered himself liable to penalty under Section 112(a) and 112 (b) of the Customs Act, 1962.

17.3.5. Further from the foregoing para, it appears that M/s. Lara Exim caused to prepare false and incorrect documents for the import consignments of M/s. Alia International for warehousing and clearance of the subject goods covered under above 05 import consignments. They have knowingly and intentionally made/signed/used and/or caused to be made/signed/used the import documents and other related documents which were false or incorrect in material particular such as description,

classification, value etc. Therefore, M/s. Lara Exim is also liable to penalty under Section 114AA of the Customs Act, 1962.

18.1. Accordingly, M/s. Alia International (IEC No. AVVPM6801D) alongwith the beneficial owner Shri Kunal Kamra, was called upon to show cause as to why: -

- (i) the declared description "Mix Lot of Artificial Coated Fabric for auto seat cover" and "Fabrics" and declared classification thereof as "59031090" & "60064200" declared at the time of filing of Manifest for the subject consignments in the subject 05 import consignments, should not be rejected and the same should not be held liable for confiscation under Section 111(f) of the Customs Act, 1962, and the same be classified under appropriate HS code 59032090 being the actual goods as PU-coated Fabric.
- (ii) the declared assessable value of **Rs. 73,90,080/-** of the imported goods while filing Warehouse Bills of Entry 1014708 dated 17.10.2022, 1014711 dated 17.10.2022, 1014710 dated 17.10.2022, 1014709 dated 17.10.2022 and 1014809 dated 18.10.2022 for the subject 05 import consignments, should not be rejected and the same should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962 as the same is found grossly mis-declared in respect of value thereof as per the provisions of Customs Act, 1962.
- (iii) Since the quantity of the goods in the subject 05 import consignments found as **495835 Sq. Meters** in place of declared quantity **450472 Sq. Meters**, therefore, the differential quantity **45363 Sq. Mtrs** of the PU-coated fabric should not be held liable for confiscation under Section 111(f), 111(l), 111(m) and Section 119 of the Customs Act, 1962.
- (iv) the declared assessable value of **Rs. 2,42,19,525/-** in the DTA Bills of Entry No. 2000266, 2000265, 2000259, 2000260, and 2000246 all dated 05.01.2023 for the subject 05 import consignments should not be rejected under Rule 12 of the Customs Valuation (Determination of value of imported goods) Rules, 2007 and the same be re-determined as **Rs. 3,80,93,837/-** under Rule 5 Customs Valuation (Determination of value of imported goods) Rules, 2007.
- (v) Since the total quantity **495835 Sq. Meters (333800 Meters)** of PU-coated Fabric which was found concealed in the subject 05 import consignments covered under Warehousing Bills of Entry No. 1014708 dated 17.10.2022, 1014711 dated 17.10.2022, 1014710 dated 17.10.2022, 1014709 dated 17.10.2022 and 1014809 dated 18.10.2022 (DTA Bills of Entry No. 2000266, 2000265, 2000259, 2000260, and 2000246 all dated 05.01.2023) is liable for confiscation under the provisions of Customs Act, 1962 as mentioned at (i) to (iii) above, however, the same have already released, therefore Redemption Fine under the provisions of Section 125 of the Customs Act, 1962 should not imposed in lieu of confiscation.
- (vi) the applicable Customs Duties and Anti-dumping duty total **Rs. 2,83,51,786/-** { **Rs.1,54,99,,818/- (BCD+SWS+IGST) + Rs.1,28,51,968/- ADD** } on total

495835 Sq. Meters (333800 Meters) of PU-coated Fabric as per Annexure-A covered under the subject 05 import consignments covered under Warehousing Bills of Entry No. 1014708 dated 17.10.2022, 1014711 dated 17.10.2022, 1014710 dated 17.10.2022, 1014709 dated 17.10.2022 and 1014809 dated 18.10.2022 (DTA Bills of Entry No. 2000266, 2000265, 2000259, 2000260, and 2000246 all dated 05.01.2023) should not be demanded under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962.

- (vii) Amount of total Customs duty (*BCD + SWS + Anti-dumping duty + IGST*) paid by M/s. Alia International during investigation at the time of provisional release i.e. filing of DTA Bills of Entry No. 2000266, 2000265, 2000259, 2000260, and 2000246 all dated 05.01.2023 should not be appropriated against the total demand of Customs duty.
- (viii) The amount of differential Customs duty, interest, fine, and penalty should not be recovered through enforcing the Bank Guarantee submitted by M/s. Alia International at the time of provisional release of the goods.

18.2. Further, M/s. Alia International (IEC No. AVVPM6801D) and the beneficial owner Shri Kunal Kamra were called upon separately to show cause as to why penalty should not be imposed on them separately under Section 112(a) and/or 112(b) and/or 114A and/or 114AA and/or 117 of the Customs Act, 1962.

18.3. M/s Lara Exim Pvt. Ltd was also called upon to show cause as to why penalty should not be imposed on them under Section 112(a) and/or 112(b) and/or 114AA of the Customs Act, 1962.

19. DEFENCE SUBMISSIONS:

19.1 The notice No. 1 i.e. M/s Alia International vide their letter dated 26.07.2025, in response to SCN No. GEN/ADJ/COMM/306/2024-Adjn-O/o Pr Commr-Cus - Mundra dated 26.04.2024, has made additional submissions and inter-alia stated as under (that):

1. While filing Warehouse Bill of entries the Customs Broker, i.e. Lara Exim has correctly mentioned/declared the description of goods, with Number of Rolls, Width of the fabrics, Square meters of Fabrics, and thickness of the fabrics on the basis of Invoices and Packing lists received by them from ABS Logistics, and also mentioned Notification No. 14/2017-Customs (ADD) in those warehouse Bill of Entries.

2. The description declared by the noticee in their warehouse Bill of entries was as per the corresponding Invoices received from their supplier at China. It could be seen that the test result received is in the conformity with the description mentioned in the Warehoused Bill of Entries. As regard to thickness of the fabrics the noticee has mentioned thickness as [0.4mm to 0.6 mm, +/- 10%]. The noticee has declared width as 137cms which is equivalent to 54 inches. However, in the test result no test for measurement of width was sought for. Therefore, there was no mis-declaration of description of fabrics, HSN, thickness and width of the fabric imported.

3. While filing Warehouse Bill of entries, the noticee has declared correct Numbers of Rolls, description of goods, HSN code, thickness and widths of the fabrics based on the

Commercial Invoices of supplier at China. Pending filing of Bill of entries, the allegation of misclassification of goods imported with intent to evade payment of duty is highly premature and not sustainable under the law as the Relevant date for determination of Rate of duty is the date of filing of Bill of Entries as provided in Section 15 of the Customs Act, 1962. Further, the test results of the samples drawn is in conformity with the Description of the goods, and thickness.

4. The noticee has referred to the following judgment/case laws

- (i) Royal Impex Versus Commissioner Of Customs, Chennai, reported at 2007 (211) E.L.T. 71 (Tri. - Chennai)
- (ii) R S Impex vs Commissioner of Customs, New Delhi, reported at 2018 (359) E.L.T. 593 (Tri. - Del.)
- (iii) Leitwind Shiram Manufacturing Ltd. Versus Asstt./ Dy. C.C. (GR.4), Chennai, reported at 2018 (361) E.L.T. 398 (Mad.)

5. On conclusion of investigation, the said declared value is again revised relying on the Import data of value declared by LishuiHaihe International Enterprises Co. Ltd who used to export their similar product to other importers into India at higher rates. Some of their clients into India are Miqat International, Ananuaa Impex, Mangla Trading Corporation etc.

6. The value declared in the aforesaid import from LishuiHaihe International Enterprises Co. Ltd, China, were as under.

Sr. No.	Name of Chinese Supplier	Declared goods	Thickness Of the goods	Quantity	Rate declared by the noticee (USD per Qty)	Average rate of goods when supplied by other companies (USD per Qty)	Difference in (USD per Qty)
1	LishuiHaihe International Enterprises Co. Ltd	PU Coated Fabric (HS Code 59032090)	0.43	8476	0.2	1.25	1.05
2	LishuiHaihe International Enterprises Co. Ltd	PU Coated Fabric (HS Code 59032090)	0.79	10000	0.2	1.45	1.25

7. In the impugned notice, the aforesaid value has been considered as the value of goods imported by the noticee and accordingly total Customs duty, SWC, IGST and ADD worked out and considering the duty paid during provisional release DTA Bill of entries, the duty short paid worked out as under.

Duty Computed by the noticee while provisional release of goods.							Duty Determined by the department in the impugned notice				Differential duty being demanded
Container No.	Total Assessable value of the goods declared by the importer	Description mentioned in DTA Bill of Entry No. aff dated 05.01.2023	Declared Assessable value in Rs.	Sq.mt	Rate per Sq. mt.	Total duty (BCD+SWC+ ADD+ IGST) declared	Quantity of the goods in meters which include excess quantity of found during examination	Appropriate assessable value of the goods	Per meter value considered	Total duty to be paid	Total differential duty to be paid
IAAU1905960	1085553	2000266	3685121	65831	55.98	3438623	48650	5130726	105	3977755	559170
	364301	2000266	309157	24409	15.12	135259	17200	1813946	105	1406332	1271073
TUUU7681284	1476416	2000265	5011679	89534	55.98	4649550	65450	7833776	120	5692646	1043096
ETTU3059828	1685558	2000259	5721954	102217	55.98	5308152	74950	8970840	120	6518928	1210776
ETTU9114841	1464807	2000260	4972570	88830	55.98	4612985	64800	6833938	105	5298276	685291
TCNU8074730	1313445	2000246	4458744	79651	55.98	4136318	62750	7510610	120	5457808	1321490

8. The description, dimension viz. thickness mentioned in the description of said goods imported from LishuiHaihe International Enterprises Co. Ltd are not identical with the goods imported by the noticee and declared by the noticee. Further the noticee has declared width as 137 cms, whereas in the description of goods imported from LishuiHaihe International Enterprises Co. Ltd., there is no mention of thickness. Not only that it is accepted and not disputed fact that PU coated fabrics available in different colours, texture etc. However, in the comparative value taken no such descriptions are available in the goods imported from LishuiHaihe International Enterprises Co. Ltd. Therefore, the noticee would contend that the imported goods from LishuiHaihe International Enterprises Co. Ltd and the goods imported by the noticee cannot be said to be identical goods. Hence the comparison with those goods with the goods imported by the noticee is not correct and cannot be relied by the department.

9. the noticee would contend that, the value declared by the noticee at the time of Provisional Release of goods be accepted as assessable value for the customs duty and not adopted by the department. Further as regard to ADD, it is submitted that as submitted herein above, the department has erred in computing ADD resulting in to excess demand of Rs.8,99,535.20/-by wrongly arrived at the total liner meter and wrongly including the Fabrics which is not liable to ADD.

10.

10. Demand of Differential duty of Rs.60,90,896/- is not sustainable under the law: Under the circumstances and details submission herein above, the noticee contend that total duty of Rs.2,22,60,889/- including ADD of Rs.1,19,52,467/- paid at the time of provisional release of goods vide DTA Bill of Entries be accepted as finally assessed and drop the demand of differential duty of Rs.60,90,896/- as not sustainable under the law and the same be dropped.

11.1 Confiscation of goods on the ground of alleged undervaluation: As submitted herein above, the Import manifest and Bill of Lading were not prepared by the noticee; the noticee while provisional release of goods, the proper officer has enhanced the value by adding 0.47 USD in the value of 0.2 USD declared by the noticee, and has paid the duty on revised value including ADD on the declared quantity of goods as assessed by the proper officer vide DTA Bill of entries for home consumption and the goods was allowed to out of charge. Further, as submitted herein above, the enhancing the value based on exporter viz. LishuiHaihe International Enterprises Co. Ltd, China to their Indian buyers-importer is not of identical goods; that reliance on WhatsApp Chat is not related to the goods imported; that there is no other payment made by the importer/the noticee other than 50000/-; USD, 30000/-; USD and 30000 USD/- ; hence the noticee contended that the value declared for the purpose of Customs duty at the time of provisional release of goods vide DTA Bill of Entries be considered, which is almost thrice than what has declared in the warehouse Bill of Entries.

11.2. The noticee has discharged the said duty assessed on the basis of DTA Bill of entries, pending issuance of show cause notice, hence it is the contention of the noticee that there was no intent to evade any payment of Customs duty nor any intent to evade any ADD as the ADD was declared in warehouse Bill of entry and the value was declared on the basis of Invoice value. Further, there was no mis-declaration of description of goods imported as could be seen from the Invoice, Warehouse Bill of Entries, DTA Bill of Entries and sample result; Further there is no mis-declaration of the liner meter as the noticee has correctly declared total Roll as 6675; width as 137 and square meters of the goods. From these details liner meter of the fabrics could have been translated by dividing squaremeter by width of the fabrics the exercise carried out for deriving excess quantity is futile as the ADD is to be levied on the basis of liner meter which was not mis-declared as mentioned herein above; no differential duty is sustainable under the law. Therefore, the noticee would contend that

but for enhancement of value by the proper officer at the time of release of goods is accepted by the noticee, and payment of all the duty assessed including ADD, before the show cause notice is issued, the said goods is not liable for confiscation.

11.3 Further the goods is released provisionally, and there was no mis-declaration either in the description of the goods and liner meter of the fabric imported by the noticee but for enhancement of value by the noticee their own, the said goods in not liable for confiscation in terms of Section 111(f), 111(l), 111(m) of the Customs Act, 1962. This being the case the noticee contend that the said DTA bill of entries assessed provisionally be considered as finally assessed, and therefore no redemption fine be imposed upon the noticee.

12. Penalty under Section 112(a), Section 112(b) and Section 117 of the Customs Act, 1962 proposed on the noticee.

12.1 Noticee submitted that the said IGM and Bill of lading were not prepared by the, instead the same were prepared by Shipping line agent and Exporter of China as is evident from the statement dated 07.12.2022 of Shri Jignesh Khimjibhai Noriay of Evergreen Shipping Agency. IGM and Bill of Lading are not the assessment documents instead Bill of entries for Home Consumption are the assessment documents. The noticee has not omitted or committed any thing which with intent to evade payment of ADD as alleged in the impugned notice, which rendered the said goods liable for confiscation and accordingly the noticee contend that, they are not liable to penalty in terms of Section 112(a) and Section 112(b) of the Customs Act, 1962. The noticee would contend that they have not contravenes any provisions of this act and has not abated any such contravention which was his duty to comply. This being the case no penalty under Section 117 of the Customs Act, 1962 be imposed upon them. There is no short payment of any duty on their part, hence, penalty under Section 114A of the Customs Act, 1962 not sustainable.

12.2 As regard to penalty proposed to be imposed under Section 114AA of the Customs Act, 1962, the noticee would contend that the entire episode is based on the IGM and Bill of Lading which is not prepared or signed by them. They have declared the description of goods in their DTA Bill of entries and accepted the value enhanced by the proper officer while provisional release of the goods and correctly discharged duty assessed there on before the issue of show cause notice. This being the case the noticee have not signed any declaration, statement or documents which is false or incorrect in any material particulars, in the transaction of their business for the purpose of the Customs Act, 1962. Accordingly, it is contended that no penalty under Section 114AA is imposable upon them.

19.2 The Noticee i.e. M/s Lara Exim Pvt Ltd vide their letter dated 09.08.2025, in response to Show Cause Notice No. GEN/ADJ/COMM/306/2024-Adjn-O/o Pr Commr-Cus-Mundra dated 26.04.2024 have made submissions and inter-alia stated that:

1. Shri Kunal Kamra in his submissions referred to Para 17.2.6 & Para 17.2.7 of the impugned Show Cause Notice. Shri Kunal Kamra has submitted that the allegation of misdeclaration of description of goods and its HSN is purely based on IGM and Bill of Lading, which were not prepared by him instead the IGM were prepared by concerned shipping lines where as Bill of lading have been prepared by the firms supplying Containers. The Invoices issued by the Exporter of China has correctly mentioned the description, HSN, thickness and width of the fabrics imported. Before Alia International could file Bill of entries, the DRI intervened and consignments were put on hold and examined in the Warehouse of OWS warehousing Services LLP. The samples were drawn and got tested and its test result is in the confirmity with the description declared in the Invoices and warehouse bill of entries filed. However it is the DRI who is comparing description and HSN with the IGM and Bill of Lading wherein I have no role to play. With regard to width and quantity of fabrics examined during the panchnama it could be seen that total quantity of Rolls of Fabrics are in confirmity of the declaration in the Invoices warehouse bills of entries. He further

submitted that was not present during the panchnama drawn and hence I cannot comment on the excess quantity ascertained therein.

2. Shri Kunal Kamra on perusing Provisional Bills of Entry, he observe that rate of PU coated fabrics is mentioned as Rs.0.2USD + 0.47 USD total 0.55 USD, equivalent to approximately Rs.46 per meters. Considering incidence of all the duties and profit on sale of such goods its domestic selling price would be as under.

Particulars	Ropes
Basic value	46
BCD	9.2
10% SWC	0.92
ADD	38.433
IGST	11.35
Total cost	105.90
Profit10%	10.59
Domestic price	116.49

3. Shri Kunal Kamra submitted that the value declared in warehousing Bill of entries was not correct, however it is correctly mentioned in the DTA Bill of Entries while getting provisional release by Alia International. The duty so assessed by the proper officer have been discharged by Alia International before issuance of impugned notice.
4. Shri Kunal Kamra, submitted that value addition and demand for differential duty is not correct as the price mentioned herein above declared in the DTA Bill of Entries is correct and duty thereon is correctly discharged. The said DTA bill of entries may be finalized provisionally.
5. Shri Kunal Kamra submitted that IGM and Bill of lading were not prepared by him instead the same were prepared by Shipping line agent and Exporter of China as is evident from the statement dated 07.12.2022 of Shri Jignesh Khimjibhai Noriay of Evergreen Shipping Agency.
6. Shri Kunal Kamra further submitted that IGM and Bill of Lading are not the assessment documents for the purpose of determining applicable duty and its rate instead it is the Bill of Entries filed for home consumption. However, before they could file their Bill of Entries all the 05 consignments were put on hold and the shipping agent was compelled to warehouse goods at the warehouse of OWS warehouse Services by way of filing warehouse Bill of Entries for all the 05 consignment separately. It could be seen from those Bill of Entries that they have correctly mentioned the description of the goods and its HSN based on the Invoices and packing lists received from exporter through ABS Logistics as is evident from the statement of **Shri Sabu George, G-card Holder of Lara Exim Pvt. Ltd.** In terms of Circular No.35/2017-Customs dated 16.08.2017, with a permission from the proper officer, the noticee has filed DTA Bill of Entries for Home Consumption mentioning therein description of goods, HSN code and other specification viz. thickness and width of the fabrics as per the Invoice, packing lists, however, value of goods imported by the noticee was enhanced to Rs.2,42,19,525/- by the assessing officer for the DTA Bill of entries as against Rs.73,90,080/- declared in the Warehouse Bill of Entries, and thereafter duty including Anti-dumping duty were assessed provisional and out of charge was given to them on provisional basis.
7. Shri Kunal Kamra has submitted that Alia International has correctly declared the description, classification (HSN), rate of duty, and all applicable duty in the warehouse Bill of Entries and correct description, classification (HSN), enhanced

value, rate of duty, and all applicable duty DTA Bill of Entries for provisional release of the goods on enhanced value. For the description of goods and HSN mentioned in IGM and Bill of lading, they are not aware as to how the said mistake committed by the Shipping Line Agent and exporter of China.

8. Shri Kunal Kamra, has submitted that imposition of penalty under Section 117 of the Customs Act,1962, he would contend that value of the goods declared in the warehouse bill of entries were based on the invoice supplied by the exporter [USD 89631.05], however, it is admitted facts by me in my statement that I have remitted total USD 1,10,000 against the goods imported, and Alia International has accepted the value determined by the assessing officer by adding 0.47 USD in the value declared in DTA Bill of entries while provisional release of the goods and has paid the Customs duty, ADD and IGST, demand for differential duty is not sustainable as the allegation of Mis-declaration of description of goods is purely based on the IGM and Bill of Lading which are not prepared by me or by Alia International and excess quantity is contested to be not correct by Alia International. Under the circumstances he would contend that he has not contravenes any provisions of this act and has not abated any such contravention which was his duty to comply. This being the case no penalty under Section 117 of the Customs Act,1962 be imposed upon me.
9. Shri Kunal Kamra also submitted that M/s Alia International has discharged total duty of Rs. 2,22,60,889/- including ADD of Rs.1,19,52,467/- as assessed in DTA Bill of Entries filed for home consumption for provisional release of the goods. Due to excess computation of liner meters of fabrics, resulted in to excess demand of ADD to the extent of Rs.8,99,535.20 and Rs.51,91,360.80/- Customs duty + IGST total 60,90,896/- to which Alia International is not in agreement with the differential duty of Rs.60,90,896/- for the reasons submitted by them, there is no short payment of any duty on their part. The noticee has requested that he may not be subjected to penalty under Section 114A of the Customs Act,1962.
10. Shri Kunal Kamra with regard to penalty proposed to be imposed under Section 114AA of the Customs Act, 1962, has argued that the entire episode is based on the IGM and Bill of Lading which is not prepared or signed by them. They have declared the description of goods in their DTA Bill of entries and accepted the value enhanced by the proper officer while provisional release of the goods and correctly discharged duty assessed there on before the issue of show cause notice. This being the case I and Alia International have not signed any declaration, statement or documents which is false or incorrect in any material particulars, in the transaction of their business for the purpose of the Customs Act,1962. Accordingly, it is contended that no penalty under Section 114AA is imposable upon me and on Alia International.

19.3 The Noticee i.e. M/s Lara Exim Pvt Ltd vide their letter dated 09.08.2025, in response to SCN No. GEN/ADJ/COMM/306/2024-Adjn-O/o Pr Commr-Cus-Mundra dated 26.04.2024, have made additional submissions and inter-alia stated that:

1. That M/s Alia International approached the proper officer for provisional release of the goods vide their letter dated 18.12.2022. Thereafter on permission by the proper officer, the value of the goods enhanced to Rs. 2,42,19,524.55/- against Rs.73,90,080/- as declared in the Warehouse Bills of Entry and accordingly following Bills of Entry for Home Consumption were filed by their firm which were assessed by the proper officer and whatever duty assessed where paid by the said notice i.e. M/s Alia International.

BE No.	Date	Exchange Rate	INR per Sq.mt	Total Value	Customs duty @ 20%	SWC @ 10% of BCD	ADD= Sq.mt/Width *0.46*83.55	IGST @12%	Total duty

2000246	05.01.2023	83.55	55.98	4458743.50	891749	89175	2234472	920897	4136292
2000265	05.01.2023	83.55	55.98	5011979.02	1002396	100240	2511723	1035160	4649519
2000259	05.01.2023	83.55	55.98	5721954.33	1144391	114439	2867523	1181797	5308149
2000260	05.01.2023	83.55	55.98	4972570.15	994514	99451	2491973	1027021	4612960
2000266	05.01.2023	83.55	55.98	3685120.63	737024	73702	1846776	761115	3418617
		83.55	15.12	369156.91	73831	7383	0	54045	135259
				24219524.55	4843905	484390	11952467	4980034	22260796

2. That M/s Lara Exim Pvt Ltd, submitted that they are not in agreement with the proposal for imposition of penalties as the reasons for proposal of penalties are based purely on assumption, presumption and surmises only. They are not the importer within the meaning of Section 2(26) of the Customs Act, 1962 but Customs Broker in terms of Regulation 2(d) of CBLR, 2018 and holding license. M/s Lara Exim Pvt Ltd has referred to the roles of Customs Broker under Section 146 of which is reproduced as under:

146. (1) No person shall carry on business as a customs broker relating to the entry or departure of a conveyance or the import or export of goods at any customs station unless such person holds a licence granted in this behalf in accordance with the regulations.

M/s Lara Exim Pvt Ltd has also explained about the obligations of the Customs Broker stipulated in the Regulation No.10(d) and 10(n) of CBLR, 2018 which stipulates that the Customs broker shall;

(d) advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;

(n) verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information;

3. That the noticee i.e. M/s Lara Exim Pvt Ltd has submitted the sequence of event took place in the given case which is tabulated as under:

Documents	Date	Prepared by whom
Invoice	15.08.2022, 20.08.2022 and 29.08.2022	Exporter of China received by them on 13/15.10.2022 through ABS Logistics
Bill of Lading	17.10.2022, 18.10.2022	Not prepared by M/s Lara Exim Pvt Ltd
IGM	Not mentioned any wherein the show cause notices nor its copies are provided	Not prepared by M/s Lara Exim Pvt Ltd
Investigation initiated	Consignments were put on hold vide letter dated 12.10.2022 from DRI	Letter issued by DRI
Warehouse Bills of Entry	Filed on 17.10.2022 and 18.10.2022	By M/s Lara Exim Pvt Ltd

Letter for provisional Release	Letter darter 18.12.2023	By importer M/s Alia International
DTA Bills of Entry	Filed no 05.01.2023	By M/s Lara Exim Pvt Ltd

M/s Lara Exim Pvt Ltd has submitted that from the above sequence of events/documentation it is crystal clear that Invoices were issued by the Exporter from China on 15.08.2022 and 29.08.2022 which were received by M/s Lara Exim Pvt Ltd on 13/15.10.2022 which means that description in the invoices were already mentioned on the date of issue of invoices. The description and HSN code as per the Invoices were mentioned by them in both the sets of Bills of Entry filed on 17.10.2022 and 18.10.2022 and 05.01.2022 was correct one and it cannot, therefore, be doubted or can be understood to be manipulated by them i.e. M/s Lara Exim Pvt Ltd. Whereas Bill of Lading and IGM are prepared nearly after two months of time of invoices prepared.

4. That M/s Lara Exim Pvt Ltd has submitted that they had declared the description in the Warehouse Bills of Entry which were merely based on the Invoices issued by the Exporter from China and was correct also. The description and HSN code on the Invoices were correct one and so is in the Bills of Entry for warehouse. We are not aware as to which material have been stuffed in the container whether the same is as per Bill of Lading or as per Invoice of the Exporter. Nevertheless, our declaration based on the invoices in the Warehouse Bills of Entry is authenticated by the Test Result which is undisputedly in confirmatory of our declaration of description of goods.

Lara Exim submitted that they cannot be held responsible for mis-declaration in the Bill of Lading and IGM.

5. That M/s Lara Exim Pvt Ltd has submitted that they had acted very much in the *bona-fide* manner as far as declarations made in the Warehouse Bills of Entry. This being the case they contended that allegation that *"Lara Exim handled the subject consignments in very casual manner in spite of the facts that the importer was of clear mala-fide intention; that Lara Exim did not seek any supporting documents for mentioning of the description and classification of the goods in BL and IGM. M/s Lara Exim could not provide any such supporting documents"* was not correct but purely based on the assumption without appreciating the facts and sequence of preparation of documents mentioned herein above and would like to submit that they have not concerned in any way with the IGM and Bill of Lading and not followed the description of the goods mentioned in the IGM and Bill of Lading instead have correctly mentioned description and HSN code in the warehouse Bills of Entry.
6. That M/s Lara Exim Pvt Ltd submitted that the contention of the show cause notice that *"Had the DRI not put the said import consignments on hold, the importer would have continued to clearance of the said goods with declare description and classification of the goods in the Bill of Lading and IGM. M/s Lara Exim, being an experienced Customs Brokers not bothered to ask the importer the actual reason thereof"* they would like to submit and contend that the action of DRI jumping into investigation based on the description of imported goods in IGM and Bill of lading without waiting for the Bills of Entry for clearance for Home Consumption is not correct to allege mis-declaration in the Bills of Entry. This contention in the show cause notice itself is based on the assumption and presumption.

7. M/s Lara Exim Pvt Ltd, as regard to allegation that "*Lara Exim were not aware with the actual importer; He simply received the KYC documents through e-mail and proceeded for filing Bills of Entry. He admittedly did not know the actual importer or person*". We would like to submit that the documents viz Invoice, packing lists Bill of Lading clearly mentioned the name of Importer /consignee as Alia International; the KYC documents though received from ABS Logistics, they had been verified the details of GSTN and IEC code numbers on the respective web site maintained by the respective GST department and DGFT web site/ICEGATE etc., and existence of Alia International cannot be doubted as the same is substantiated by those Portals/Web sites. Not only that investigation carried out by DRI cannot reveal that importer is other than Alia International. Therefore, such allegation is purely based on assumption and surmises only and not correct but erroneous.

8. M/s Lara Exim Pvt Ltd has submitted that from the aforesaid submission it could be seen that they have acted purely on the bona-fide manner as per the role for Customs Broker defined in the Section 146 of the Customs Act,1962 and CBLR,2018 meant to be followed. This being the case, they contended that they did not omit or not acted in any manner in relation to goods imported for which they have reason to believe that the said goods are liable for confiscation under section 111. Hence no penalty is imposable upon them under Section 112(a) of the Customs Act,1962 as proposed in the impugned notice.

9. M/s Lara Exim Pvt Ltd, as regard to penalty proposed to be imposed in terms of Section 114AA of the customs Act,1962, submitted that they have not considered the description of the goods mentioned in the IGM and Bill of Lading instead they have correctly declared the description of goods and its HSN code as per the Invoices issued by the Exporter from China to said Alia International, the importer and submitted the Warehouse Bills of Entry. As regard to the value declared in the Invoices, the Customs Broker cannot be held responsible as the said price is negotiated price between Exporter of China and the Importer Alia International. This being the case they have not signed or used any declaration, statement or documents which is false or incorrect in any material particular in the transaction of said import by Alia International. This being the case they argued that are not liable to any penalty in terms of Section 114AA of the Customs Act,1962 as proposed in the impugned notice.

10. M/s Lara Exim Pvt Ltd, in support of their submission that penalty not imposable upon them in terms of Section 112(a),112(b) and 114AA of the Customs Act,1962 they have referred to the following case laws:

- (i) *Jyoti Customs Broker Services Pvt. Ltd vs Principal Commissioner of Customs (Administration & Airport) , Kolkata*
- (ii) *Trans Asia Shipping Services Versus Commissioner Of Customs, Bangalore*, reported at (2024) 18 Centax 230 (Tri.-Bang)
- (iii) *Commissioner of Customs (Import) vs Trinetra Impex Pvt. Ltd.* reported as 2020 (372) E.L.T. 332 (Del)
- (iv) *Kamal Sehgal vs Commissioner of Customs (Appeals) New Delhi*, reported as 2020 (371) E.L.T. 742 (Tri. - Del.)

11. M/s Lara Exim Pvt Ltd has referred to Instruction No.20/2024-Customs titled as "Implicating Customs Brokers as co-noticee I the cases Involving Interpretative Disputes" in support of their submissions.

20. RECORDS OF PERSONAL HEARING

- Following the principles of natural justice, opportunities of personal hearing were granted on dated 29.07.2025 & 12.08.2025 to the noticees in the subject

case. Shri Vijay Thakkar (Advocate & authorized representative of the M/s. Alia International, Kunal kamra & M/s. Lara Exim) appeared for hearing through virtual mode on 12.08.2025 wherein on behalf of M/s. Alia International and Shri Kunal Kamra re-iterated their Witten submissions submitted on 26.07.2025 & 10.08.2025. Further he also re-iterated submission of M/s. Lara Exim submitted vide letter dated 09.08.2025.

- Shri Vijay Thakkar during the hearing dated 12.08.2025 has pointed out that they have not been provided with the copies of Bills of Entry which were relied upon in the Show Cause Notice for valuation of the goods. Accordingly, the same were provided to them through mail and next date of hearing was fixed in the subject case on 16.09.2025.
- Shri Vijay Thakkar attended hearing on 16.09.2025 through virtual mode on behalf of all noticee and re-iterated their earlier submissions along with additional submissions submitted by M/s. Alia International on 12.09.2025. M/s. Lara Exim thorough mail dated 13.09.2025 has informed their consultant has attended hearing on 12.08.2025 and earlier written may be considered. They have nothing to further say.

DISCUSSION AND FINDINGS

21. 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 opportunities 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 declared description "Mix Lot of Artificial Coated Fabric for auto seat cover" and "Fabrics" and declared classification thereof as "59031090" & "60064200" dare liable to rejected or otherwise.
- ii. Whether the subject goods are liable for confiscation under Section 111(f) of the Customs Act, 1962.
- iii. Whether the goods merit classification under appropriate HS code 59032090 or otherwise.
- iv. Whether the goods imported are liable for confiscation under Section 111(m) of the Customs Act, 1962 or otherwise.

- v. Whether the differential quantity **45363 Sq. Mtrs** of the PU-coated fabric are liable for confiscation under Section 111(f), 111(l), 111(m) and Section 119 of the Customs Act, 1962 or otherwise.
- vi. Whether the value of Rs. **2,42,19,525/- declared under DTA Bills of Entry** for the subject 05 import consignments is liable to be rejected or otherwise.
- vii. Whether the total quantity **495835 Sq. Meters (333800 Meters)** of PU-coated Fabric which was found concealed in the subject 05 import consignments are liable to imposition of Redemption Fine or otherwise.
- viii. Whether the applicable Customs Duties and Anti-dumping duty total **Rs. 2,83,51,786/-** is liable to be demanded and recovered by invoking the provisions under Section 28(4) of the Customs Act, 1962 or otherwise.
- ix. Whether the duty paid by during the investment period by M/s. Alia International at the time of provisional release is liable to be appropriated against the total demand of Customs duty or otherwise.
- x. Whether the Bank Guarantee submitted liable to be enforced to recover the dues or otherwise.
- xi. Whether the Noticee are liable for penalty as proposed under the SCN or otherwise.

22. I find that M/s. Alia International had imported five consignments of fabrics from China. The goods imported under the consignments had been declared in the Bills of Lading and Import General Manifests (IGMs) as "Mix Lot of Artificial Coated Fabric for Auto Seat Cover" and "Fabrics" under HS Codes 59031090 and 60064200. The consignments were put on hold and examined by DRI officers under panchnama dated 04.11.2022 and 05.11.2022. Meanwhile, I noticed that the importer filed warehouse Bills of Entry wherein the description was changed to "PU-coated Fabrics" under HS Code 59032090 along with a small declared quantity of "Interlining Fabrics" under HS Code 59039090. This act of change in description at later stage after initiation of investigation proceeding appeared to be an afterthought of the Importer.

22.1 Upon examination of the goods, it has been found that good imported under the subject 05 the consignments were actually *PU-coated fabrics*. Further, the goods are also found to be mis-declared in respect of description, quantity, value etc. Representative samples were drawn under proper panchnama and forwarded to the Customs House Laboratory for testing. The laboratory reports confirmed that the imported goods were PU-coated fabrics composed of polyester yarns with

polyurethane coating of different thickness. In terms of Notification No. 14/2022-Customs (ADD) dated 20.05.2022, PU-coated fabrics falling under HS Code 59032090 imported from China attract anti-dumping duty at prescribed rates. As the test reports confirmed that the entire quantity of the impugned consignments was PU-coated fabric, the goods were held liable for anti-dumping duty. Consequently, the consignments were placed under seizure under Section 110 of the Customs Act, 1962 vide seizure memo dated 10.11.2022.

22.2 I noticed that the importer M/s. Alia International sought provisional release of the goods and filed total 05 DTA Bills of Entry No. 2000266, 2000265, 2000259, 2000260, and 2000246 all dated 05.01.2023. Under these DTA Bills of Entry, the description was again declared as PU-coated fabrics and interlining fabrics. However, even at this stage, mis-declaration was detected as the goods declared as interlining fabrics were also confirmed to be PU-coated fabrics by laboratory test. Thus, the importer continued to mis-declare the goods even during provisional release of the goods knowing the fact that the goods were actually PU-coated fabrics instead of interlining fabrics.

22.3 Statements of key persons were recorded under Section 108 of the Customs Act, 1962, including that of Shri Farhad (proprietor of M/s. Alia International) and Shri Kunal Kamra (beneficial owner). They accepted the role of undervaluation and acknowledged that the actual value of the consignments was more than Rs. 3.5 crores. Statements of the Customs Broker representative and shipping agents also corroborated the chain of events.

22.4 At the time of filing warehouse Bills of Entry, the importer declared the total assessable value of the consignments as Rs. 73.90 lakhs only. Thereafter, during provisional assessment, the value was increased/inflated to Rs. 2.42 crores. However, investigation based on supplier communications, comparative import data, and statements of the persons concerned, confirmed that the actual assessable value was approximately Rs. 3.80 crores. The total customs duty liability, including anti-dumping duty, worked out to Rs. 2.83 crores, as against Rs. 2.22 crores declared during provisional assessment. Thus, the values declared at both the warehousing and DTA clearance stages were much lower than the actual amounts should be. These acts clearly showing that the goods were deliberately undervalued.

22.5 In view of the above, the investigation established that M/s. Alia International, acting through its proprietor and the beneficial owner Shri Kunal Kamra, mis-declared the description, classification, quantity, and value of PU-coated fabrics imported from China with the deliberate intention of evading customs duty and anti-dumping duty. The evidence collected, including laboratory test reports, comparative import data, financial records, and the voluntary

statements of the persons involved, conclusively demonstrated the fraudulent nature of the imports and the culpability of the importer.

23. VALUATION OF THE IMPORTED GOODS:

23.1 I find that the present issue in the subject case revolves around the mis-declaration of description, classification and valuation thereof declared by the Importer M/s. Alia International for the subject 05 consignments of PU-coated fabrics imported from China. I find that at the time of filing warehouse Bills of Entry, the importer declared the unit price of the goods at around USD 0.20 per meter and on this declared valuation the total assessable value arrived at Rs. 73,90,080/-. Thereafter, when the consignments were allowed for provisional release (on the request of the Importer) through DTA Bills of Entry 2000246, 2000259, 2000265, 2000266 and 2000260 all dated 05.01.2023, the importer revised the declared assessable value to Rs. 2,42,19,525/-. These two sets of declared values contradict each other which declared by the Importer.

23.2 On scrutiny of the contemporaneous import data of similar PU-coated fabrics from the same Chinese suppliers into India, I find that the prevailing prices ranged between USD 1.26 to USD 1.43 per meter depending upon thickness and quality of the fabric. The rate declared by the noticee at USD 0.20 per meter is abnormally low and has no connection to the actual market value of the goods. During investigation it has been noticed that other Indian importers were importing of similar fabrics from the same suppliers at the price range of USD 1.25 to USD 1.45 per meter. These established the fact that M/s. Alia International deliberately mis-declared the values which is approximately is one-sixth of the true transaction price.

23.3 I also noticed that that during the course of investigation, WhatsApp communications between Shri Kunal Kamra (beneficial owner of the goods) and the Chinese suppliers Ms. Lucy and Ms. Tracy, were recovered which clearly revealed negotiations and finalisation of prices between USD 1.26 and USD 1.43 per meter. The chats also revealed that Shri Kunal Kamra had personally travelled to China, interacted with the suppliers, and discussed price fixation. This evidence supports the contemporaneous import data and refutes the declared value of USD 0.20 per meter shown in the import documents.

23.4 The undervaluation is further confirmed by the statements recorded under Section 108 of the Customs Act, 1962. Shri Kunal Kamra during his statement dated 21.07.2023 admitted that the declared unit price of USD 0.20 per meter could not represent the actual value of PU-coated fabrics and further stated that the total consignment value was more than Rs. 3.5 crores. Shri Farhad (proprietor of M/s. Alia International) also admitted that he had allowed Shri Kunal Kamra to

handle all negotiations and dealings with the suppliers on behalf of his firm and accepted that the values declared in the import documents did not reflect the actual payments made. These admissions by both key individuals corroborate the fact that the declared assessable values were manipulated with the sole purpose of evading customs duty and anti-dumping duty.

23.5 From the above, it is evident that the declared transaction value of Rs. 73.90 lakhs at the warehousing stage and Rs. 2.42 crores at the provisional release stage are neither true nor correct. Both are artificial figures projected to suppress the real value of the consignments and to manage the incidence of customs duty and anti-dumping duty. Both figures are false and created to conceal the true value of the consignments to evade the legitimate Customs Duty and also to dodge the Anti-Dumping duty by mis-declaring the incorrect description.

23.6 As per Rule 3 of the CVR 2007, the transaction value of imported goods shall be the price actually paid or payable for the goods when sold for export. I find that Rule 3(1) of Rules 2007 provides that "*subject to rule 12, the value of imported goods shall be the transaction value adjusted in accordance with provisions of rule 10*". Rule 3(4) ibid states that "*if the value cannot be determined under the provisions of sub-rule (1), the value shall be determined by proceeding sequentially through rule 4 to 9 of Custom Valuation Rules, 2007*". In the present case, from the above, it may be seen that the Importer deliberately undervalued the subject goods with mala fide intent to evade payment of customs duty and anti-dumping duty. The mis-declaration of value is not unintentional but was done deliberately in a systematic manner which is clearly evident from the sequence of declarations, the altered invoices, and the consistent undervaluation at both the warehousing and DTA stages. Thus, I find that the declared value liable to be rejected in terms of Rule 12 of the Customs Valuation (Determination of value of Imported Goods) Rules, 2007. In terms of explanation 1(i) of Rule 12 of the said rules, the value has to be re-determined by proceeding sequentially through Rule 4 to 9. The relevant Rules of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 are reproduced hereunder:-

3. Determination of the method of valuation-

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

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

Provided that -

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. Transaction value of identical goods. -

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

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

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

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

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

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

Rule 5 (Transaction value of similar goods).-

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

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

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

23.7 The Explanation (l)(iii) to Rule 12 of the CVR, 2007 provides that the proper officer shall have the powers to raise doubts on the truth or accuracy of the declared value based on certain reasons which may include (a) significantly higher value at which identical or similar goods imported at or about the same time in

comparable quantities in a comparable commercial transaction were assessed, (b) an abnormal discount/ reduction from the ordinary competitive price, (c) sale involves special discounts limited to exclusive agents, (d) the mis declaration of goods in parameters such as description, quality, quantity, country of origin, year of manufacture or production, (e) the non-declaration of parameters such as brand, grade, specifications that have relevance to value, (f) the fraudulent or manipulated documents.

23.8 In terms of Section 14 of the Customs Act, 1962, the value of the imported goods shall be the transaction value that is to say that price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, subject to such other conditions as may be specified in this behalf by the rules made in this regard. Further, in accordance with such provisions, Central Government has made Customs Valuation (Determination of value of imported goods) Rules, 2007 (herein after referred to as 'the valuation rules'). Rule 3 (1) of the valuation rules lays down that the value of the imported goods shall be the transaction value adjusted in accordance with provisions of Rule 10. Further Rule 2(g) defines transaction value as the value referred to in subsection (1) of Section 14 of the Act. Rule 13 of the valuation rules lays down that the interpretative notes specified in the Schedule to these rules shall apply for the interpretation of these rules. The interpretative Rule 3 provides that price actually paid or payable is the total payment made or to be made by the buyer to or for the benefit of the seller for the imported goods. On a combined reading of the Section 14 ibid & the valuation rules, it appears that customs duty is payable on transaction value that is to say that:

1. Price actually paid or payable for the goods i.e. the total payment made by the buyer
2. When sold for export to India for delivery
3. At the time and place of importation

23.9 In terms of Rule 3 of the valuation rules read with Section 14 of the Customs Act, 1962 and the schedule to the valuation rules, the actual price paid or payable for the impugned goods, should have formed part of the assessable value for the purpose of calculation of Customs duty as the same is the actual transaction value of the imported goods. As discussed above, it is evident that the declared values of the impugned consignments do not represent the true transaction value as mandated under Section 14 of the Customs Act, 1962 read with Rule 3 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. The contemporaneous import data, supplier communications and admissions of the persons involved clearly show that the unit price declared at USD 0.20 per meter is grossly understated and does not reflect the actual value paid or payable for the imported goods. Under Rule 12 of the said Rules, where the proper officer has

reason to doubt the truth or accuracy of the declared value, such value is liable to rejection. Accordingly, I hold that the declared value of Rs. 73,90,080/- at the warehousing stage and Rs. 2,42,19,525/- at the DTA do not represent the true transaction value. In view of these evidences, I find that the values declared in the impugned bills of entry cannot be accepted as the true transaction values, thus, the same are liable to be rejected under Rule 12 of the CVR, 2007 read with Section 14 of the Customs Act, 1962.

23.10 I find that the documents produced by M/s. Alia International in support of their declared values were tainted by mis-description and gross undervaluation. The importer declared inconsistent values at the warehousing stage and again at the provisional release of the goods DTA clearance stage. Thus, these both declarations cannot be relied upon. In these circumstances, the invoices and Bills of Entry filed by the noticee cannot be accepted as genuine transactions of identical goods, making valuation under Rule 4 infeasible. It further appeared that value cannot be determined in terms of Rule 4 of the said rules as no identical goods imported in India at or about the same time as the goods being valued (which is mandatory for Rule-4) could be identified.

23.11 The investigation further revealed that the consignments were imported from Chinese suppliers M/s. Zhejiang Sino Rich International and M/s. LishuiHaihe International Enterprises Co. Ltd. It also came to light through the statement of Shri Kunal Kamra that the business dealings of these suppliers were managed by Ms. Lucy and Ms. Tracy, with whom he maintained regular communication. Moreover, it was established that these suppliers had also exported similar PU-coated fabrics to other Indian importers such as M/s. Miqat International, Ananyaa Impex, and M/s. Mangla Trading Corporation. The values declared in those imports were found higher than those declared by M/s. Alia International. For this purpose, the investigating officers examined Bills of Entry for similar consignments (imported under Bill of Entry No. 8542122 dated 04.05.2022 and 8773897 dated 21.05.2022) imported contemporaneously from the same suppliers by the said importers. The comparative analysis showed that PU-coated fabrics of similar thickness and specifications were being imported at rates between USD 1.25 and USD 1.45 per meter, while M/s. Alia International had declared only USD 0.20 per meter. This large difference (almost six times lower than the normal rate) shows that the values declared by M/s. Alia International were grossly undervalued. The Bills of Entry of other importers made around the same time give a fair and reliable basis for valuing similar goods. Accordingly, I hold that valuation under Rule 4 cannot be applied, since the noticee's own declarations are neither genuine nor acceptable. The Bills of Entry of other importers, along with import data and supplier communications found during the investigation, provide a reliable basis for valuation under Rule 5, which

is based on the transaction value of similar goods imported at or around the same time. Therefore, I determine that the correct assessable value of the subject consignments arrive at Rs. 3,80,93,837/- under Rule 5 of CVR, 2007.

24. Misclassification of the goods:

24.1 It is observed that M/s. Alia International declared different types of fabrics at different stages of import documentation. In the Bills of Lading and IGMs, the goods were mis-declared as "*Mix Lot of Artificial Coated Fabric for Auto Seat Cover*" under HS Code 59031090 and "*Fabrics*" under HS Code 60064200. Subsequently, when the consignments were put on hold and warehouse Bills of Entry were filed, the importer changed the descriptions and declared the goods as "*PU-coated Fabric*" under CTH 59032090 along with a smaller declared quantity of "*Interlining Fabric*" under CTH 59039090. Thus, under different documents, the importer declared the goods as four categories of fabrics viz. (i) Artificial Coated Fabric, (ii) Fabrics, (iii) PU-coated Fabric, and (iv) Interlining Fabric.

24.2 Further, I noticed that the examination and testing revealed that the entire consignments are of "*PU-coated fabrics*" of varying thickness only. The test reports confirmed that the fabrics were composed of polyester or viscose base with polyurethane (PU) coating, ranging in thickness from 0.40 mm to 0.80 mm. Even the portion declared by the importer as "*Interlining Fabric*" under HS Code 59039090 was also found to be PU-coated fabric. Therefore, I find that the actual imported goods were found to be of a single type, i.e., PU-coated fabrics which are rightly classifiable under HS Code 59032090.

24.3 I find that the determination of correct classification and description was not made on assumption but physical examination of all consignments was undertaken and representative samples were drawn in the presence of independent witnesses. Further, these samples were tested in the Customs House Laboratory which reports confirmed the nature of the fabrics beyond doubt. Also the import data and contemporaneous Bills of Entry of similar consignments imported from the same suppliers were relied upon. The statements of Shri Kunal Kamra and Shri Farhad recorded under Section 108 of the Customs Act, 1962, confirmed that the consignments consisted of PU-coated fabrics and that the values declared in the import documents were not the actual values. WhatsApp conversations and supplier invoices seized during the investigation corroborated the fact that the negotiations and transactions pertained to PU-coated fabrics.

24.4 From the above, I find that the importer deliberately resorted to mis-declaration of the description and classification of the goods at different stages with the intent to evade anti-dumping duty and customs duty. The evidence on record leaves no scope to doubt that the entire five consignments comprised only

PU-coated fabrics falling under HS Code 59032090, and all false declarations were made as part of a deliberate scheme of misrepresentation.

25. QUANTITY DECLARED AND FOUND DURING THE EXAMINATION:

25.1 During the investigation, it had been found that M/s. Alia International imported five consignments. These consignment were declared in different ways in the Bills of Lading, IGMs, and Warehouse Bills of Entry as "Mix Lot of Artificial Coated Fabric for Auto Seat Cover," "Fabrics," and "Interlining Fabric." When the goods were physically checked and tested, it was confirmed that all the consignments actually contained only PU-coated fabrics having different thicknesses. The total quantity of goods found in all five consignments was 495,835 square meters (equivalent to 333,800 meters). However, at the time of filing the warehouse Bills of Entry, the importer declared only 426,063 square meters of PU-coated fabric and 24,409 square meters of goods named "Interlining Fabric." This big difference between the declared and actual quantities shows that the importer deliberately kept the quantity lower to avoid paying the full Anti-Dumping Duty and Customs Duties.

25.2 The investigation clearly shows that all five consignments were made up only of PU-coated fabric. The quantity found during examination was found more than the quantity declared in all customs documents. This wrong description and low quantity were also supported by test reports and statements recorded under Section 108 of the Customs Act, 1962. I find that the actual quantity of PU-coated fabric imported is 495,835 square meters and the same will be considered for calculation of duties.

25.3 It was found during the investigation and also confirmed by the panchnama dated 04.11.2022 and 05.11.2022 that M/s. Alia International imported five consignments described in different ways in the documents. The total quantity declared was 426,063 square meters of PU-coated fabric and 24,409 square meters of "Interlining Fabric." But when the goods were physically checked, the total quantity of PU-coated fabric found was actually 495,835 square meters. The quantity declared was less than what was actually imported. This difference, along with mis declaring the description of some goods as "Interlining Fabric," shows that the importer tried to hide the true quantity with the intention to avoid paying the legitimate duties. This fact is supported by test reports and other documents collected during the investigation.

25.4 I noticed that the Noticee M/s. Alia International, thorough written submission stated that the quantities declared in the Warehouse Bill of Entries match with the commercial invoices and packing lists received from the supplier in China. They have stated that the declared width of the fabric was 137

centimetres, which is the standard size used for car seat covers, and that the number of rolls declared matches the actual rolls found during examination. The noticee challenges the department's calculation because the department used a fabric width of 150 centimeters in its panchnama examination, which increased the computed quantity. They argued that this width of 150 centimeters is incorrect, and the excess quantity (45,363 square meters) calculated is wrong. They further submit that Anti-Dumping Duty should be calculated on linear meters (length) of fabric, not square meters, and that their declared lengths match the rolls mentioned in invoice. The noticee relies on legal rules saying duties must be assessed based on the date the Bill of Entry was presented, and they contested that the department started the investigation and valuation too early, before documentation was complete.

With respect to this claim, I find that the quantities verified during physical examination, as mentioned in panchnamas dated 04.11.2022 and 05.11.2022, are accurate and based on measurements taken in the presence of independent witnesses. The department's calculation of fabric width at 150 centimeters. The noticee's claim on 137 centimeters is at weak footing without any physical facts on record. The Importer neither contested the facts of the panchnamas nor sought any clarification when the goods were not get provisionally released from the Customs Authorities. While roll counts declared by the importer match the rolls found, the actual area (square meters) measured using proper width measures reveals a significant excess quantity of around 45,363 square meters. This discrepancy of quantity could not arise from any error in the measurement but indicates intentional under-declaration by the importer. The noticee's argument that Anti-Dumping Duty applies only to length overlooks that duty is related to the total quantity, which includes width and thickness. Thus, suppression or misstatement of measurements affecting quantity directly results in short-payment of duty. I state that although assessment is normally based on the Bill of Entry filed, however, the physical facts and independent test results obtained during investigation take precedence and justify re-assessment with applicable duties. The Department's findings are based on solid and trustworthy facts and cannot be challenged by mere documents. Therefore, the noticee's objection on the additional quantity has no merit, and the duty on excess quantities are hereby confirmed confirmed.

26.1 From the case records, it is evident that the goods were seized and subsequently provisionally released under Section 110A of the Customs Act, 1962, in line with Board Circular No. 35/2017. The Importer as well the department and investigating have not disputed this fact that the goods were provisionally released upon the request made by the Importer under execution of Bond and Bank Guarantee as mandated under Board Circular 35/2017-Cus. I

noticed that the Show Cause Notice proposes a demand under Section 28(4); however, it is settled legal position that Sections 110 and 28(4) pertain to distinct stages and typically cannot be invoked simultaneously. Section 110A deals with seizure and provisional release pending adjudication, whereas Section 28(4) applies to the recovery of duty only after final assessment or clearance of goods. The Hon'ble Apex Court and Tribunals have upheld this differentiation in various rulings. Thus, I find that the demand of recovery of duty under the provisions of section 28 is pre-mature.

26.2 In the present case, the liability for duty flows directly from clear acts of misdeclaration and suppression established during the DRI's investigation. Therefore, even though the invocation of Section 28(4) in the SCN at this provisional juncture is premature, the applicable charges of short-payment of duty due to misdeclaration remains independently sustainable under Section 14 of the Customs Act read with the relevant provisions of the Customs Tariff Act. I find that provisional release under Section 110A does not restrict the department from pursuing final adjudication and demanding correct duty with interest and penalties. I observed that provisional relief is only interim and does not extinguish liability to duty or penalty once mis-declaration is established. I find that the Provisional release under Section 110A is merely a facilitative measure for seized goods pending inquiry and does not prejudice the adjudicating authority's jurisdiction to confiscate under Section 125 following issuance of a Show Cause Notice.

Accordingly, I hold that notwithstanding the procedural inconsistency in invoking Section 28(4) at this provisional stage, the demand for duty along with applicable interest and consequential penalties is legally sustainable on the basis of the established acts of misdeclaration and suppression under the provisions of the Customs Act, 1962.

27. CONFISCATION OF THE GOODS UNDER SECTION 111(f), 111(l), 111(m) and 119 OF THE CUSTOMS ACT, 1962:

27.1 It is alleged in the SCN that the goods are liable for confiscation under Section 111(f), 111(l), 111(m) and 119 of the Customs Act, 1962. In this regard, I find that as far as confiscation of goods are concerned, Section 111 of the Customs Act, 1962, defines the Confiscation of improperly imported goods. The relevant legal provisions of Section 111 of the Customs Act, 1962 are reproduced below: -

- (f) any dutiable or prohibited goods required to be mentioned under the regulations in an [arrival manifest or import manifest] or import report which are not so mentioned;*
- (l) any dutiable or prohibited goods which are not included or are in excess of*

those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;

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

27.2 I have already discussed that M/s. Alia International imported five consignments of fabrics through containers IAAU1905960, EITU1069828, EITU9114841, TLLU7681284 and TCNU8074730. From the investigation and examination of the goods it has been found that the actual goods imported were PU-coated fabrics (total 333800 meters) which attract anti-dumping duty as per Notification No. 14/2022-Customs (ADD) dated 20.05.2022. However, the importer initially mis-declared the consignments in the Bills of Lading and IGMs as "*Mix Lot of Artificial Coated Fabric for Auto Seat Cover*" under CTH 59031090 and "*Fabrics*" under CTH 60064200. Subsequently, after the consignments were put on hold by DRI, the importer changed the description in the warehouse Bills of Entry to "*PU-coated Fabrics*" under HS Code 59032090 along with some "*Interlining Fabrics*" under HS Code 59039090. This shifting of description and classification at different stages demonstrates a conscious afterthought to cover up the true nature of the goods once enforcement action had commenced.

27.3 Further, it was also noticed that the declared quantities also did not match the quantities found on examination. While the importer declared a total of 450472 sq. mtrs. (including 426063 sq. mtrs. of PU-coated fabric and 24409 sq. mtrs. of interlining fabric), the actual quantity found was 495835 sq. mtrs., all of which were PU-coated fabrics. Thus, the mis-declaration was not limited to description and classification but the importer found to be involved in the mis-declaration of quantity also. I hold that such deliberate mis-declaration renders the goods liable to confiscation under Sections 111(f), 111(l) and 111(m) of the Customs Act, 1962.

27.4 I further note that the importer had also grossly mis-declared the value of the goods. At the time of filing warehouse Bills of Entry, the value was declared at only Rs. 73,90,080/- (at the rate of USD 0.20 per meter), whereas contemporaneous imports and evidence gathered during investigation, including WhatsApp conversations of Shri Kunal Kamra with suppliers Ms. Lucy and Ms. Tracy, confirmed that the actual transaction values ranged between USD 1.26 and USD 1.43 per meter. In his statement, Shri Kunal Kamra admitted that the total

consignment value exceeded Rs. 3.5 crores. Even during provisional release of the goods under section 110A on the request of the Importer, when the importer revised the value to Rs. 2,42,19,525/-, the value remained much below the appropriate assessable value of Rs. 3,80,93,837/- as determined during the investigation. I Also noticed that the Importer though their written submissions accepted that they are in agreement with the assessment done at the time of provisional release of the goods, however, have contested the duty liability on the increased value above the value declared at the time of provisional released of the goods.

27.5 I find that value declared by the importer at the time of filing Bill of Entry has not attained finality and it is not binding on the authority to accept the value declared by the importer at the time of provisional release of the goods as the importer is bound by the condition of Bond furnished at the time of provisional release of the goods.

27.6 The Hon'ble CESTAT, Mumbai, in *Dinesh Bhabootmal Salecha v. Commissioner of Customs*, 2022 (381) ELT 762 (Tri. Mumbai), clarified that both confiscation and provisional release arise post-seizure under Section 110, and the scope for redemption fine remains settled, as per the Supreme Court's decision in *Weston Components Ltd. v. Commissioner of Customs, New Delhi*, 2000 (115) ELT 278 (SC.). In Para 9 of the judgment, it is stated: "Provisional release under Section 110A of Customs Act, 1962 does not, in any way, impede completion of adjudication proceedings commenced under Section 124 of Customs Act, 1962..." Further, in the case of *Pushpak Lakhani v. Commissioner of Customs (Preventive), New Delhi* (Final Order No. 50001/2022), it has been emphasized that allowing provisional release does not interfere with holding goods liable for confiscation, as Section 110A would otherwise be otiose. In this case, the provisional release was granted post-seizure, but the SCN's proposals under Section 111 trigger Section 124, enabling confirmation of RF and penalties without final clearance or reliance on duty demand. I observed that provisional release does not limit confiscation under Section 111 and levy of redemption fine in lieu of confiscation. I also observed that Section 125 empowers redemption by fine for confiscated goods, even post-provisional release, as the fine is in lieu of confiscation, not physical possession.

27.8 In view of the above facts, I find that all five consignments imported by M/s. Alia International were mis-declared in respect of description, classification, quantity and value, with the clear intent to evade customs duty and anti-dumping duty. The pattern of conduct shows a deliberate attempt at misrepresentation in connivance with the overseas suppliers. I therefore hold that the subject goods, having total quantity of 333800 meters of PU-coated fabric, are liable to confiscation under the provisions of Se 111(f), 111(l) and 111(m) of the Customs

Act, 1962. Further, I also hold that the for the above mentioned acts, the differential quantity of 45363 Sq. Mtrs (already confiscated under totally qty) which found in excess and concealed as the measurement was not declared properly, are also liable for confiscation under section 119 of the Customs Act, 1962.

28. Redemption in lieu of Confiscation : As I already held these goods liable for confiscation in previous para under Section 111(f), 111(l) and 111(m) & 119 of the Customs Act, 1962, I find it necessary to consider as to whether redemption fine under Section 125 of Customs Act, 1962, is liable to be imposed in lieu of confiscation in respect of the impugned goods as alleged vide subject SCNs. The Section 125 ibid reads as under:-

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

(iii) A plain reading of the above provision shows that imposition of redemption fine is an option in lieu of confiscation. It provides for an opportunity to owner of confiscated goods for release of confiscated goods by paying redemption fine. I find that in the instant case option to redeem the goods through provisional release has already been availed by the Importer. Now the question remains that whether redemption fine can be imposed on the goods which already allowed for re-export. In this regard, I place reliance on the judgment of the Hon'ble Apex Court in the case of **M/s. WESTON COMPONENTS LTD. Versus COMMISSIONER OF CUSTOMS, NEW DELHI- 2000 (115) E.L.T. 278 (S.C.)** wherein the Apex Court held that:

"It is contended by the learned Counsel for the appellant that redemption fine could not be imposed because the goods were no longer in the custody of the respondent-authority. It is an admitted fact that the goods were released to the appellant on an application made by it and on the appellant executing a bond. Under these circumstances if subsequently it is found that the import was not valid or that there was any other irregularity which would entitle the customs authorities to confiscate the said goods, then the mere fact that the goods were released on the bond being executed, would not take away the power of the customs authorities to levy redemption fine."

I believe the ratio of the aforementioned judgment is directly applicable to the present case, as the goods in the current shipment were also allowed under

Bond and Bank Guarantee. Consequently, I find that a redemption fine is warranted in this matter and see no grounds to challenge its imposition.

29. Role and Culpability of Noticees:

29.1 Role and Culpability of Shri Farhad, Proprietor of M/s. Alia International, Delhi

- I find that M/s. Alia International through its proprietor Shri Farhad, imported five consignments of PU-coated fabric having a total quantity of **495835 sq. mtrs. (equivalent to 333800 meters)**. These goods attract anti-dumping duty in terms of Notification No. 14/2022-Customs (ADD) dated 20.05.2022. At the time of filing the Bills of Lading and Import General Manifests, however, the importer had mis-declared the goods as "*Mix Lot of Artificial Coated Fabric for Auto Seat Cover*" under HS Code 59031090 and "Fabrics" under HS Codes 59031090 and 60064200, covering a total declared quantity of 450472 sq. mtrs. Only after the consignments were put on hold by DRI, the importer altered the description in the Warehouse Bills of Entry to declare PU-coated fabrics along with a smaller portion as interlining fabrics. This shifting of description and classification after intervention by DRI reveals a deliberate afterthought designed to escape the scrutiny of the enforcement agency and to avoid payment of anti-dumping duty. The importer also mis-declared the actual quantity of the goods, which on examination was found to be higher than declared.
- I have already discussed and established that the importer had grossly mis-declared the value of the goods. At the warehousing stage, M/s. Alia International declared the goods at only Rs. 73,90,080/- (around USD 0.20 per meter). However, as discussed under foregoing paras, the contemporaneous rate of such goods found between USD 1.26 and USD 1.43 per meter. During his statement, Shri Kunal Kamra admitted that the total value of the consignments exceeded Rs. 3.5 crores. Even when the importer revised the value at the provisional release stage to Rs. 2,42,19,525/-, the same was still substantially lower than the actual assessable value of Rs. 3,80,93,837/-, as established during investigation. This deliberate undervaluation was part of a consistent modus operandi to evade anti-dumping duty and customs duty.
- On this basis, the correct duty liability on the five consignments of PU-coated fabric falling under HS Code 59032090 has been determined at **Rs. 2,83,51,786/-** (inclusive of BCD, SWS, ADD and IGST). Against this, the importer initially attempted to discharge only Rs. 2,22,60,889/-, resulting in a differential duty liability of **Rs. 60,90,897/-**. This differential liability directly flows from the deliberate mis-declaration of description, classification, quantity, and value.

- The importer has also argued that the comparative Bills of Entry relied upon by the department pertain to imports made in May 2022, whereas their consignments were imported in November 2022, and that there is a six-month time gap making the data incomparable. This plea is not acceptable. Rule 5 of the Customs Valuation Rules, 2007, permits reliance on contemporaneous imports of similar goods imported at or about the same time. The cited imports fall squarely within the relevant period and were from the same suppliers (M/s. Lishui Haihe International Enterprises Co. Ltd.). In fact, the importer's own WhatsApp communications with Ms. Lucy and Ms. Tracy confirmed that the negotiated prices in November 2022 were in the same range of USD 1.26 to USD 1.43 per meter as the contemporaneous Bills of Entry. Hence, the gap does not render the comparative values irrelevant. Noticee has not appreciated the fact that they have increased value of the consignment at the time of filing warehouse bill and DTA bills. Thus, Noticee's contention does not hold any merit.
- The defence submission that prices of PU-coated fabrics vary depending on color, texture, or whether the stock was outdated/obsolete is a speculative argument without documentary support. The importer has not produced any supplier correspondence, stock clearance invoices, or contemporaneous records showing that their consignments were of obsolete/outdated material or of inferior quality fetching a lower price. On the contrary, the test reports and seized communications clearly establish that the goods were fresh PU-coated fabrics comparable in thickness and quality to the goods imported by other Indian buyers from the same suppliers at much higher prices. The plea of "mix lot" or "old stock" is therefore an afterthought.
- The noticee has further contended that because roll counts tallied during examination, there was no excess quantity. However, I find that the discrepancy of excess quantity occurred not from roll counting but from actual measurement of fabric length and width. While the number of rolls tallied, the declared square meterage was significantly less than what was found on examination. This proves deliberate mis-match of quantity in the Bills of Entry.
- The importer has also argued that their provisional declaration of Rs. 55.98 per sq. mtr. (equivalent to USD 0.70 approx.) should be accepted and that Rule 5 could not be invoked. I find no force in this argument. The provisional declaration was still far below the contemporaneous values of USD 1.26 to 1.43 per meter and was filed only after detection by DRI. As discussed earlier, Rule 4 was inapplicable since the importer's own transaction documents were tainted by suppression. Rule 5 was correctly invoked by relying on contemporaneous Bills of Entry of similar goods from the same suppliers, corroborated by supplier communications recovered from the devices of Shri Kunal Kamra.

Hence, rejection of the declared values and determination of value under Rule 5 was both legal and justified.

- Shri Farhad admitted in his statement that all dealings with the Chinese suppliers were conducted by Shri Kunal Kamra on his behalf. Despite knowing this, he allowed Shri Kunal Kamra to handle the business and to interact with the suppliers on behalf of his firm. By permitting his IEC to be used for mis-declared imports and by failing to furnish true and correct particulars as required under Section 46 of the Customs Act, 1962, Shri Farhad actively facilitated the mis-declaration. It is evident that in connivance with Shri Kunal Kamra and their Chinese suppliers, he knowingly mis-declared the goods in respect of description, classification, quantity and value.
- By doing such acts and omissions which resulted in contravention of the provisions of Customs Act, 1962 and rules made there under and thus, he has made goods liable to confiscation under Section 111 of the Customs Act, 1962. In view of above, Shri Farhad through his firm (M/s. Alia International) has concerned himself liable to penalty under Section 112(a) of Customs Act 1962. Therefore, I find that the Importer is liable to penalty under **Section 112(a)(ii)** of Customs Act, 1962. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(b) of the Act where ever, penalty under Section 112(a) of Act, is imposed.
- I find that the penalty under Section 114A of the Customs Act is considered "pari materia" (essentially the same in legal effect) to Section 28(4) of the Customs Act, as both sections deal with situations where duty is short-levied or not paid due to collusion, willful misstatement, or suppression of facts, and impose a penalty related to the amount of unpaid duty or interest involved; essentially meaning that if a person is found liable under Section 28(4), they could also be subject to a penalty under Section 114A for the same actions. In the instant case clearance of the goods in the form out of charge of the goods has not been effected. Therefore, demand under Section 28 is premature at this stage and based on the same reasoning the question of demand of duty under section 28 does not arise. Accordingly, I refrain from imposing penalty under section 114A of Customs Act, 1962.
- As regards the penalty on M/s. Alia International under Section 114AA of the Customs Act, 1962 is concerned, Section 114AA mandates penal action for intentional usage of false and incorrect material against the offender. From the investigation and other material particulars, I find that M/s. Alia International provided import documents to the Customs Broker which did not contain correct and true particulars of the goods. Incorrect invoices and declarations were forwarded for filing of import, warehousing and clearance documents. The importer thus knowingly made, signed, used and/or caused to be made false

documents in respect of description, classification and value of the consignments, with clear mala fide intention. Therefore, M/s. Alia International is also liable to penalty under Section 114AA of the Customs Act, 1962.

➤ As regards the penalty under Section 117 proposed on M/s. Alia International, I find that Section 117 of the Customs Act, 1962 is a covering provision which lays down that for any other contravention of the Customs Act for which express penalty has not been provided elsewhere, the person liable can be charged for penalty under this section. In this regard, I find that penalty against M/s. Alia International already confirmed under the provisions of Section 112 and 114AA of the Customs Act, 1962, hence, penal action under section 117 does not appear to be warranted in the subject case against M/s. Alia International.

29.2 Role and Culpability Shri Kunal Kamra:

➤ From the investigation, it is evident that Shri Kunal Kamra was the **beneficial owner and mastermind** behind the imports made in the name of M/s. Alia International. Although the Importer Exporter Code (IEC) was in the name of Shri Farhad, proprietor of M/s. Alia International, the actual commercial decisions regarding sourcing, pricing, communication with overseas suppliers, and financial transactions were controlled and managed by Shri Kunal Kamra.

➤ I find that WhatsApp chats and call records, shows that Shri Kunal Kamra was in regular and direct contact with the Chinese suppliers, namely M/s. Zhejiang Sino Rich International and M/s. LishuiHaihe International Enterprises Co. Ltd., represented by Ms. Lucy and Ms. Tracy. In these communications, he negotiated quantities, specifications, and most importantly, the prices of PU-coated fabrics. The rates discussed and agreed upon in these conversations were in the range of USD 1.26 to USD 1.43 per meter, which matched the contemporaneous import prices of similar goods imported by other Indian importers from the same suppliers. This evidence clearly show the incorrect and false declaration of the declared value of USD 0.20 per meter adopted in the Bills of Entry filed in the name of M/s. Alia International.

➤ Further, data retrieved from the mobile phone of Shri Kunal Kamra confirmed that he travelled to China to meet suppliers, maintained close link with them, and arranged remittances for the import consignments. His role was therefore in central to the entire import operation. In his statement recorded under Section 108 of the Customs Act, 1962, Shri Kunal Kamra admitted that the value of the consignments was more than Rs. 3.5 crores, and accepted that the value declared at the time of warehousing was incorrect. He also admitted that he had negotiated directly with the suppliers and handled the commercial aspects of the imports. These admissions corroborate the documentary and digital evidence on record.

- Shri Kunal Kamra has argued that the mis-declarations were limited to the IGM and Bills of Lading, which were prepared by the shipping line and overseas suppliers, and not by him. This defence is inappropriate. The investigation has clearly shown that Shri Kunal Kamra was the person in constant communication with the Chinese suppliers, Ms. Lucy and Ms. Tracy, and personally negotiated the consignments. The WhatsApp chats, e-mail exchanges and his own admission in his statements under Section 108 confirm that he was aware of the true nature of the goods as PU-coated fabrics and the prices ranging between **USD 1.26 to USD 1.43 per meter**. In these circumstances, his claim that he had "no role" in the mis-declaration of description and classification is not tenable and without any merit submissions.
- The noticee has contended that the invoices issued by the Chinese exporters correctly reflected the description, HSN, thickness and width of the fabrics, and that his role was limited to arranging imports. This argument not acceptable in view of the fact that the declared unit price of USD 0.20 per meter was grossly suppressed and inconsistent with contemporaneous imports from the same suppliers. Shri Kunal Kamra admitted during investigation that the actual consignment value was over Rs. 3.5 crores. By relying on and using such invoices for filing Bills of Entry, he knowingly caused false documents to be presented before Customs.
- It is further argued that in the DTA Bills of Entry filed for provisional release, the importer accepted an enhanced value of Rs. 2,42,19,525/-, and paid duties assessed thereon, and therefore there was no intent to evade duty. This argument is not acceptable. The revised declaration was made only after DRI intervention, and even then the value declared remained below the actual value of Rs. 3,80,93,837/- determined on the basis of Rule 5 of the Customs Valuation Rules. Shri Kunal Kamra's own communications with suppliers corroborated the higher actual values. Acceptance of a partially enhanced value after detection does not mean that the value declared after detection is true transaction value.
- Shri Kunal Kamra has also attempted to shift responsibility by claiming that he did not prepare or sign the IGM or Bills of Lading, and therefore Section 114AA is not attracted. This defence is does not have any merits since the supplier cannot prepare documents by its own without the consent of buyer. Evidence shows that he was the person dealing directly with the suppliers, arranging remittances, and instructing them on shipment and documentation. By so doing, he caused false and incorrect import documents to be prepared and used before Customs. Section 114AA covers not only the person who signs a false document, but also anyone who knowingly makes, uses, or causes it to be used. Shri Kunal Kamra's role squarely falls within its ambit.

- I find that by organizing the undervaluation, Shri Kunal Kamra enabled the importer to evade not only the applicable basic customs duty and IGST, but also the anti-dumping duty levied on PU-coated fabrics under Notification No. 14/2022-Customs (ADD) dated 20.05.2022. His actions of deliberate undervaluation and mis-declaration directly resulted in evasion of applicable customs duty. It is also relevant to note that Shri Farhad admitted that Shri Kunal Kamra was running the business on his behalf and that all supplier communications and negotiations were handled by him. This admission, coupled with the evidence recovered during investigation, establishes that Shri Kunal Kamra was the actual decision-maker and beneficiary of the fraudulent imports. In view of the above, I hold that Shri Kunal Kamra played the pivotal role in planning and executing the mis-declaration of description, classification, quantity and value of the imported goods with mala fide intention to evade customs duty and anti-dumping duty. Accordingly, I confirm the charges proposed against him in the Show Cause Notice and render him liable to appropriate penal action under the provisions of the Customs Act, 1962.
- By his acts of commission and omission, Shri Kunal Kamra has rendered the subject goods liable to confiscation under Sections 111(f), 111(l), and 111(m) of the Customs Act, 1962. By doing such acts and omissions which resulted in contravention of the provisions of Customs Act, 1962 and rules made there under and thus, he has made goods liable to confiscation under Section 111 of the Customs Act, 1962. In view of above, Shri Kunal Kamra (beneficial owner of the goods) has concerned himself liable to penalty under Section 112(a) of Customs Act 1962. Therefore, I find that he is liable to penalty under **Section 112(a)(ii)** of Customs Act, 1962. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(b) of the Act where ever, penalty under Section 112(a) of Act, is imposed.
- I find that the penalty under Section 114A of the Customs Act is considered "pari materia" (essentially the same in legal effect) to Section 28(4) of the Customs Act, as both sections deal with situations where duty is short-levied or not paid due to collusion, willful misstatement, or suppression of facts, and impose a penalty related to the amount of unpaid duty or interest involved; essentially meaning that if a person is found liable under Section 28(4), they could also be subject to a penalty under Section 114A for the same actions. In the instant case clearance of the goods in the form out of charge of the goods has not been effected. Therefore, demand under Section 28 is premature at this stage and based on the same reasoning the question of demand of duty under section 28 does not arise. Accordingly, I refrain from imposing penalty under section 114A of Customs Act, 1962.

- As regards the penalty on Shri Kunal Kamra (beneficial owner of the goods) under Section 114AA of the Customs Act, 1962 is concerned, Section 114AA mandates penal action for intentional usage of false and incorrect material against the offender. From the investigation and other material particulars, I find that he is the beneficial owner who on behalf of the firm M/s. Alia International provided import documents to the Customs Broker which did not contain correct and true particulars of the goods. He had also used incorrect documents for filing of Bill of Entry for the present shipments with false declarations. He presented documents falsifying the true identity of the goods, before the Customs authorities for import of the goods with intent to escape from the stringent import conditions and from the payment of appropriate Customs duties. Thus, He had knowingly and intentionally made a declaration under the Bill of Entry filed under Section 46 of the Customs Act 1962, which is false and incorrect. Hence, He has committed offences of the nature as described under the Section 114AA of the Customs Act 1962. Investigation has revealed that Shri Kunal Kamra knowingly and intentionally made/signed/used and/or caused to be made/signed/used the import documents and other related documents which were false or incorrect in material particular such as description, value etc., with mala-fide intention, and therefore, it is beyond doubt that Shri Kunal Kamra is liable to penalty under Section **114AA** of the Customs Act, 1962.
- As regards the penalty under Section 117 proposed on Shri Kunal Kamra, I find that Section 117 of the Customs Act, 1962 is a covering provision which lays down that for any other contravention of the Customs Act for which express penalty has not been provided elsewhere, the person liable can be charged for penalty under this section. In this regard, I find that penalty against Shri Kunal Kamra already confirmed under the provisions of Section 112 and 114AA of the Customs Act, 1962, hence, penal action under section 117 does not appear to be warranted in the subject case against Shri Kunal Kamra.

29.2.1 Beneficial Owner/Importer of the imported goods:

From the statement and facts available before me, I observed that Shri Kunal Kamra is the associated and beneficiary owner of the goods. I find that there has been an amendment in Section 2(26) of the Customs Act, 1962 which defines "importer". After the said amendment not only the owner of the imported goods is importer but even a beneficial owner of such goods is also defined as importer. For the sake of further clarity, the the definition of "beneficial owner" and "importer" as per Section 2 (3A) and 2(26) of the Customs Act, 1962 are as below:

[(3A) "beneficial owner" means any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported;]

.....

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

On a perusal of the provision (supra) it can be seen that issuance of a show cause notice does not necessarily establish that the person in whose name it is issued, is necessarily the owner. The phrases 'penalty on any person' and 'the owner of goods or such person' suggests that before an order of confiscation is passed, an owner or any other person shall have to be given a notice of the proposed confiscation of goods. Therefore, the mere fact that a show cause notice has been issued in the name of IEC holder firm does not necessarily imply that the said IEC holder or firm is to be treated as an owner of the goods seized, which are sought to be confiscated.

If one reads the provisions of Section 125 of the Act, it would make things a bit clearer. The said Section envisages that when confiscation of any goods is authorized by the Act, the officer adjudging may give to the owner of the goods or where such owner is not known, the person from whose custody such goods have been seized, an option to pay in lieu of such goods, such fine as the said officer thinks fit. It thus goes to show that goods can be got released by a person other than an owner, in the circumstances as envisaged in Section 125 of the Act at a time when confiscation is authorised.

From the factual matrix of the case and role defined under foregoing paras, I find that the Shri Kunal Kamra was fully aware of the mis-declaration of the imported goods. Thus, Shri Kunal Kamra is the associated beneficial owner of imported goods.

29.3. Role and Culpability of the Customs Broker M/s. Lara Exim:

I find that M/s. Lara Exim filed the warehouse Bills of Entry as well as the DTA Bills of Entry. These documents contained evident mis-declarations regarding the description, classification, quantity and value of the goods. Despite such discrepancies, the Customs Broker did not seek clarifications or supporting documents from the importer and chose to process and file the declarations. The discrepancy between the description in the invoices and that in the Bills of Lading/IGM was apparent. By these acts, they facilitated the attempted clearance of the consignments at suppressed values and incorrect classification. I find that department treats documents filed by CHA with a certain degree of trust which completely violated in instant case. Filing of bill of entry with incorrect details is also a grave offence and it becomes graver when CHA did not make minimum efforts to verify genuineness of the same. Such acts of omission and commission have serious financial/security consequences. These act of failure at the end of

M/s. Lara Exim constitutes omission of due care and renders them liable under Section 112(b) of the Customs Act, 1962, for abetting acts which made the goods liable to confiscation. In view of the above, I hold that their omission in pointing out evident discrepancies and their casual handling of sensitive consignments attracts penalty under Section 112(b) of the Customs Act, 1962.

30. I noticed that M/s. Alia International, has submitted that the relevant document for assessment under the Customs Act is the Bill of Entry filed for home consumption or warehousing and that reliance on the Bill of Lading or Import General Manifest (IGM) for making any charge of misdeclaration or evasion is misplaced and legally unsustainable. They have argued that the Bill of Entry is a statutory document by which an importer declares the true description, quantity, and value of the imported goods and only thereafter duty is assessed and collected. The Bill of Lading is primarily a shipping document issued by the carrier or shipping line that acts as a receipt of goods and a contract of carriage from the shipper to consignee, and it does not have the same evidential value in determining assessable duty. They emphasize that since the Bill of Entry is filed later than IGM or Bill of Lading, the correct duty has to be assessed as per the declared details at the time of filing the Bill of Entry.

In response to this point, I state that while the Bill of Entry is the key document for customs assessment and clearance, it cannot be viewed in isolation and without considering the surrounding facts and earlier documents. The department's case supported by documentary evidence from the Bill of Lading, IGM, commercial invoices, packing lists, physical examination reports, and laboratory test results. When we see these things together, these clearly show discrepancies in declaration and mis-statement of description and quantity. Bill of Lading and IGM documents are important to establish the initial description and classification provided by the exporter and shipping line and reveal the intention of the importer. Moreover, physical examination and independent verification under panchnama confirm the actual nature and quantity of goods. I noticed that the Bill of Entry does not preclude the customs authorities from relying on other evidences, especially where the importer's declarations conflict with these records or physical facts. The law mandates that accurate and true information be furnished at all stages, including at the filing of Bills of Entry (Section 46 of Customs Act), but the correctness of these declarations must be verified through examination and corroborated evidence. Where the Bills of Entry are found to be manipulated or inconsistent with physical findings and trade documents, the Department is empowered to reassess duties and invoke penal provisions. I find that Section 46(2) of the Customs Act clearly mandate the importer to furnish a true and correct Bill of Entry which includes all goods mentioned in the Bill of Lading or other receipt. Hence, any discrepancy between

the Bill of Entry and the Bill of Lading or IGM is a ground for reassessment and penal proceedings. The department's reliance on Panchnamas, laboratory reports alongwith other relevant documents is fully justified in law. Hence, the contention that reliance on Bill of Lading or IGM is entirely misplaced does not hold any merit in the present case of mis-declaration. Therefore, the submission of the noticee on this point is not sustainable.

31. In view of above discussions and findings supra, I pass the following order:

ORDER

- i. I order to reject the declared description "Mix Lot of Artificial Coated Fabric for auto seat cover" (CTH 59031090) and "Fabrics" CTH 60064200", and order to re-classify the goods covered under these 05 shipments HS code 59032090 with correct description as "PU-coated Fabric". Since, the goods not found to be mentioned under import documents, I order to confiscate the goods under Section 111(f) of the Customs Act, 1962.
- ii. I order to reject the declared assessable value of Rs. 73,90,080/- of the imported goods under Warehouse Bills of Entry 1014708, 1014711, 1014710 & 1014709 all dated 17.10.2022 and 1014809 dated 18.10.2022 and order to confiscate the same under Section 111(m) of the Customs Act, 1962 as the same is found grossly mis-declared in respect of value thereof as per the provisions of Customs Act, 1962.
- iii. I order to confiscate the differential excess quantity **45363 Sq. Mtrs** of the PU-coated fabric under Section 111(f), 111(l), 111(m) and Section 119 of the Customs Act, 1962.
- iv. I order to reject the declared assessable value of Rs. **2,42,19,525/-** in the DTA Bills of Entry No. 2000266, 2000265, 2000259, 2000260, and 2000246 all dated 05.01.2023 and order to re-determine the same as **Rs. 3,80,93,837/-** under Rule 5 of Customs Valuation (Determination of value of imported goods) Rules, 2007.
- v. Since, the goods imported under these 5 shipments have already been released through provisional release, I impose a redemption fine of Rs. 42,00,000/- (Rupees Forty Two lakhs only) under the provisions of Section 125 of the Customs Act, 1962 in lieu of order of confiscation at point no (i), (ii) & (iii) above.
- vi. I do not order to demand the differential duty under Section 28(4) of the Customs Act, 1962 for the reasons as stated under para 26 above. However, I order to re-assess the Bills of Entry for the purpose of levy of duty.

- vii. I order to appropriate the amount of total Customs duty amounting to Rs. 2,22,60,889/- (BCD + SWS + Anti-dumping duty + IGST) paid by M/s. Alia International during investigation at the time of provisional release i.e. filing of DTA Bills of Entry No. 2000266, 2000265, 2000259, 2000260, and 2000246 all dated 05.01.2023 against the duty leviable on the goods at the time of re-assessment.
- viii. I order to enforce the Bond & Bank Guarantee furnished by M/s. Alia International at the time of provisional release of the goods. If the amount of dues (as confirmed above) are paid in full by the Noticee, the Bond & Bank Guarantee may be cancelled by the competent authority.
- ix. I impose a penalty of Rs. 6,00,000/- (Rupees Six lakhs only) upon the Importer M/s. Alia International and Rs. 6,00,000/- (Rupees Six Lakhs only) upon Shri Kunal Kamra under section 112(a)(ii) of the Customs Act, 1962. However, I don't impose penalty upon them under Section 112(b) of the Customs Act, 1962 as proposed in the Show Cause notice.
- x. I do not impose penalty on M/s. Alia International and Shri Kunal Kamra under Section 114A of the Customs Act, 1962.
- xi. I impose a penalty of Rs. 50,00,000/- (Rupees Fifty Lakhs only) upon the Importer M/s. Alia International and Rs. 50,00,000/- (Rupees Fifty Lakhs only) upon Shri Kunal Kamra under section 114AA of the Customs Act, 1962.
- xii. I do not impose penalty on M/s. Alia International and Shri Kunal Kamra under Section 117 of the Customs Act, 1962.
- xiii. I impose a penalty of Rs. 6,00,000/- (Rupees Six lakhs only) on M/s. Lara Exim under section 112(b)(ii) of the Customs Act, 1962. However, I don't impose penalty under Section 112(a) of the Customs Act, 1962.
- xiv. I don't impose penalty upon M/s. Lara Exim under Section 114AA of the Customs Act, 1962.

32. The 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 any other law for the time being in force.



(Nitin Saini)

Commissioner of Customs
Custom House, Mundra

List of Noticees:-

- 1- M/s. Alia International (IEC No. AVVPM6801D), H No.135, Gali No.2, Rajiv Gandhi Nagar New Mustafabad, North East Delhi, Delhi-110094 (email-khan.parvez2309@gmail.com, aliinternationl@gmail.com)
- 2- Shri Kunal Kamra, resident of 27, Ishwar Colony Nr. Kripal Bagh, Shani Mandi Road, Polo Road, Model Town, New Delhi 110009 (kunalkamra1992@gmail.com, aliinternationl@gmail.com).
- 3- M/s Lara Exim Pvt Ltd, Office No-220, Second Floor, Gokul Park building Gandhidham (lara.kandla@gmail.com)

Copy to:- for information and necessary action, if any.

1. The Chief Commissioner, Gujarat Customs Zone, Ahmedabad
2. The Additional Director, DRI, Gandhidham Regional Unit, Plot No.5866, Ward-5A, Near Vinayak Hospital, Adipur, Kutch-370 205, (Email:driganru@nic.in).
3. The Specified Officer, Mundra Special Economic Zone, Gandhidham.
4. The Deputy/ Assistant Commissioner of Customs, EDI section, Custom House, Mundra.
5. Notice Board.
6. Guard File.