

	<p>प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, एमपी और एसईजेड, मुंद्रा, कच्छ-गुजरात -370421 OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOMS HOUSE, MP & SEZ MUNDRA, KUTCH-GUJARAT PHONE : 02838-271426/271428 FAX :02838-271425 Mail: group3-mundra@gov.in</p>	
---	--	---

A	फा. सं./ FILE NO.	F. No. CUS/APR/INV/531/2025-Gr 3
B	मूल आदेश संख्या/ ORDER-IN-ORIGINAL NO.	MCH/ADC/ZDC/245/2025-26
C	द्वारा पारित किया गया / PASSED BY	Dipak Zala Addl. Commissioner of Customs Mundra Customs House
D	आदेश की तिथि DATE OF ORDER	11.09.2025
E	जारी करने की तिथि DATE OF ISSUE	11.09.2025
F	कारण बताओ नोटिस संख्या & तिथि SCN NUMBER & DATE	SCN and PH Waiver sought vide letter dated 06.09.2025
G	आयातक / नोटिस प्राप्तकर्ता ImPORTER / NOTICEE	M/s Om Sai Impex (IEC ARDPT8030D) 64/A Udhav Nagar, Sorabji Compound, Old Wadaj, Ahmedabad, Gujarat -380013
H	डिन संख्या / DIN NUMBER	20250971MO00002732C6

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

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

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

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

“सीमाशुल्क आयुक्त (अपील),

चौथी मंजिल, हुडको बिल्डिंग, ईश्वरभुवन रोड,

नवरंगपुरा, अहमदाबाद 380 009”

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

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

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

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

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

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

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

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

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

6. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और सीमाशुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए।

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

7. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (A) के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।

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

BRIEF FACTS OF THE CASE

1. A specific intelligence was received to the effect of possibility of mis declaration and concealment against the import consignment covered under Z Type B/E No. 2098227 dated 16.05.2025 filed at APSEZ (INAJM6). As per Bill of lading No. KMTCCNB08755621 dated 24.04.2025, the consignee is M/s Shoolin Trade Link LLP and notify party is M/s Om Sai Impex.

2. M/s Om Sai Impex (IEC ARDPT8030D), (hereinafter referred to as ‘the importer’ for the sake of brevity) having address at 64/A Udhav Nagar, Sorabji Compound, Old Wadaj, Ahmedabad, Gujarat -380013 filed warehouse (Z Type) Bill of Entry No. 2098227 dated 16.05.2025 for import of various items under various CTH. The Country of origin of the goods is CHINA. The details of the B/E are as follows: -

Table-I

B/E No. & date	Bill of Lading No. & Date Container No.	Declared Goods	Declared HSN Code	Declared Quantity in Dozen	Declared Assessable Value per Dozen (in USD)	Total Declared Assessable Value (in Rs.)	Total Declared Duty (in Rs.)
2098227 dated 16.05.2025	KMTCCNB08755621 dated 24.04.2025 GCXU5886321	1. Girls Legging	61152990	300	1.4	36696	10312
		2. Girls Pajama	62082990	1680	1.6	234856	65995
		3. Girls Plazo	61083210	1420	1.5	186102	52295
		4. Towel	63049260	210	.78	14312	2369
		5. Children Clothes	61113000	40	2.8	9786	2750
		6. Lady Hand Bag	42022290	25	3.9	8519	3192
		7. Writing Board (Stationery Item)	96100000	1066	1.3	121080	37511
		8. Campas Box (Stationery Item)	39261019	292	1.9	48474	18163
		9. Marker Pen (Stationery Item)	96081019	510	.38	16933	5246
		10. Racket Badminton (Sports Item)	95065910	187	2.66	43461	15924
		11. Money Bank	39269099	200	.89	15552	5827
		12. Dark Board (Sport Item)	95069990	600	1.10	57666	21129
						Rs.	Rs.
							2,40,711/-

						7,93,436/-	
--	--	--	--	--	--	------------	--

3. On the basis of NCTC alert, goods covered under Z Type B/E No. 2098227 dated 16.05.2025 was put on hold for SIIB examination purpose. The examination of the goods was carried out at Transworld Terminal Pvt. Ltd. (Unit 2) CFS (TG CFS) on 04.06.2025 in the presence of Shri Pranjal Singh, Importer authorised representative and Shri C Prasanth, Assistant Manager, Operation of M/s TG CFS. The seal placed on the container was checked/verified and found intact and tally with the number mentioned in the Bill of lading.

4. Further, before beginning the examination, the weighment slip of the containers generated at CFS weighbridge are cross checked. The weight mentioned on the slips as well as Bills of Lading are as under: -

Table-II

Sr. No.	Bill of Entry & Date	Container No.	B/L Weight (Kgs.)	CFS Weight (Kgs.)	Difference
1	2098227 dated 16.05.2025	GCXU5886321	21640	21780	140 Kgs. Excess

5. Further, Gate of container was opened for the examination of the goods. Upon opening the gate, it was found that goods were packed in green and white colour PP bags and corrugated bags. Thereafter, entire cargo was de-stuffed in the warehouse from the container for the examination with the help of labour. Further, it was revealed each corrugated boxes and PP bags were marked with some identification no. and the Importer representative and CFS representative was asked to segregated the goods as per marking. After that the goods were segregated as per marking with the help of labour. The details of goods found during examination are as under :-

Table-III

Sr. No.	Goods Found During Examination	No. of CTN/Bag declared in B/E, invoice and Packing List	No. of CTN/Bags found during the examination	Quantity	
				Declared Qty. in invoice and PL (in Doz)	Quantity found during the examination (in Doz)
1	Girls Legging	20	20	300	300
2	Girls Pajama	100	100	1680	1750

3	Girls Plazo	90	90	1420	1570
4	Towel	14	9	210	108
5	Hand Towel	0	6	0	566.6
6	Children Clothes	4	4	40	40
7	Lady Hand Bag	6	4	25	16.6
8	Writing Board (Stationery Item)	128	128	1066	1370
9	Campas Box (Stationery Item)	16	16	292	240
10	Marker Pen (Stationery Item)	38	38	510	575
11	Racket Badminton (Sports Item)	45	45	187	187
12	Money Bank	25	30	200	270
13	Dark Board found as Magnetic Dart Board	30	26	600	80

6. During Examination, in place of towel mentioned at Sr. No. 04, along with towel, hand towels were also found. Further, quantity of item mentioned at Sr. No. 2, 3,7,9 and 11 were found in excess of declared quantity and item mentioned at Sr. No. 6, 8 and 12 were found short from declared quantity. Further, item mentioned at Sr. No. 12 was found as Magnetic Dart board instead of dark board.

7. Ministry of Commerce and Industry (Department of Promotion of Industry and Internal Trade) vide S.O. 853(E) issued Quality Control Order called as “Toys (Quality Control) Order, 2020 and covered 02 Indian Standard i.e. IS 9873 (Part 1):2017, IS 9873 (Part 2,3,4,7 & 9) : 2018 [Safety of Toys] and IS 15644 : 2006 (Safety of Electric Toys), for compulsory use of Standard mark under a licence from the Bureau as per Scheme-1 of Schedule-II of the Bureau of Indian Standards (Conformity Assessment) Regulations, 2018.

8. As per product manual issued for safety of toys as per IS 9873 (Part 1,2,3,4,7 & 9) and IS 15644, Goods mentioned at Sr. No. 7 (Writing Board), Sr. No. 9 (Marker Pen), Sr. No. 12 (Magnetic Dart Board) fall under, Sr. No. 6 of Category A- 32 sub categories - Toys for sensorimotor activities- First Age (Appendix I), Sr. No. 123 of Category F- 21 Sub Categories- Toys for creative activities (Appendix I), Sr. No. 44 of Category B – 23 sub Categories – Toys for physical activities, respectively, which are duly covered under IS 9873 (Part 2,3,4,7 & 9) :2018.

However, importer did not produce any BIS issued for import of impugned goods mentioned at Sr. No. 7, 9 and 12.

9. Further, to accurately determine the tax liability, both declared and mis declared items must be classified under the appropriate Customs Tariff Heading (CTH). All Goods were found to be rightly classifiable under declared CTH except item no. 9. Further, hand towel was also found undeclared. The same needs to be classified under appropriate CTH.

9.1 Since, Goods found as hand towel were found undeclared in B/E No. 2098227 dated 16.05.2025 and prima facie, appears to rightly classifiable under CTH 63049260 which reads as under -

6304		Other furnishing articles, excluding those of heading 94.04
	-	Bedspreads:
	-	others:
630491	--	Knitted or crocheted:
630492	--	Not knitted or crocheted, of cotton
	---	Counterpanes
	---	Napkins
	---	Pillow case and pillow slips
	---	Table Cloth and Table covers
63049250	---	Terry Towel
63049260	---	Towel, other than terry towel

Since, goods found at the time of examination is other than terry towel, hence, it appears that hand towel other than terry towel merit classification under CTH 63049260 wherein applicable rate of duties is @ 10% (BCD) + 1% (SWS) + 12% (IGST).

9.2 Further, Goods as Maker Pen (Stationery Item) were classified under CTH 96081019, however, prima facie, the same appears to classifiable under CTH 9608 which reads as under :-

9608		Ball Point Pens; Felt Tipped and other porous tipped pens and markers; Fountain pens, stylograph pens and other pens; Duplicating styles; Propelling or sliding pencils; pen – holders, pencil-holders and similar holders; Parts (including Caps and clips) of the foregoing articles, other than those of heading 96.09
960810	-	Ball point pens
96082000	-	Felt tipped and other porous tipped pens and markers

Since, on examination, goods were found as felt tipped marker pen, which prima facie, merit classifiable under 96082000 wherein applicable rate of duties is @ 30.980% (10% BCD+ 1% SWS + 18% IGST).

10. Since, During Examination, goods were found mis declared in terms of description, CTH and quantity etc., hence, the value declared by the importer in the Bill of Entry No. and invoices did not appear to be the true transaction value as importer has not declared complete goods imported vide B/E No. 2098227 dated 16.05.2025, hence, value declared by importer does not appear to be 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. The value is required to be re-determined by sequentially proceeding in terms of Rules 4 to 9 of CVR, 2007. The relevant Rules of CVR, 2007 are reproduced hereunder: -

11. Rejection of transaction value of the imported goods and determination of the value of the import goods

Since, the value of goods declared by the importer in the Bill of Entry did not appear to be the true transaction value under the provisions of Section 14 of the Customs Act, 1962 read with the rule 3 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. The value is required to be re-determined by sequentially proceeding in terms of Rules 4 to 9 of CVR, 2007. The relevant Rules of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 are reproduced here under :-

Rule 3. Determination of the method of valuation-

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

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

Provided that -

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

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

or

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

(i) do not substantially affect the value of the goods;

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

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

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

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

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

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

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

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

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

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

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

Rule 4. Transaction value of identical goods. -

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

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

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

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

and accuracy of the adjustments, whether such adjustment leads to an increase or decrease in the value.

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

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

Rule 5 (Transaction value of similar goods): -

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

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

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

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

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

(1) Subject to the provisions of rule 3, if the goods being valued or identical or similar imported goods are sold in India, in the condition as imported at or about the time at which the declaration for determination of value is presented, the value of imported goods shall be based on the unit price at which the imported goods or identical or similar imported goods are sold in the greatest aggregate quantity to persons who are not related to the sellers in India, subject to the following deductions : -

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

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

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

(2) If neither the imported goods nor identical nor similar imported goods are sold at or about the same time of importation of the goods being valued, the value of imported goods shall, subject otherwise to the provisions of sub-rule (1), be based on the unit price at which the imported goods or identical or similar imported

goods are sold in India, at the earliest date after importation but before the expiry of ninety days after such importation.

(3) (a) If neither the imported goods nor identical nor similar imported goods are sold in India in the condition as imported, then, the value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons who are not related to the seller in India.

(b) In such determination, due allowance shall be made for the value added by processing and the deductions provided for in items (i) to (iii) of sub-rule (1).

Rule 8 of the CVR, 2007, stipulates that: -

Subject to the provisions of rule 3, the value of imported goods shall be based on a computed value, which shall consist of the sum of: -

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

(b) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to India;

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

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

(1) Subject to the provisions of rule 3, where the value of imported goods cannot be determined under the provisions of any of the preceding rules, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules and on the basis of data available in India;

Provided that the value so determined shall not exceed the price at which such or like goods are ordinarily sold or offered for sale for delivery at the time and place of importation in the course of international trade, when the seller or buyer has no interest in the business of other and price is the sole consideration for the sale or offer for sale.

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

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

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

(iii) the price of the goods on the domestic market of the country of exportation; (iv) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of rule 8;

(v) the price of the goods for the export to a country other than India;

(vi) minimum customs values; or

(vii) arbitrary or fictitious values.

12. As mentioned above, the declared assessable value of the goods Rs. 7,93,436/- of Bill of Entry No. 2098227 dated 16.05.2025 cannot be considered as

assessable value of the goods and hence the same is liable to be rejected under Rule 12 of Customs Valuation Rules 2007 as goods were found concealed during examination. In absence of credible data of import of similar/identical goods due to quality, quantity of goods and other constraints, the value of these goods cannot be determined in terms of Rule 4,5,6,7,8 of Customs Valuation Rules 2007. Hence the value is to be determined in terms of Rule 9 of said rules.

13. Therefore, opinion of the empanelled Chartered Engineer was sought for determination of the value of the imported goods. The Chartered Engineer vide his Report No. ABJ: INSP: CE: SIIB:OMSAI:MX:25-26:07 dated 08.08.2025 has suggested the value of the imported goods as Rs. 20,18,835/- instead of declared assessable value of Rs. 7,93,436/- as detailed below: -

Table-IV

(Exchange Rate: - 1 USD = Rs. 86.4)

Sr. No.	Declared Goods	Quantity Found During examination	Per Unit Suggestive Average C & F value by C.E. - Bulk Quantity- in USD (Approx.)	Total Suggestive Average C&F Value by C.E.- Bulk Quantity - in USD (Approx.)	Total Suggestive Average C & F Value by C.E. in Rs.
1	Girls Legging	300	2.8	840	72576
2	Girls Pajama	1750	3.5	6125	529200
3	Girls Plazo	1570	3.5	5495	474768
4	Towel	108	2.8	302.4	26127.36
5	Hand Towel	566.6	1.4	793.24	68535.936
6	Children Clothes	40	6.25	250	21600
7	Lady Hand Bag	16.6	35	581	50198.4
8	Writing Board (Stationery	1370	1.4	1918	165715.2

	Item)				
9	Campas Box (Stationery Item)	240	2.8	672	58060.8
10	Marker Pen (Stationery Item)	575	5	2875	248400
11	Racket Badminton (Sports Item)	187	7.5	1402.5	121176
12	Money Bank	270	5.6	1512	130636.8
13	Dark Board found as Dart Board	80	7.5	600	51840
Total =				23366.14	2018834

14. As CE gave C& F value, insurance @ 1.125% has been added upon C& F value to acquire CIF value. Upon adding insurance in C & F value, total CIF value comes to Rs. 22,71,118/-. Further, the total duty leviabale on goods imported vide B/E No. 2098227 dated 16.05.2025 has been re calculated which is as under: -

Table-V

Sr. No .	Declared Goods	Total Suggestiv e Average C & F Value by C.E. in Rs.	Total Suggestiv e Average CIF value	BC D Rat e	BCD Duty	SWS	IGS T Rat e	IGST DUTY	Total Duty
1	Girls Legging	72576	81648	20	16330	1633	5	4527	22489
2	Girls Pajama	529200	595350	20	119070	11907	5	33009	163986
3	Girls Plazo	474768	534114	20	106823	10682	5	29614	147119
4	Towel	26127	29392.875	10	5879	588	5	1630	8096
5	Hand Towel	68536	77103	10	15421	1542	5	4275	21238
6	Children Clothes	21600	24300	20	4860	486	5	1347	6693

7	Lady Hand Bag	50198	56472.75	15	11295	1129	18	11272	23696
8	Writing Board (Stationery Item)	165715	186429.37 ₅	10	37286	3729	18	37211	78226
9	Campas Box (Stationery Item)	58061	65318.625	15	13064	1306	18	13038	27408
10	Marker Pen (Stationery Item)	248400	279450	10	55890	5589	18	55778	11725 ₇
11	Racket Badminton (Sports Item)	121176	136323	20	27265	2726	12	19958	49949
12	Money Bank	130637	146967	15	29393	2939	18	32274	64607
13	Dark Board found as Dart Board	51840	58320	20	11664	1166	12	8538	21368
Total =		2018834	2271188	205	454238	4542 ₄		25247 ₀	75213 ₁

15. Further, statement of Shri Aditya Singh, authorised representative of M/s was recorded on 15.07.2025 wherein he interalia stated that: -

- M/s Om Sai Impex is a Trading firm. They import goods and sell them in market on marginal profit basis.
- He further agreed that goods mentioned at Sr. No. 7, 9 and 12 of impugned B/E No. 2098227 dated 16.05.2025 are under compulsory BIS certification. They were not aware about BIS certification. Hence, they do not have any BIS certificate for these impugned items.
- Order was placed over phone. They did not made payment till date. These goods are intended for clearance for home consumption.
- They do not want any show cause notice or personal hearing in this matter and further requested to decide the case on merit basis.

16. In view of above investigation conducted so far, it was found that hand towel was found undeclared at the time of examination. Further, goods mentioned at Sr. No. 7 (Writing Board), Sr. No. 9 (Marker Pen), Sr. No. 12 (Magnetic Dart Board) are duly covered under IS 9873. However, importer did not produce any BIS certificate for import of same. Further, goods mentioned at Sr. No. 9 were found mis classified. Further, as pre valuation report dated submitted by empanelled CE, goods were found grossly undervalued.

16.2 In view of above, prima facie, it appears that Importer M/s Om Sai Impex has resorted to gross misdeclaration in terms of description, quantity, CTH and valuation etc. to clear goods covered under B/E No. 2098227 dated 16.05.2025 in order to evade custom duties causing loss to exchequer. Further, in absence of valid BIS certificate for item no. 7, 9 & 12, goods mentioned at Sr. No. 7, 9 & 12 mentioned in Table-I imported vide impugned B/E No. 2098227 dated 16.05.2025 became restricted/prohibited in nature in terms of section 16 of BIS Act, 2016 read with section 11 of the Customs Act, 1962. Hence, due to above mentioned mis declaration of item description, qty., mis classification, valuation and in absence of valid BIS certificate, impugned goods mentioned at item no. 7, 9 & 12 of B/E No. 2098227 dated 16.05.2025 appears to be liable for confiscation under section 111(d) and (m) of the Customs Act, 1962. Further, remaining item mentioned at Sr. No. 1 to 6, 8, 10, 11 and hand towel were found mis declared in terms of quantity, description, valuation and classification, hence, appears to be liable for confiscation under section 111(l) and (m) of the Customs Act, 1962. Due to above said act of omission and commission on the part of importer, importer M/s Om Sai Impex has rendered themselves liable for penalty under section 112(a) (i) and (ii) of the Customs Act, 1962.

16.3 Further, in terms of Section 46 (4) of the Customs Act, 1962, the importers are required to make a declaration as to the truth of the contents of the Bills of Entry submitted for assessment of Customs duty. In the present case, it appears that the importer had knowingly involved themselves in the suppression of the material facts and also indulged in mis-statement of facts. The importer by their acts of omission and commission renders imported goods liable for confiscation under Section 111(d), (l) and 111(m) of the Customs Act, 1962. The said acts of omission and commission on the part of the M/s Om Sai Impex have rendered themselves liable for penalty under the provisions of Section 114AA of the Customs Act, 1962.

17. RELEVANT LEGAL PROVISIONS:

(A) RELEVANT PROVISIONS OF THE SEZ ACT, 2005 AND RULES MADE THEREUNDER:

SEZ ACT, 2005

Section 2. Definitions.— *In this Act, unless the context otherwise requires,*

—

.....

(o) “import” means—

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

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

Section 21. Single enforcement officer or agency for notified offences.

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

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

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

Section 22. Investigation, inspection, search or seizure. —

The agency or officer, specified under section 20 or section 21, may, with prior intimation to the Development Commissioner concerned, carry out the investigation, inspection, search or seizure in the Special Economic Zone or in a Unit if such agency or officer has reasons to believe (reasons to be recorded in writing) that a notified offence has been committed or is likely to be committed in the Special Economic Zone:

Provided that no investigation, inspection, search or seizure shall be carried out in a Special Economic Zone by any agency or officer other than those referred to in sub- section (2) or sub-section (3) of section 21 without prior approval of the Development Commissioner concerned:

Provided further that any officer or agency, if so authorised by the Central Government, may carry out the investigation, inspection, search or seizure in the Special Economic Zone or Unit without prior intimation or approval of the Development Commissioner

SEZ RULES, 2006

Rule 47(5). *Refund, Demand, Adjudication, Review and Appeal with regard to matters relating to authorised operations under Special Economic Zones Act, 2005, transactions, and goods and services related thereto, shall be made by the Jurisdictional Customs and Central Excise Authorities in accordance with the relevant provisions contained in the Customs Act, 1962, the Central Excise Act, 1944, and the Finance Act, 1994 and the rules made there under or the notifications issued there under.*

NOTIFICATION NO. 2665(E) AND 2667(E) DATED 05.08.2016

S.O. 2665(E).—*In exercise of the powers conferred by sub-section (1) of section 21 of the Special Economic Zones Act, 2005 (28 of 2005) (hereinafter referred as the Act), the Central Government hereby, notifies the offences contained in the under-mentioned sections of the Customs Act, 1962 (52 of 1962), the Central Excise Act, 1944 (1 of 1944) and the Finance Act, 1994 (32 of 1994) as offences under the Act:-*

The Customs Act, 1962	
1.	Section 28, 28AA and 28AAA
2.	Section 74 and 75
3	Section 111
4.	Section 113
5.	Section 115
6.	Section 124
7.	Section 135
8.	Section 104

--	--

.....

.....

S.O. 2667(E).—*In exercise of the powers conferred by section 22 of the Special Economic Zones Act, 2005 (28 of 2005) (hereinafter referred as the Act), the Central Government authorises the jurisdictional Customs Commissioner, in respect of offences under the Customs Act, 1962 (52 of 1962) and Commissioner of Central Excise in respect of offences under the Central Excise Act, 1944 (1 of 1944) and the Finance Act, 1994 (32 of 1994) and notified under the Act, for the reasons to be recorded in writing, to carry out the investigation, inspection, search or seizure in a Special Economic Zone or Unit with prior intimation to the Development Commissioner, concerned.*

(B) 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 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 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:*

-

--

(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

(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 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, -

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, -

.....

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:

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

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

18. Outcome of the investigation: -

18.1 Based on NCTC alert No. 2024-25/IMP/2018-dated 17.05.2025, goods covered under 01 Z Type B/E No. 2098227 dated 16.05.2025 filed at APSEZ (INAJM6) were put on hold for SIIB examination purpose. On examination, along with declared goods, hand towels were found undeclared. Further, goods were found mis declared in terms of description, quantity, valuation and classification. Further, it was found that goods mentioned at Sr. No. 7 (Writing Board), Sr. No. 9 (Marker Pen), Sr. No. 12 (Magnetic Dart Board) are duly covered under IS 9873 which is duly covered under Quality Control Order called as "Toys (Quality Control) Order, 2020. However, importer did not produce any BIS certificate for impugned items. In view of above, goods found as Writing Board, Marker Pen and Magnetic Dart Board became prohibited in light of section 16 of BIS Act, 2016 read with section 11 of the Customs Act, 1962. And thus, became liable for confiscation under section 111 (d) of the Customs Act, 1962 and remaining goods became liable for confiscation under 111(l) and (m) of the Customs Act, 1962. Further, CE vide report No. ABJ: INSP: CE: SIIB: OMSAI: MX: 25-26:07 dated 08.08.2025 redetermined CIF value of imported goods. Further, during statement of authorized representative of importer, he himself admitted that goods are not in consonance of BIS license submitted by them.

18.2 Further, importer in his statement dated 15.07.2025 submitted that they do not want any Show Cause Notice or Personal Hearing in this matter and further requested to decide case on merit basis.

19. In view of the above facts, it appears that –

- i. The declared weight i.e. 21640 in case of B/E 2098227 dated 16.05.2025 is liable to be rejected and the same is to be re-determined as 21780 Kgs.
- ii. The declared value in case of B/E No. 2098227 dated 16.05.2025 is liable to be rejected and the same is to be re-determined as Rs. 22,71,188 as per CE valuation report in light of Rule 9 of CVR, 2007.
- iii. The declared CTH of marker pen covered under B/E 2098227 dated 16.05.2025 is liable to be rejected and the same need to be redetermined to CTH 96082000. Further, Hand towel are liable to classifiable under CTH 63049260.
- iv. Item mentioned at Sr. No. 7, 9 and 12 covered under B/E 2098227 dated 16.05.2025 are liable for confiscation under section 111(d), (l) and (m) of the Customs Act, 1962 and remaining item mentioned at Sr. No. 1 to 6, 8, 10, 11 and Hand towel covered under B/E No. 2098227 dated 16.05.2025 are liable for confiscation under section 111 (l) and (m) of the Customs Act, 1962.
- v. The Bill of Entry no. 2098227 dated 16.05.2025 is liable to be re-assessed accordingly under Section 17(4) of the Customs Act, 1962.
- vi. Importer M/s Om Sai Impex is liable for Penalty under Section 112(a)(i) and (ii) and 114AA of the Customs Act, 1962.

20. Discussions and Findings

20.1 I have carefully gone through the Investigation report dated 25.08.2025 issued by Deputy Commissioner of Customs (SIIB), Mundra Customs House and other records of the case. I find that Importer M/s Om Sai Impex vide letter dated 06.09.2025 has requested for waiver of issuance of Show Cause Notice and personal hearing. Hence, I proceed to decide the case on the basis of the documentary evidences available on records. The main issues before me in this case are to be decided as mentioned below:

- a) Whether the declared weight i.e. 21640 in case of B/E 2098227 dated 16.05.2025 is liable to be rejected and the same is to be re-determined as 21780 Kgs.
- b) Whether the declared value in case of B/E No. 2098227 dated 16.05.2025 is liable to be rejected and the same is to be re-determined as Rs. 22,71,188 as per CE valuation report in light of Rule 9 of CVR, 2007.
- c) Whether declared CTH of marker pen covered under B/E 2098227 dated 16.05.2025 is liable to be rejected and the same need to be redetermined to CTH 96082000. Further, Hand towel are liable to classifiable under CTH 63049260.
- d) Whether item mentioned at Sr. No. 7, 9 and 12 covered under B/E 2098227 dated 16.05.2025 are liable for confiscation under section 111(d), (l) and (m) of the

Customs Act, 1962 and remaining item mentioned at Sr. No. 1 to 6, 8, 10, 11 and Hand towel covered under B/E No. 2098227 dated 16.05.2025 are liable for confiscation under section 111 (l) and (m) of the Customs Act, 1962.

e) Whether the Bill of Entry no. 2098227 dated 16.05.2025 is liable to be re-assessed accordingly under Section 17(4) of the Customs Act, 1962.

f) Whether the Importer M/s Om Sai Impex is liable for Penalty under Section 112(a)(i) and (ii) and 114AA of the Customs Act, 1962.

20.2 I find that Om Sai Impex (IEC ARDPT8030D, had filed warehouse (Z Type) Bill of Entry No. 2098227 dated 16.05.2025 for import of various items under various CTH. The Country of origin of the goods is CHINA. The details of the B/E are as follows: -

Table-A

B/E No. & date	Bill of Lading No. & Date Container No.	Declared Goods	Declared HSN Code	Declared Quantity in Dozen	Declared Assessable Value per Dozen (in USD)	Total Declared Assessable Value (in Rs.)	Total Declared Duty (in Rs.)
2098227 dated 16.05.2025	KMTCCN B08755621 dated 24.04.2025 GCXU5886321	3. Girls Legging	61152990	300	1.4	36696	10312
		4. Girls Pajama	62082990	1680	1.6	234856	65995
		3. Girls Plazo	61083210	1420	1.5	186102	52295
		4. Towel	63049260	210	.78	14312	2369
		5. Children Clothes	61113000	40	2.8	9786	2750
		6. Lady Hand Bag	42022290	25	3.9	8519	3192
		7. Writing Board (Stationery Item)	96100000	1066	1.3	121080	37511
		8. Campas Box (Stationery Item)	39261019	292	1.9	48474	18163
		9. Marker Pen (Stationery Item)	96081019	510	.38	16933	5246
		10. Racket Badminton (Sports Item)	95065910	187	2.66	43461	15924
		11. Money Bank	39269099	200	.89	15552	5827
		12. Dark Board (Sport Item)	95069990	600	1.10	57666	21129
						Rs. 7,93,436/-	Rs. 2,40,711/-

20.3 I find that the consignment covered under Z Type B/E No. 2098227 dated 16.05.2025 was put on hold for SIIB examination. The examination of the goods was carried out at Transworld Terminal Pvt. Ltd. (Unit 2) CFS (TG CFS) on 04.06.2025 in the presence of Shri Pranjali Singh, Importer authorised representative and Shri C Prasanth, Assistant Manager, Operation of M/s TG CFS. The seal placed on the container was checked/verified and found intact and tally with the number mentioned in the Bill of lading. Further, before beginning the examination, the weighment slip of the containers generated at CFS weighbridge are cross checked. The weight mentioned on the slips as well as Bills of Lading are as under: -

Sr. No.	Bill of Entry & Date	Container No.	B/L Weight (Kgs.)	CFS Weight (Kgs.)	Difference
1	2098227 dated 16.05.2025	GCXU5886321	21640	21780	140 Kgs. Excess

20.4 I find that the goods were packed in green and white colour PP bags and corrugated bags. Thereafter, entire cargo was de-stuffed in the warehouse from the container for the examination with the help of labour. Further, it was revealed each corrugated boxes and PP bags were marked with some identification no. and the Importer representative and CFS representative was asked to segregated the goods as per marking. After that the goods were segregated as per marking with the help of labour. The details of goods found during examination are as under: -

Sr. No.	Goods Found During Examination	No. of CTN/Bag declared in B/E, invoice and Packing List	No. of CTN/Bags found during the examination	Quantity	
				Declared Qty. in invoice and PL (in Doz)	Quantity found during the examination (in Doz)
1	Girls Legging	20	20	300	300
2	Girls Pajama	100	100	1680	1750
3	Girls Plazo	90	90	1420	1570
4	Towel	14	9	210	108
5	Hand Towel	0	6	0	566.6
6	Children Clothes	4	4	40	40
7	Lady Hand Bag	6	4	25	16.6

8	Writing Board (Stationery Item)	128	128	1066	1370
9	Campas Box (Stationery Item)	16	16	292	240
10	Marker Pen (Stationery Item)	38	38	510	575
11	Racket Badminton (Sports Item)	45	45	187	187
12	Money Bank	25	30	200	270
13	Dark Board found as Magnetic Dart Board	30	26	600	80

20.5 I find that during examination in place of towel mentioned at Sr. No. 04, along with towel, hand towels were also found. Further, quantity of item mentioned at Sr. No. 2, 3,7,9 and 11 were found in excess of declared quantity and item mentioned at Sr. No. 6, 8 and 12 were found short from declared quantity. Further, item mentioned at Sr. No. 12 was found as Magnetic Dart board instead of dark board. Ministry of Commerce and Industry (Department of Promotion of Industry and Internal Trade) vide S.O. 853(E) issued Quality Control Order called as “Toys (Quality Control) Order, 2020 and covered 02 Indian Standard i.e. IS 9873 (Part 1):2017, IS 9873 (Part 2,3,4,7 & 9) : 2018 [Safety of Toys] and IS 15644 : 2006 (Safety of Electric Toys), for compulsory use of Standard mark under a licence from the Bureau as per Scheme-1 of Schedule-II of the Bureau of Indian Standards (Conformity Assessment) Regulations, 2018. As per product manual issued for safety of toys as per IS 9873 (Part 1,2,3,4,7 & 9) and IS 15644, Goods mentioned at Sr. No. 7 (Writing Board), Sr. No. 9 (Marker Pen), Sr. No. 12 (Magnetic Dart Board) fall under, Sr. No. 6 of Category A- 32 sub categories - Toys for sensorimotor activities- First Age (Appendix I), Sr. No. 123 of Category F- 21 Sub Categories- Toys for creative activities (Appendix I), Sr. No. 44 of Category B – 23 sub Categories – Toys for physical activities, respectively, which are duly covered under IS 9873 (Part 2,3,4,7 & 9) :2018. However, importer did not produce any BIS issued for import of impugned goods mentioned at Sr. No. 7, 9 and 12.

20.6 I find that to accurately determine the tax liability, both declared and mis declared items must be classified under the appropriate Customs Tariff Heading (CTH). All Goods were found to be rightly classifiable under declared CTH except item no. 9. Further, hand towel was also found undeclared. The same needs to be classified under appropriate CTH.

Since, Goods found as hand towel were found undeclared in B/E No. 2098227 dated 16.05.2025 and prima facie, appears to rightly classifiable under CTH 63049260 which reads as under -

- 6304 Other furnishing articles, excluding those of heading 94.04
 - Bedspreads:
 - others:
- 630491 -- Knitted or crocheted:
- 630492 -- Not knitted or crocheted, of cotton
 - Counterpanes
 - Napkins
 - Pillow case and pillow slips
 - Table Cloth and Table covers
- 63049250 --- Terry Towel
- 63049260 --- Towel, other than terry towel

Since, goods found at the time of examination is other than terry towel, hence, it appears that hand towel other than terry towel merit classification under CTH 63049260 wherein applicable rate of duties is @ 10% (BCD) + 1% (SWS) + 12% (IGST).

Further, Goods as Maker Pen (Stationery Item) were classified under CTH 96081019, however, the same classifiable under CTH 9608 which reads as under:
-

- 9608 Ball Point Pens; Felt Tipped and other porous tipped pens and markers; Fountain pens, stylograph pens and other pens; Duplicating stylos; Propelling or sliding pencils; pen – holders, pencil-holders and similar holders; Parts (including Caps and clips) of the foregoing articles, other than those of heading 96.09
- 960810 - Ball point pens
- 96082000 - Felt tipped and other porous tipped pens and markers

Since, on examination, goods were found as felt tipped marker pen, which is merit classifiable under 96082000 wherein applicable rate of duties is @ 30.980% (10% BCD+ 1% SWS + 18% IGST).

20.7 I find that the value declared by the importer in the Bill of Entry and invoice does not appear to be the true transaction value as importer has mis declared goods in terms of description, classification and weight, hence, value declared by importer does not appear to be 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. The value is required to be re-determined by sequentially proceeding in terms of Rules 4 to 9 of CVR, 2007. Efforts were made to find out the correct assessable value of the imported goods. It was observed that the imported goods were found in different variety, description, specification and quality, so, it was not possible to find and compare the same with other goods having identical/similar description, brand, make, model, quantity and Country of Origin. As the import data extracted with respect to contemporaneous imports was general in nature and contemporaneous data for imports of identical/similar goods was not available/found, therefore, the value could not be determined under Rules 4 and 5 of CVR, 2007. As per Rule 6 *ibid*, if the value cannot be determined under Rules 3, 4 and 5 same shall be determined under the provisions of Rule 7 or when same cannot be determined under that rule then under Rule 8. As the imported goods were found to be non-standard, the sale price of identical or similar goods was not available in the domestic market as the goods are miscellaneous in nature and found in different variety, description, specification, model, brand, make, sizes and quality, therefore, determination of transaction value under Rule 7 of CVR, 2007 was not possible. As substantial data related to the cost or value of materials and fabrication or other processing employed in producing the imported goods required to compute the value under Rule 8 is also not available. Therefore, valuation of the impugned goods could not be ascertained under Rule 8 of CVR, 2007. Hence, valuation of the goods is to be determined under residual method of valuation provided under Rule 9 of the CV Rules *ibid* and hence, opinion of the empanelled Chartered Engineer was sought for determination of the value of the goods under import. ABJ: INSP: CE: SIIB:OMSAI:MX:25-26:07 dated 08.08.2025 has suggested the value of the imported goods as Rs. 20,18,835/- instead of declared assessable value of Rs. 7,93,436/- as detailed below :-

(Exchange Rate :- 1 USD = Rs. 86.4)

Sr. No.	Declared Goods	Quantity Found During examination	Per Unit Suggestive Average C & F value by C.E. - Bulk Quantity- in USD (Approx.)	Total Suggestive Average C&F Value by C.E.- Bulk Quantity - in USD (Approx.)	Total Suggestive Average C & F Value by C.E. in Rs.
1	Girls Legging	300	2.8	840	72576
2	Girls Pajama	1750	3.5	6125	529200

3	Girls Plazo	1570	3.5	5495	474768
4	Towel	108	2.8	302.4	26127.36
5	Hand Towel	566.6	1.4	793.24	68535.936
6	Children Clothes	40	6.25	250	21600
7	Lady Hand Bag	16.6	35	581	50198.4
8	Writing Board (Stationery Item)	1370	1.4	1918	165715.2
9	Campas Box (Stationery Item)	240	2.8	672	58060.8
10	Marker Pen (Stationery Item)	575	5	2875	248400
11	Racket Badminton (Sports Item)	187	7.5	1402.5	121176
12	Money Bank	270	5.6	1512	130636.8
13	Dark Board found as Dart Board	80	7.5	600	51840
Total =				23366.14	2018834

20.8 In view of the above, I find that As CE gave C& F value, insurance @ 1.125% has been added upon C& F value to acquire CIF value. Upon adding insurance in C & F value, total CIF value comes to Rs. 22,71,118/-. Further, the total duty leviable on goods imported vide B/E No. 2098227 dated 16.05.2025 has been re calculated which is as under: -

Sr. No .	Declared Goods	Total Suggestiv e Average C & F Value by C.E. in Rs.	Total Suggestive Average CIF value	BC D Rat e	BCD Duty	SWS	IGS T Rat e	IGST DUTY	Total Duty
1	Girls Legging	72576	81648	20	16330	1633	5	4527	22489
2	Girls Pajama	529200	595350	20	119070	11907	5	33009	163986
3	Girls Plazo	474768	534114	20	106823	10682	5	29614	147119
4	Towel	26127	29392.875	10	5879	588	5	1630	8096
5	Hand Towel	68536	77103	10	15421	1542	5	4275	21238
6	Children Clothes	21600	24300	20	4860	486	5	1347	6693
7	Lady Hand Bag	50198	56472.75	15	11295	1129	18	11272	23696
8	Writing Board (Stationery Item)	165715	186429.375	10	37286	3729	18	37211	78226
9	Campas Box (Stationery Item)	58061	65318.625	15	13064	1306	18	13038	27408
10	Marker Pen (Stationery Item)	248400	279450	10	55890	5589	18	55778	117257
11	Racket Badminton (Sports Item)	121176	136323	20	27265	2726	12	19958	49949
12	Money Bank	130637	146967	15	29393	2939	18	32274	64607
13	Dark Board found as Dart Board	51840	58320	20	11664	1166	12	8538	21368
Total =		2018834	2271188	205	454238	45424		252470	752131

20.9 I find that statement of Shri Aditya Singh, authorised representative of M/s was recorded on 15.07.2025 wherein he interalia stated that M/s Om Sai Impex is a Trading firm. They import goods and sell them in market on marginal profit basis. He further agreed that goods mentioned at Sr. No. 7, 9 and 12 of impugned B/E No. 2098227 dated 16.05.2025 are under compulsory BIS certification. They

were not aware about BIS certification. Hence, they do not have any BIS certificate for these impugned items. Order was placed over phone. They did not made payment till date. These goods are intended for clearance for home consumption. They do not want any show cause notice or personal hearing in this matter and further requested to decide the case on merit basis.

20.10 I find that hand towel was found undeclared at the time of examination. Further, goods mentioned at Sr. No. 7 (Writing Board), Sr. No. 9 (Marker Pen), Sr. No. 12 (Magnetic Dart Board) are duly covered under IS 9873. However, importer did not produce any BIS certificate for import of same. Further, goods mentioned at Sr. No. 9 were found mis classified. Further, as pre valuation report dated submitted by empanelled CE, goods were found grossly undervalued. Further I find that Importer M/s Om Sai Impex has resorted to gross misdeclaration in terms of description, quantity, CTH and valuation etc. to clear goods covered under B/E No. 2098227 dated 16.05.2025 in order to evade custom duties causing loss to exchequer. **Section 17 (1) & Section 2 (2) of the Customs Act, 1962 read with CBIC Circular No. 17/2011- Customs dated 08.04.2011**, cast a heightened responsibility and onus on the importer to determine duty, classification etc. by way of self-assessment. The importer, at the time of self-assessment, is required to ensure that he declared the correct classification, country of origin, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the Bill of Entry. In absence of valid BIS certificate for item no. 7, 9 & 12, goods mentioned at Sr. No. 7, 9 & 12 mentioned in Table-I imported vide impugned B/E No. 2098227 dated 16.05.2025 became restricted/prohibited in nature in terms of section 16 of BIS Act, 2016 read with section 11 of the Customs Act, 1962. Hence, due to above mentioned mis declaration of item description, qty., mis classification, valuation and in absence of valid BIS certificate, impugned goods mentioned at item no. 7, 9 & 12 of B/E No. 2098227 dated 16.05.2025 of total re-determined value **Rs. 5,24,199.38/-** (Rupees Five Lakh Twenty-Four Thousand One Hundred and Ninety Only) appears to be liable for confiscation under section **111(d), (l) and (m) of the Customs Act, 1962**. Importer have rendered themselves liable for penalty under **section 112(a) (i)** of the Customs Act, 1962. Further, remaining item mentioned at Sr. No. 1 to 6, 8, 10, 11 and hand towel of total re-determined value of Rs. **17,46,989/-** were found mis declared in terms of quantity, description, valuation and classification, hence, appears to be liable for confiscation under **section 111(l) and (m) of the Customs Act, 1962**. The total re-determined duty on the goods comes to the tunes of **Rs. 5,35,280/-** (Except for the item Sr No. 7,9 and 12 mentioned in Table A). Importer have rendered themselves liable for penalty under section 112(a) (ii) of the Customs Act, 1962 which stipulates that any person who, in relation to any dutiable 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 will be liable for penalty

for improper importation of goods. Importer has knowingly and intentionally used Bill of Lading, invoices and packing list while filing Bill of Entry, these documents contain incorrect or false material particulars regarding the quantity, and description of the goods imported by them. Accordingly, the importer has rendered themselves liable for penalty under Section 114AA of the Customs Act, 1962 which stipulates that if a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or documents which is false or incorrect in any material particular in the transaction of any businesses for the purpose of this Act would be liable for penalty.

21. In view of the above discussions, I pass the following order:

ORDER

21.1 I hold that the declared weight i.e. 21640 Kgs in case of Bill of Entry No. 2098227 dated 16.05.2025 is liable to be rejected and the same is to be re-determined as 21780 Kgs.

21.2 I hold that the declared assessable value of the imported goods i.e. **Rs. 7,93,436/-** (*Rupees Seven Lakh Ninety-Three Thousand Four Hundred and Thirty-Six only*) in the Bill of Entry No. 2098227 dated 16.05.2025 is liable to be rejected under Rule 12 of Customs Valuation, (Determination of Value of Imported Goods) Rules, 2007 and the same is liable to be re-determined to **Rs. 22,71,188/-** (*Rupees Twenty-Two Lakh Seventy-One Thousand One Hundred and Eighty-Eight Only*) under Rule 9 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with Section 14 of the Customs Act, 1962.

21.3 I hold that the declared CTH of marker pen covered under Bill of Entry No. 2098227 dated 16.05.2025 is liable to be rejected and the same need to be redetermined to CTH 96082000. Further, I hold that Hand towel is liable to be classifiable under CTH 63049260.

21.4 I hold that Item mentioned at Sr. No. 7, 9 and 12 of re-determined value **Rs. 5,24,199/-** (*Rupees Five Lakh Twenty-Four Thousand One Hundred and Ninety Only*) covered under Bill of Entry No 2098227 dated 16.05.2025 are liable for confiscation under section 111(d), (l) and (m) of the Customs Act, 1962.

21.5 I hold that item mentioned at Sr No. 1 to 6, 8,10,11 and undeclared item i.e. Hand Towel of total re-determined value **Rs. 17,46,989/-** (*Rupees Seventeen Lakh Forty-Six Thousand Nine Hundred and Eighty-Nine Only*) covered under Bill of Entry No. 2098227 dated 16.05.2025 are liable for confiscation under Section 111 (l) and (m) of the Customs Act, 1962. However, I give an option to redeem the goods on payment of redemption fine of **Rs. 1,70,000/-** (Rs. One lakh Seventy thousand only) under Section 125 of the Customs Act, 1962.

21.6 I order to re-assess the Bill of Entry No. 2098227 dated 16.05.2025 accordingly under Section 17(4) of the Customs Act, 1962.

21.7. I impose penalty of **Rs.5,00,000 /-** (*Rupees Five lakh only*) on M/s Om Sai Impex under Section 112 (a) (i) of the Customs Act, 1962 for items mentioned in para 12.4.

21.8. I impose penalty of **Rs. 35,000/-** (*Rupees Thirty-five thousand only*) on M/s Om Sai Impex under Section 112 (a) (ii) of the Customs Act, 1962 for the items mentioned in para 12.5.

21.9. I impose penalty of **Rs. 50,000 /-** (*Rupees Fifty thousand only*) on M/s Om Sai Impex under Section 114AA of the Customs Act, 1962

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

(Dipak Zala)
Addl. Commissioner of Customs
Customs House, Mundra

BY Speed Post A.D / E-mail

To, (The Noticee):-

M/s Om Sai Impex (IEC ARDPT8030D)

64/A Udhav Nagar, Sorabji Compound, Old Wadaj,

Ahmedabad, Gujarat -380013

Copy to:

1. The Addl. Commissioner (SIIB), Customs House, Mundra.
2. The Deputy/Assistant Commissioner, TRC Mundra
3. The Deputy Commissioner, RRA Customs House, Mundra.
4. The Deputy/ Assistant Commissioner (EDI), Custom House, Mundra.
5. Notice Board.
6. Guard File