

	OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOMS HOUSE, MP & SEZ MUNDRA, KUTCH-GUJARAT -370421 PHONE : 02838-271426/271428 FAX :02838-271425	
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A	File No.	CUS/APR/ASS/1494/2024-Gr 3-O/o Pr. Commr- Cus-Mundra
B	OIO No.	MCH/ADC/AK/112/2024-25
C	Date of Order	26.07.2024
D	Passed by	Arun Kumar Additional Commissioner, Import Assessment, Custom House, Mundra.
E	SCN/PH	SCN/PH waived on Importer Request
F	Noticee / Party / Importer	M/s. Maheshvara fabries. (IEC-AAOPJ5041L) Shop No 55, Bishnoi Market, Sirsa, Haryana- 125055
G	DIN	20240771MO000000D886

1. The Order - in - Original is granted to concern free of charge.

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

The Commissioner of Customs (Appeal), MUNDRA,
Office at 7th floor, Mridul Tower, Behind Times of India,
Ashram Road, Ahmedabad-380009

3. Appeal shall be filed within Sixty days from the date of Communication of this Order.

4. Appeal should be accompanied by a Fee of Rs. 5/- (Rupees Five Only) under Court Fees Act it must accompanied by (i) copy of the Appeal, (ii) this copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five Only) as prescribed under Schedule - I, Item 6 of the Court Fees Act, 1870.

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

6. While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respect.

7. An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty or Penalty are in dispute, where penalty alone is in dispute.

-: BRIEF FACT OF THE CASE :-

M/s. Maheshvara Fabries situated at Shop No 55, Bishnoi Market, Sirsa, Haryana-125055 holding IEC NO: AAOPJ5041L (hereinafter referred to as 'the Importer'), had filed a Bill of Entry No. 3362242 dated 06.05.2024 through their Customs Broker, M/s Anax Air Services Pvt. Ltd. at Mundra port for import of Polyester Knitted Long Pile Fabric (CTH-60011020).

2. An Intelligence was gathered by the officers of SIIB Section, Customs House, Mundra for possible mis-declaration in respect of quantity and nature, composition & description. Hence, the container bearing no. TCLU8767110 covered under Bill of lading no. NVDMT220238 dated 11.04.2024 (hereinafter referred to as 'the said BL') pertaining to the said BE respectively were put on hold for detail examination of the goods by the SIIB section, Custom House, Mundra in view of the said suspicion.

3. The details of declared goods under Bill of Entry No. 3362242 dated 06.05.2024 is as below:

Table-I

Sr No	B/E No.	Item Declared	CTH	Rate	Declared Assessable Value (Rs.)	Declared Duty (Rs.)	Declared Quantity (kg)
1	3362242 dated 06.05.2024	Polyester Knitted Long Pile Fabric	60011020	\$.9	17,24,770	2,85,450	24981

Based on the above suspicion, examination of said consignment was carried out by the officers of SIIB section in presence of representative of the CHA. On being asked, the representative of the CHA provided copies of the said BE and other import documents viz. BL, Invoice and Packing List. As per the said BE, the cargo is imported from M/s. Shaoxing Guanxi Textile Co. Ltd, China.

4. During the course of examination CFS weight of the cargo is found as 24800 kgs which is 181 kg short from the declared gross weight i.e. 24981 kgs. Further, during the course of examination total 837 PKGs were found stuffed into the said container, which is found tallied with the number of packages mentioned in the import documents. Each roll is marked with the label "Navkar".

As per weightment conducted at the warehouse the imported goods are found only 181 Kgs short from the declared weight. In view of the same, the first doubt in respect of excess quantity is dispelled. However, on visual examination, actual nature, composition and description of the goods could not be ascertained, therefore representative samples were drawn and forwarded to the CRCL, Kandla for testing purpose vide Test Memo No. 22 dated 24.05.2024 issued from F.No. S/15-37/Maheshvara/SIIB-B/CHM/2024-25. The Test Report received from CRCL Kandla as under:

4.1 TM No. 22 (report dated 03.06.2024): the sample as received is in the form of a cut piece of dyed (sky blue coloured) weft knitted fabric. It is composed of Polyester filament yarn alongwith small amount of Lycra.

GSM (as much)	= 279.10
Width (selvedge to selvedge)	= 152 cm
% Composition-	
Polyester	= 93.89%
Lycra	= Balance

In view of the Lab Report, the goods imported under Bills of Entry no. 3562341 dated 19.05.2024 appeared mis-declared in terms of classification and description of the goods. The aforementioned test report was subsequently also conveyed to the importer by this office on 13.06.2024.

5. Classification of Goods Imported:

The test reports received from the CRCL Kandla as discussed above have been examined with respect to the declaration made by the importer to determine the correct and proper CTH of the imported goods. It is pertinent to mention that principles for the classification of goods are governed by the harmonized Commodity Description and Coding System (Harmonized System or HSN) issued by the World Customs Organization, Brussels and the General Rules for Interpretation specified there under. The General Rules for the Interpretation (GIR) specified in the Import Tariff are in accordance with import Tariff the heading which provides the most specific description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods. Further, GIR 6 of the HSN and the import Tariff specifies that- the classification of goods in the subheadings of a heading shall be determined according to the terms of those sub-heading and any related sub-heading notes.

5.1 TM No. 22: The goods covered under Test Memo Number 22 were found mis-declared in terms of description of the goods as the goods were declared as "Polyester Knitted Long Pile Fabric", however, as per test report the goods are "other than Pile Fabric i.e. Polyester Knitted fabric containing by weight 5% or more elastomeric yarn". Therefore, the correct Classification of the goods is required to be ascertained. It is apparent that, as far as the entries at heading level are concerned, heading 60 of the Import Tariff specifically include "Other knitted or crocheted fabrics". As

elastomeric yarn by weight, accordingly impugned goods are appropriately classifiable under the heading 6004. The said Heading covers goods classifiable under the following sub-headings at the single dash (-) level:

- i. Containing of weight 5% or more of elastomeric yarn but not containing rubber thread;
- ii. Other;

5.1.1 The sub-headings (i) above has been ruled out as the test report is silent on rubber thread, therefore, the merit sub-heading of the imported goods appear to the under (ii), i.e. Other, therefore the imported goods appear to be classifiable under CTH 60049000. Hence, it is observed that importer mis-classified the subject goods under CTH-60011020 instead of correct CTH 60049000.

5.2 Rejection of declared value & Redetermination of Assessable Value: Rule 3 of the Customs Valuation (Determination of Price of Imported Goods) Rules, 2007 (hereinafter referred to as "the CVR, 2007") provides the method of valuation. Rule 3(1) of the CVRs, 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 CVR, 2007, is, to be accepted only where there are direct evidences with regard to the price actually paid or payable in respect of the imported goods by the importer. Whereas, in the present case, it appeared that, there is reasonable doubt regarding the truth and accuracy of the declared value, and hence is liable to be rejected in terms of Rule 12 of the CVR, 2007.

5.3 As per Test result, the impugned goods are "Polyester knitted fabric containing by weight 5% or more elastomeric yarn" classifiable under CTH 60049000. Hence, it is observed that importer has mis-classified the subject goods under CTH 60011020 instead of correct and proper CTH 60049000. Further, the contemporary data available on ICES, in respect of the identical goods falling under CTH 60049000 sold for export to India (from China) and imported at Mundra Port at or about the same period of time, rate is ranging from \$1 to \$1.2 Per KGs. Whereas, declared CNF value of the impugned goods is \$0.9. Hence, it appeared that, the assessable value of impugned goods declared by the importer is liable to be rejected in view of Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (hereinafter referred to as CVR, 2007) and is required to be taken from the contemporary data available on ICES for the identical goods in view of Rule 4 of the CVR, 2007. Sub-rule (3) of the said Rule-4 of CVR, 2007 states that, in applying these rules, 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. Accordingly, the assessable value of 24981 Kgs of impugned goods is required to be re-determined as Rs. 21,07,147/- (=24981x Rs. 84.35) instead of Rs. 17,24,770/- as declared in the BE.

5.3.1 In view of the above, facts and discussions, total duty of the consignment comes to Rs. 5,92,108/- instead of self-assessed duty of Rs. 2,85,450/- declared by the importer in the BE. The differential duty comes to Rs. 3,06,658/- as calculated under:

Sr No	Correct CTH as per test Results	Assessable value	BCD	SWS@10% of BCD	IGST	Re-calculated Duty	Declared Duty	Duty Difference
1	60049000	21,07,147/-	4,21,429/- (@20%)	42,143/-	1,28,536/- (@5%)	5,92,108/-	2,85,450/-	3,06,658/-

5.4 Accordingly, the consignment is found mis-declared in respect of nature and description which resulted into short-levy of duty amounting to Rs. 3,06,658/- as calculated at para supra. Hence, it appeared that, the consignment is liable for confiscation under Section and 111(m) of the Customs Act, 1962. Furthermore, for the said act of omission and commission, the importer appears liable for the penal action under the provisions of Section 112(a) (ii) of the Customs Act, 1962.

5.5 The importer vide letter dated 24.06.2024 has accepted the test result given by the lab and they are ready to pay differential duty along with applicable fine and penalty. The importer confirmed that they do not want personal hearing and show cause notice in the matter. Further, they also submitted not to file nay appeal against the differential duty paid.

6. With the introduction of self-assessment under Section 17(1) of Customs Act, 1962 the onus lies on the importer to correctly self-assess the bill of entry with correct amount of leviable duties. By the said act of not correctly self-assessing the applicable BCD, the importer received undue monetary benefit and caused loss to the public exchequer to the tune of Rs. 3,06,658/-. They not only failed to declare and assess the correct duty payable on the goods but also mis-declared the classification of the goods under CTH 60011020 instead of the correct CTH of 60049000, with an intention to evade payment of correct duty on the goods imported. Thus, there is a reason to believe that the importer deliberately and wilfully misstated the facts in terms of applicability of duty, causing loss to Govt. Revenue.

7. RELEVANT LEGAL PROVISIONS:

(A) RELEVANT PROVISIONS OF CUSTOMS ACT, 1962:

Section 2(22): "goods" includes (a) vessels, aircrafts and vehicles; (b) stores; (c) baggage; (d) currency and negotiable instruments; and (e) any other kind of movable property;

Section 2(23): "import", with its grammatical variations and cognate expressions, means bringing into India from a place outside India;

Section 2(25): "imported goods", means any goods brought into India from a place outside India but does not include goods which have been cleared

for home consumption;

Section 2(26): "importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes [any owner, beneficial owner] or any person holding himself out to be the importer;

Section 2(39): "smuggling", in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113.

Section 11A: "illegal import" means the import of any goods in contravention of the provisions of this Act or any other law for the time being in force.

Section 14. Valuation of goods. - (1) For the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, the value of the imported goods and export goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, or as the case may be, for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf:

Section 46. Entry of goods on importation:

.....

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

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

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

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

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

transshipment referred to in the proviso to sub-section (1) of section 54;

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

Any person,-

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

(b),

shall be liable,-

i.

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

(B) Relevant Provisions of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007:

Rule 12. Rejection of declared value - (1) *When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, he may ask the importer of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such importer, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such imported goods cannot be determined under the provisions of sub-rule (1) of rule 3.*

8. Summary of Investigations Conducted:

8.1 The importer M/s Maheshvara Fabries (IEC-AAOPJ5041L), had filed Bill of Entry No. 3362242 dated 06.05.2024 at Mundra port(INMUN1) through their Custom House Agent M/s Anax Air Services Pvt Ltd., for import of 'Polyester Knitted Long Pile Fabric' (CTH 60011020). Whereas, on the basis of the examination report, test reports and investigation carried out in this regard, the impugned goods are found mis-declared in respect of in respect of nature, composition and description. The impugned goods are found to be 'Polyester knitted fabric containing by weight 5% or more elastomeric yarn', therefore the impugned goods are required to be classified under CTH 60049000 instead of CTH 60011020 as declared in the said BE. The CTH attract Basic Customs duty @20% ad-valorem, as the same is higher than that calculated @10% ad-valorem. These facts have also been admitted by the importer in their letter dated 24.06.2024.

8.2 Accordingly, it is found that, the importer has failed to declare true and correct description and proper CTH of the impugned goods. Thus, by

the act of omission and commission at the level of importer, it appears that, the importer has contravened the provisions of Section 46 and Section 17 of the Customs Act, 1962, in as much as, they failed to make correct and true declaration and information to the Customs Officer in the form of Bill of Entry and also failed to assess their duty liability correctly. The relevant portion of said provisions is as under:

Section 17. Assessment of duty. -

(1) An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.

(4) Where it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.

Section 46. Entry of goods on importation. -

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

9. In view of the above, it appeared that: -

- i. The classification of the goods imported vide Bill of Entry no. 3362242 dated 06.05.2024 i.e. 60011020 declared by the importer is liable to be rejected and the goods are liable to be re-classified under CTH 60049000.
- ii. The assessable value of Rs.17,24,770/- of the imported goods declared by the importer in the Bill of Entry No. 3362242 dated 06.05.2024 is liable to be rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.
- iii. The assessable value of the consignment is liable to be re-determined as Rs. 21,07,147/- under Rule 4 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with Section 14 of the Customs Act, 1962 on the basis of contemporary import data available on ICES for the identical goods.
- iv. Total applicable customs duty on re-assessed value of comes to Rs.5,92,108/- (Rupees Five Lakh Ninty Two Thousand One Hundred and Eight only) instead of Rs.2,85,450/- as declared in the BE which resulted into short levy of customs duty amounting to Rs.3,06,658/-
- v. The Bill of Entry no. 3362242 dated 06.05.2024 are liable to be re-assessed accordingly under Section 17(4) of the Customs Act, 1962.
- vi. The goods have been imported vide Bill of Entry no. 3362242 dated

06.05.2024 by way of mis-declaration in contravention of Sec 46 of the Customs Act, 1962 and are therefore liable for confiscation under Section 111(m) of the Customs Act, 1962.

- vii. The importer M/s Maheshvara Fabrics situated at Shop No 55, Bishnoi Market, Sirsa, Haryana-125055 having IEC No. AAOPJ5041L are liable for Penalty under Section 112(a)(ii) of the Customs Act, 1962.

10. WAIVER OF NOTICE AND PERSONAL HEARING

The importer has requested that they do not want any Show Cause Notice or Personal Hearing in the matter and necessary adjudication proceeding/action may be initiated in respect of the said Bill of Entry as per the Customs Act, 1962.

DISCUSSION & FINDING

11. I have carefully gone through the Investigation report dated 15.07.2024 issued by the Deputy Commissioner of Customs (SIIB), Mundra and I find that importer M/s. Maheshvara Fabrics vide their letter has requested for waiver of the show cause notice and personal hearing in the matter. Therefore I find that the principle of natural justice as provided in section 122A of the Customs Act, 1962 has been completed. Hence I proceed to decide the case on the basis of the documentary evidence available on records.

12. Ongoing through the facts of the case, I find that the main issue that needs to be decided is the classification of the goods imported vide BE No. 3362242 dated 06.05.2024. The Importer has declared the goods under CTH 60011020 imported under said BE and it is proposed in the Investigation Report that the goods covered under said BE are liable to be re-classified under CTH 60049000. Further, it needs to be decided whether proposal for confiscation of the goods under section 125 of the Customs Act, 1962 and consequent penalty on the importer under section 112 a (ii) of the Customs Act, 1962 is proper or otherwise.

13. I find that the Importer M/s Maheshvara Fabrics holding IEC No. AAOPJ5041L had filed a Bill of Entry No. 3362242 dated 06.05.2024 through their Customs Broker M/s Anax Air Services Pvt. Ltd for import of Polyester Knitted Long Pile Fabric (CTH-60011020).

14. Based on Intelligence gathered by the officers of SIIB Section, Customs House, Mundra for possible mis-declaration in respect of quantity and nature, composition & description, the container bearing no. TCLU8767110 covered under Bill of lading no. NVDMT220238 dated 11.04.2024 pertaining to the said BE were put on hold for detail examination of the goods by the SIIB section, Custom House, Mundra for detail examination and further investigation purpose.

SS/14997/2024

15. During the course of examination CFS weight of the cargo is found as 24800 kgs which is 181 kg short from the declared gross weight i.e. 24981 kgs. Further, during the course of examination total 837 PKGs of were found stuffed into the said container, which is found tallied with the number of packages mentioned in the import documents. Each roll is marked with the label "Navkar".

In view of the same, the first doubt in respect of excess quantity is dispelled. However, on visual examination, actual nature, composition and description of the goods could not be ascertained, therefore representative samples were drawn and forwarded to the CRCL, Kandla for testing purpose vide Test Memo No. 22 dated 24.05.2024 issued from F.No. S/15-37/Maheshvara/SIIB-B/CHM/2024-25. The Test Report received from CRCL Kandla as under:

15.1 TM No. 22 (report dated 03.06.2024): the sample as received is in the form of a cut piece of dyed (sky blue coloured) weft knitted fabric. It is composed of Polyester filament yarn alongwith small amount of Lycra.

GSM (as much)	= 279.10
Width (selvedge to selvedge)	= 152 cm
% Composition-	
Polyester	= 93.89%
Lycra	= Balance

In view of the Lab Report, the goods imported under Bills of Entry no. 3562341 dated 19.05.2024 appeared mis-declared in terms of classification and description of the goods. The aforementioned test report was subsequently also conveyed to the importer by this office on 13.06.2024.

16. As per TM No. 22 (report dated 03.06.2024), goods found in the import consignment is actually classifiable under CTH 60049000 wherein the applicable rate of duty is 20%. Hence, it cannot be classified under CTH 6011090 which attracts duty structure 10% (BCD). Hence, it is observed that importer mis-classified the subject goods under CTH 60011090 instead of correct CTH 60049000 with an intention to evade payment of the applicable BCD. Consequently, the subject goods were liable to be assessed at the rate of 20%. Thus, the non-payment of applicable duty has resulted in short levy of duties which needs to be recovered from the importer along with the applicable interest and penalty.

17. Rejection and Redetermination of Valuation:

17.1 As goods imported vide B/E no. 3362242 dated 06.05.2024 were

found to be mis-declared in terms of description and value, hence they were liable to be re-assessed under section 17(4) of the Customs Act, 1962. Since mis-declaration of goods, in parameters such as description, which have relevance to value, was noticed, the declared value of the goods is liable to be rejected in view of Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (hereinafter referred to as CVR,2007) and is required to be taken from the contemporary data available on ICES for the identical goods in view of Rule 4 of the CVR, 2007. Sub-rule (3) of the said Rule-4 of CVR,2007 states that, in applying these rules, 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. Accordingly, the assessable value of 24981 Kgs of impugned goods is required to be re-determined as Rs. 21,07,147/- (=24981x Rs. 84.35) instead of Rs. 17,24,770/- as declared in the BE.

The CIF value of Bill of Entry No. 3362242 dated 06.05.2024 is worked out to be as below:

Table-II

Sr. no.	Bill of Entry and date	Description of the Goods	Quantity	Rate	CIF value (in Rs.)
1.	3362242 dated 06.05.2024	Polyester Knitted Long Pile Fabric	24981kg	Rs. \$1/kg	21,07,147/-
		Total			21,07,147/-

In view of the above the re-determined value of the impugned goods covered under BE no. 3362242 dated 06.05.2024 calculated to be Rs. 21,07,147/-.

With the introduction of self-assessment under Section 17(1) of Customs Act, 1962 the onus lies on the importer to correctly self-assess the bill of entry with correct amount of leviable duties. By the said act of not correctly self-assessing the applicable BCD, the importer received undue monetary benefit and caused loss to the public exchequer to the tune of Rs. 3,06,658/-. They not only failed to declare and assess the correct duty payable on the goods but also mis-declared the classification of the goods under CTH 60011020 instead of the correct CTH of 60049000, with an intention to evade payment of correct duty on the goods imported. Thus, there is a reason to believe that the importer deliberately and wilfully misstated the facts in terms of applicability of duty, causing loss to Govt. Revenue.

18. I find that the importer while filing the impugned Bill of Entry has subscribed to a declaration regarding correctness of the contents of Bill of Entry under Section 46(4) of the Act, *ibid*. Further, Section 46 (4A) of the Act, casts an obligation on the importer to ensure accuracy of the

declaration and authenticity of the documents supporting such declaration. In the instant case, the importer failed to discharge the statutory obligation cast upon him and made wrong declaration about the description & CTH of imported goods.

19. In view of the above, I find that the importer has mis-declared in terms of classification therefore the imported goods liable for confiscation under Section 111(m) of the Customs Act, 1962 and importer is liable for penal action under Section 112(a)(ii) of the Customs Act, 1962. Section 125 of the Customs Act, 1962 provide that whenever confiscation of any goods is authorized by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation where is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods an option to pay in lieu of confiscation such fine as the said officer thinks fit. I find that said provision makes it mandatory to grant an option to owner of the confiscated goods to pay fine in lieu of confiscation in case the goods are not prohibited. I find it appropriate to allow for redeem under section 125 of the Customs Act, 1962.

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

ORDER

- i. I reject declared CTH 60011020 of the item imported vide BE No. 3362242 dated 06.05.2024 and order to re-classify and re-assess the same under CTH 60049000 as detailed in para above.
- ii. I reject the declared value of Rs. 17,24,770/- of the goods covered under BE No. 3362242 dated 06.05.2024 under rule 12 of Customs valuation (Determination of value of imported goods) Rules, 2007 and order to re-determine the same as Rs. 21,07,147/- as detailed in Table-II above under Rule 4 of the Customs Valuation (Determination of value of Imported Goods) Rule, 2007 read with Section 14 of Customs Act, 1962 and reassess accordingly.
- iii. I order to confiscate the said goods having re-determined value of Rs. 21,07,147/- (Twenty One Lakhs Seven Thousand One Hundred Forty Seven Only) under Section 111(m) of the Customs Act, 1962. However, considering facts of the case and provisions of the Section 125 of the Customs Act, 1962, I give an option to the importer to redeem the same on payment of Redemption Fine of Rs. 2,25,000/- (Rs. Two lakhs Twenty Five Thousand Only) in lieu of confiscation.
- iv. I impose the penalty of Rs. 15,000/- (Rs. Fifteen Thousand Only) on the importer M/s Maheshvara Fabries under Section 112 (a) (ii) of Customs Act, 1962.

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

other law for the time being in force in the Republic of India.

Signed by

Arunkumar

Date: 26-07-2024 18:06:20

ADC/JC-II-O/o Pr Commissioner-

Customs-Mundra

To

M/s Maheshvara Fabries
Shop No 55, Bishnoi Market,
Sirsa, Haryana, 125055

Copy to:

1. The Dy. Commissioner of Customs, SIIB, CH, Mundra.
2. The Assistant Commissioner of Customs, RRA, CH, Mundra.
3. The Assistant Commissioner of Customs, TRC, CH, Mundra
4. The Assistant Commissioner of Customs, EDI, Mundra.
5. Office Copy