

	<p>आयुक्त, सीमाशुल्क कार्यालय,  <b>OFFICE OF THE COMMISSIONER OF CUSTOMS</b>  न्यूकस्टमहाउस, बालाजीमंदिरके पास, न्यूकांडला 370210  NEW CUSTOMS HOUSE, NEAR BALAJI TEMPLE, NEW  KANDLA-370210  दूरभाष Phone No. 02836-270222 फ़ैक्स Fax No 02836-271467  E-mail: <a href="mailto:commr-cuskandla@nic.in">commr-cuskandla@nic.in</a></p>	 सत्यमेव जयते
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DIN-20260471ML000000C4C9		
A	File No.	GEN/ADJ/COMM/144/2026-Adjn-O/o Commr-Cus-Kandla
B	Order-in-Original No.	KDL/ACD/VS/ 05/2026-27
C	Passed by	Vishwajeet Singh, Commissioner (In-situ), Custom House, Kandla
D	Date of Order	
E	Date of Issue	
F	SCN No. & Date	GEN/ADJ/COMM/144/2026-Adjn-O/o Commr-Cus-Kandla dated 13.03.2026
G	Noticee / Party / Importer / Exporter	M/s M N R Enterprises, IEC: BVKPB3379P Address: A-604, Bhardwaj Bldg, Saptarshi Park, SwapnaNagri, Mulund West, Mumbai-400080

1. This Order-in-Original is granted to the concerned free of charge.
2. 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:

***Customs Excise & Service Tax Appellate Tribunal, West Zonal Bench,***

***2nd Floor, Bahumali Bhavan Asarwa,***

***Nr. Girdhar Nagar Bridge, Girdhar Nagar, Ahmedabad-380004***

3. Appeal shall be filed within three months from the date of communication of this order.
4. 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. The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paise only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.
6. Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.
7. While submitting the appeal, the Customs (Appeals) Rules, 1982 and the CESTAT (Procedure) Rules, 1982 should be adhered to in all respects.

8. An appeal against this order shall lie before the Appellate Authority on payment of 7.5% of the duty demanded wise duty or duty and penalty are in dispute, or penalty wise if penalty alone is in dispute

## 1. Brief facts and genesis of proceedings

**1.1** M/s. M N R Enterprises, (IEC-BVKPB3379P), A-604, Bhardwaj Bldg, Saptarshi Park, Swapna Nagri, Mulund West, Mumbai-400080, was engaged in import of *Cotton Woven Fabrics (HS Code-5208 2290)* from China for home consumption. M/s. M N R Enterprises used to clear their import goods for DTA clearance through M/s Shriji overseas Warehouse, KASEZ, Gandhidham.

**1.2.** The Directorate of Revenue Intelligence gathered intelligence that M/s. M N R Enterprises was indulged in evasion of Customs duty by way of mis-declaration of description and value of the imported goods and by way of mis-classification thereof vide Warehouse Bills of Entry no. 2962594 dated 30.06.2025 and 3091762 dated 05.07.2025. The intelligence further indicated that M/s. M N R Enterprises has imported 02 consignments from China and mis-declared the same as '*Cotton Woven Fabrics (HS Code-5208 2290)*' and '*Cotton Woven Fabrics (Cotton more than 85 %) (HS Code-5208 2290)*' through container no. KMTU9295467 and UETU7364726. As per the details available on the Bills of Lading, the said import consignments were to be cleared through M/s. Shriji Overseas, (IEC-AKFPJ4349C) Shed No. 302 and 332, A-1 Type, Phase-1, Kandla Special Economic Zone. Consignment wise brief details and declared description/classification of the import consignments of M/s. M N R Enterprises are given as under;

**Table-1**

Sr. No.	BE No.	Container No.	Name of the importer	Bill of Lading No. and date	IGM No. and Date	Declared Description and HS Code
1	2962594 dated 30.06.2025	KMTU9295467	M/s. M N R Enterprises	KMTCNBO8853676	1142308 dated 17.06.2025	Cotton Woven Fabric (5208 2290)
2	3091762 dated 05.07.2025	UETU7364726		WSZ25060490	1143460 dated 25.06.2025	Cotton Woven Fabric (Cotton more than 85%) (5208 2290)

**1.3.** Acting upon the intelligence, above import consignments were put on hold vide e-mail dated 17.07.2025 and examination of the said import consignments was conducted by the officers of DRI under panchnama dated 25.07.2025 drawn at the warehouse of M/s Shriji Overseas, Shed No. 332, A-1 type, Phase-1, Kandla SEZ, Kutch, Gujarat-370230.

**1.4.** During examination, it was noticed that most of the import goods pertaining to all the above 02 import consignments prima facie appeared to be fabric rolls packed in transparent Plastic bags. Brief details of the goods found during examination are as under;

**Table-2**

Sr. No.	Container no.	Description of goods appears	Total No. of Rolls	Width of fabric roll approx.(in meter)	Average weight of one roll (approx.) in kgs.	Net wight of goods as per weighment slip
1	KMTU9295467	Multicolor Fabric Rolls packed in transparent Plastic Bag	1400	1.48	19.80	28230 Kgs
2	UETU7364726	Multicolor Fabric Rolls packed in transparent Plastic Bag	962	1.52	26.40	25480 Kgs

**1.5.** Representative samples from the import goods were further drawn during examination under Panchnama dated 25.07.2025. The said representative samples were sent to the Customs House Laboratory vide letter dated 01.08.2025 for necessary testing thereof under Test Memo No. 126/2025 and 129/2025 (total-02). 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) suggested the actual description of the subject goods as under;

**Table-3**

Sr. No.	Container No.	Sample and Test Report no.	Actual description of goods	Notes/Comments
1	KMTU9295467	A1/4091	The sample is in the form of a cut piece of dyed (Maroon colour) woven fabric. It is mainly composed of Polyester filament yarns together with lycra on both sides and GSM is 123.19, Width (selvedge to selvedge)-148 cm, % composition: Polyester=94.70%, Lycra-balance	It is other than cotton fabric
2	UETU7364726	D1/4094	The sample is in the form of a cut piece of dyed (greyish colour) woven fabric. It is mainly composed of Polyester filament yarns together with lycra on both sides and GSM is 164.95, Width (selvedge to selvedge)-147 cm, %	It is other than cotton fabric

		composition: Polyester=95.68%, Lycra-balance	
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**1.6.** The test reports have been examined with respect to the declaration made by the importer in the import documents. From the above, it appears that the importer has mis-declared the material facts such as description, classification, value etc. The importer has declared the goods as 'Cotton Woven Fabric (5208 2290)' in Bill of Entry 2962594 dated 30.06.2025 and as 'Cotton Woven Fabrics (Cotton more than 85 %)' in Bill of Entry 3091762 dated 05.07.2025 whereas the test reports have concluded that "It is other than cotton fabric". The most appropriate CTHs based on the test reports are tabulated as under:

**Table-4**

Sr. no.	Bill of Entry	Container	Declared description and CTH in BE	CTH as per the Test reports
1	2962594 dated 30.06.2025	KMTU9295467	Cotton Woven Fabric (5208 2290)	54075290
2	3091762 dated 05.07.2025	UETU7364726	Cotton Woven Fabric (Cotton more than 85%) (5208 2290)	54075290

**1.7.** During investigation, it was noticed that M/s. M N R Enterprises arranged mis-declaration of the description and classification of the subject goods pertaining to both the above said 02 Containers as 'Cotton Woven Fabric (5208 2290)'. However, after the hold by DRI, the examination of the above said containers was carried out and samples were drawn. The sample report as mentioned in Table-4 suggested that the importer incorrectly declared the description and classification of imported goods. Therefore, the goods pertain to above said containers were seized vide Seizure Memo dated 17.12.2025.

**1.8.** As per the test reports, GSM of the fabrics imported by container nos. KMTU9295467 and UETU7364726 are 123.19 and 164.95. There were 1400 and 962 rolls of fabric and net weight of all the rolls was 28230 Kgs and 25480 Kgs. Whereas the importer has declared the quantity of fabric as 2,01,230 SQM, and 1,95,354 SQM respectively however, as per the GSM given in test reports, quantity of fabric comes to 2,25,018 SQM and 1,53,967 respectively as detailed in Table-A below: -

**Table-5**

Container number	No. of rolls	Net Weight found during examination	GSM of fabric	Qty in SQM
KMTU9295467	1400	28230	123.19	2,29,158
UETU7364726	962	25480	164.95	1,54,471

**1.9.** The test reports received from the CRCL Kandla have been examined with respect to the declaration made by the importer in the import

documents. The test reports of the above subject import consignments indicated that the goods pertaining to the subject import consignments were Cut piece of dyed (Maroon colour) woven fabric made of polyester filament yarns and Cut piece of dyed (Greyish colour) woven fabric made of polyester filament yarns. The goods were classified by the importer in the said BEs in CTH 5208 2290 (attracting BCD at the rate of 10%). Customs Tariff Heading CTH 5208 pertains to 'woven fabric of cotton, containing 85% or more by weight of cotton, weighing not more than 200g/m<sup>2</sup>' while the lab has reported the goods as 'Cut piece of dyed (Maroon colour) woven fabric made of polyester filament yarns having polyester as 94.70% and Cut piece of dyed (Greyish colour) woven fabric made of polyester yarns having polyester as 95.68%'. Hence, it appeared that, the imported goods did not qualify to be classified under CTH 5208. Furthermore, as per the test reports received from the CRCL, Kandla, the imported goods are other than cotton woven Fabric. As per test results, most appropriate CTH for the goods appeared to be 5407 5290. The goods were of prime quality and deserve higher rate i.e. assessable value 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.

**1.10. Valuation of the goods imported by M/s. M N R Enterprises covered under Bills of Entry no. 2962594 dated 30.06.2025 and 3091762 dated 05.07.2025 imported through Container Nos. KMTU9295467 and UETU7364726: -**

It was noticed that the importer had mis-declared the value of the goods at the time of filing the Warehouse Bills of Entry. The present import consignments were imported from Chinese suppliers. Further scrutiny revealed that the importer had also mis-declared the description, classification, quantity, and value of the goods in the said Warehouse Bills of Entry.

The test reports in respect of the subject import consignments indicated that the goods consisted predominantly of cut pieces of dyed woven fabric made of polyester filament yarns of varying GSM, in maximum quantity. The goods were found to be of prime quality and therefore merited a higher assessable value for the purpose of calculation of applicable Customs Duty. However, it appeared that the importer, in connivance with the overseas supplier, had intentionally mis-declared the value of the goods at the time of filing the Warehouse Bills of Entry with a deliberate intent to evade Customs Duty.

Accordingly, the assessable value of ₹35,16,686/- declared by the importer at the time of filing Warehouse Bills of Entry No. 2962594 dated 30.06.2025 and 3091762 dated 05.07.2025 is liable to be rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, as there has been significant mis-declaration with respect to the description, classification, quantity, and value of the goods. Therefore, the declared assessable value of the goods covered under the said Warehouse Bills of Entry is liable to be rejected under Rule 12 of the

Customs Valuation Rules, 2007 and re-determined under Section 14 of the Customs Act, 1962 read with Rule 5 of the Customs Valuation Rules, 2007.

The assessable value of the cargo is required to be re-determined as per the contemporary import data available on NIDB, in respect of the identical/ similar goods sold for export to India (from China) and imported at or about the same time in view of Rule 4 and 5 of the CVR, 2007. It further appeared that, the value of the imported goods could not be determined under Rule 4 ibid since the value of contemporaneous imports of identical goods of same nature, composition and description could not be found on NIDB. Proceeding sequentially, to Rule 5 ibid, as per contemporaneous import data available on NIDB, the rate of Polyester Woven Fabric having similar commercial quantity is ranging from Rs.25.41 to Rs.36.77 per sqm. Further, sub-rule (3) of the said Rule-4 of CVR, 2007 states that, in applying these rules, if more than one transaction value of similar goods is found, the lowest such value shall be used to determine the value of imported goods. Accordingly, one eligible Bill of Entry No.3549965 dated 29.07.2025 filed at INNSA1port, containing similar goods was found be assessed at Rs.25.41 per sqm. Further, sub-rule (2) of the said Rule-5 of CVR, 2007 states that, 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. Accordingly, the assessable value of the goods imported vide Bill of Entry No-2962594 dated 30.06.2025 and 3091762 dated 05.07.2025 of the imported goods is re-determined as per below Table:

**Table-6**

Sr. no.	Bill of Entry & Container No.	Quantity ascertained	Unit Price declared (Rs)	Unit Price as per the NIDB data (Rs)	Re-determined Assessable value (in Rs.)
1	2962594 dated 30.06.2025 & KMTU9295467	2,29,158	8.94	25.41	58,22,905
2	3091762 dated 05.07.2025 & UETU7364726	1,54,471	8.79	25.41	39,25,108
				Total	97,48,013

From the above, it appeared that M/s. M N R Enterprises also indulged in the evasion of Customs Duty by way of undervaluation of import goods. It is noticed that M/s. M N R Enterprises while filing Bills of Entry for the subject import consignments declared total assessable value for all the import consignments as Rs.35,16,686/-, whereas considering the GSM and prime quality nature of the goods the appropriate total assessable value of all these import consignments comes to Rs.97,48,013/-.

#### **1.11. Applicable Duties on the subject goods imported by M/s. M N R**

**Enterprises covered under SEZ Bills of Entry no. 2962594 dated 30.06.2025 and 3091762 dated 05.07.2025 imported through Container Nos. KMTU9295467 and UETU7364726, respectively: -**

**1.11.1** From forgoing paras, it is revealed that the importer intentionally mis-declared the polyester Woven fabric as "Cotton Woven Fabric (5208 2290)' and 'Cotton Woven Fabric (Cotton more than 85%) (5208 2290)" in the corresponding Bills of Entry with deliberate intention of evasion of Customs duty. Further, it was noticed that the importer was also found indulged in gross undervaluation of the other goods. M/s. M N R Enterprises had declared total assessable value of all Fabrics as Rs.35,16,686/- at the time of filing of Warehouse Bills of Entry. Total declared Customs duty was of Rs.5,82, 011/-. However, the goods have been found misclassified and therefore, the duty on the imported goods is required to be re-determined on the basis of applicable rates. For CTH 54075290, applicable customs duty on the goods imported vide Bills of Entry no. 2962594 dated 30.06.2025 and 3091762 dated 05.07.2025 have been calculated as under:

**Table-7**

<b>Co nta ine r N o.</b>	<b>Declared Assessable value of the goods i mported by the imp orter (in Rs.)</b>	<b>Total d uty de clared (in Rs.)</b>	<b>CTH a s per Test R eports</b>	<b>Appropriate assessable va lue of the go ods (in Rs.)</b>	<b>BCD @ Rs 23 pe r sqm tr</b>	<b>IG ST @5 % (Rs)</b>	<b>Total duty payable ( BCD+IGST ) (in Rs.)</b>
KM TU 929 546 7	1799056	297745	54075 290	58,22,90 5	52706 34	554 677	5825311
UE TU 736 472 6	1717630.51	284268	54075 290	39,25,108	35528 33	373 897	3926730
	<b>35,16,686.51</b>	<b>5,82,0 13</b>		<b>97,48,013</b>	<b>88,23 ,467</b>	<b>9,2 8,5 74</b>	<b>97,52,041</b>

**1.12. During investigation, the Statement of Shri Fair Harish Bhanushali, Proprietor of M/s M N R Enterprises was recorded on 12.12.2025 and 13.12.2025 under Section 108 of the Customs Act, 1962(RUD No.9).**

- The importer stated that in earlier imports no variation was noticed

between the goods ordered and supplied. He has never visited China, though goods are sometimes tested at the load port.

- On being shown Test Report Nos. 4091/DRI and 4094/DRI dated 26.08.2025 relating to Bills of Entry 2962594 dated 30.06.2025 and 3091762 dated 05.07.2025, he acknowledged the reports and signed them. The reports indicate that the goods were not cotton woven fabric. He stated that incorrect goods were dispatched by the suppliers in both consignments.
- He stated that orders for cotton woven fabric were placed orally through telephonic communication with Shri Harry Kataria and no documentary evidence such as emails, chats, or written purchase orders is available.
- He stated that after being informed of discrepancies by M/s Shreeji Overseas, he informed Shri Harry Kataria via WhatsApp, who in turn informed him that the suppliers admitted to mistakenly dispatching dyed textured polyester woven fabric instead of cotton woven fabric.
- He was unable to produce WhatsApp chats or other records of communication as his mobile phone was damaged and replaced recently.
- Despite the consignments being sourced from two different suppliers, he maintained that the error occurred at the suppliers' end and did not provide any further explanation.
- He stated that no remittance was made for either consignment as the transactions were conducted on a credit basis, with payment to be made after receipt of goods.
- He explained that no written purchase orders, contracts, proforma invoices, or email correspondence exist due to the trust-based nature of the business arrangement.
- He admitted that, as per the test reports, the goods were classifiable under CTH 54075290, whereas they were declared under CTH 52082290, and acknowledged misclassification in both Bills of Entry.
- He submitted the duly signed bank account statement of M/s M N R Enterprise maintained with Kotak Mahindra Bank, Mumbai Branch.
- He stated that he had nothing further to add in the matter.

**1.13. Mis-declaration and liability to confiscation of imported goods imported by M/s. M N R Enterprises covered under Warehouse Bills of Entry no. 2962594 dated 30.06.2025 and 3091762 dated 05.07.2025 imported through Container Nos. KMTU9295467 and UETU7364726:**

**1.13.1.** M/s. M N R Enterprises has declared the description of the goods pertaining to the 02 subject import consignments as "Cotton Woven Fabric (5208 2290)" and "Cotton Woven Fabric (Cotton more than 85%) (5208 2290)" whereas the cargo in the import consignments were of dyed woven fabric composed of polyester filament yarns of different GSMs. During examination and consequently as Test Reports thereof, it was noticed that 2,29,158 SQM of dyed woven fabric made of Polyester filament yarns of GSM-123.19, and 1,54,471 SQM of dyed woven fabric made of Polyester filament yarns of GSM- 164.95 were found therein. Therefore, it appeared

that import consignments covered under Bills of Entry no. 2962594 dated 30.06.2025 and 3091762 dated 05.07.2025 were found mis-declared in respect of description, classification, quantity and valuation thereof, therefore the same appeared to be liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962.

**1.13.2** The Directorate of Revenue Intelligence (DRI), Gandhidham Regional Unit, gathered specific intelligence that M/s. M N R, was engaged in evasion of Customs duty by way of mis-declaration of description, classification and value of imported goods; and whereas, acting upon the said intelligence, the officers of DRI examined two import consignments imported vide Warehouse Bills of Entry No. 2962594 dated 30.06.2025 and 3091762 dated 05.07.2025 through Container Nos. KMTU9295467 and UETU7364726 under Panchnama dated 25.07.2025; and whereas, the said importer had declared the imported goods as "Cotton Woven Fabric" and "Cotton Woven Fabric (Cotton more than 85%)" classifiable under CTH 5208 2290 with declared assessable value of ₹35,16,686/-; and representative samples drawn during examination were sent to Customs House Laboratory for testing, which conclusively established vide Test Report Nos. 4091/DRI and 4094/DRI dated 26.08.2025 that the imported goods were in fact dyed woven fabric made of polyester filament yarns containing 94.70% and 95.68% polyester respectively, and not cotton woven fabric as declared.

**1.13.3** It further appeared that the said M/s. M N R Enterprises has willfully and deliberately mis-declared the description, classification, quantity and value of the imported goods with intent to evade payment of lawful Customs duty; and , the correct classification of the imported goods is CTH 5407 5290 and not CTH 5208 2290 as declared in the Bills of Entry. Further, the declared total assessable value of ₹35,16,686/- is liable to be rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and the value is required to be re-determined under Section 14 of the Customs Act, 1962 read with Rule 5 of the Customs Valuation Rules, 2007 at ₹97,48,013/- based on contemporaneous import data available on NIDB. Furthermore, Shri Fair Harish Bhanushali, Proprietor of M/s M N R Enterprises, in his statement recorded under Section 108 of the Customs Act, 1962 on 13.12.2025, admitted the mis-classification of the imported goods. The goods imported vide Bills of Entry No. 2962594 dated 30.06.2025 and 3091762 dated 05.07.2025, seized vide Seizure Memo dated 17.12.2025 appeared liable for confiscation under Section 111(m) of the Customs Act, 1962 for being goods which do not correspond in respect of description, classification, etc with the entry made in the Bills of Entry.

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

**1.14.1. Role and culpability of Shri Fair Harish Bhanushali, proprietor of M/s. M N R Enterprises, A-604, Bhardwaj Bldg, Saptarshi Park, Swapna Nagri, Mulund West, Mumbai-400080**

**1.14.1.1.** M/s. M N R Enterprises (IEC-BVKPB3379P), A-604, Bhardwaj

Bldg, Saptarshi Park, Swapna Nagri, Mulund West, Mumbai-400080, being the importer of the subject goods imported vide Warehouse Bills of Entry No. 2962594 dated 30.06.2025 and 3091762 dated 05.07.2025, had the primary responsibility and statutory obligation under Section 46(4) and 46(4A) of the Customs Act, 1962 to ensure the accuracy and completeness of information declared in the Bills of Entry, the authenticity and validity of documents supporting the same, and compliance with all applicable laws and regulations; and whereas, the said importer has deliberately and knowingly mis-declared the description of the imported goods as "Cotton Woven Fabric" and "Cotton Woven Fabric (Cotton more than 85%)" classifiable under CTH 5208 2290, when in fact the goods were dyed woven fabric made of polyester filament yarns containing 94.70% to 95.68% polyester, correctly classifiable under CTH 5407 5290; and whereas, the said importer has also grossly undervalued the imported goods by declaring the total assessable value as Rs.35,16,686/- against the actual assessable value of Rs.97,48,013/- as determined based on contemporaneous import data; The above mentioned attempt of deliberate mis-declaration of description, classification, quantity and value was done with the clear intent and motive to evade payment of Customs duty and to gain undue benefit by importing higher value polyester fabric while paying duty applicable to lower value cotton fabric.

**1.14.1.2** The said M/s. M N R Enterprises, through its Proprietor Shri Fair Harish Bhanushali, has admitted in his statement recorded under Section 108 of the Customs Act, 1962 on 13.12.2025 that the goods were mis-classified and should have been declared under CTH 5407 5290 instead of CTH 5208 2290 as declared in the Bills of Entry; and whereas, despite such admission, the importer has failed to provide any credible evidence, documentation or reasonable explanation to substantiate his claim that the wrong goods were mistakenly dispatched by the suppliers in China. Further, the importer has admitted that no written purchase orders, proforma invoices, email correspondence or any documentary evidence exists in support of the alleged orders for cotton woven fabric, claiming that transactions were conducted on trust basis through oral telephonic communication; and whereas, the importer during his Statement expressed his inability to produce WhatsApp chats or communication records allegedly exchanged with the supplier's representative Shri Harry Kataria on the ground that his mobile phone was damaged and replaced, thereby destroying the evidence. Such lack of basic commercial documentation, and the identical pattern of mis-declaration in two separate consignments sourced from two different Chinese suppliers, clearly demonstrates the deliberate and systematic nature of the modus operandi adopted by the importer to evade Customs duty.

**1.14.1.3** It further appeared that M/s. M N R Enterprises has committed acts and omissions which have rendered the imported goods liable to confiscation under Section 111(m) of the Customs Act, 1962, being goods which do not correspond in respect of description, classification, quantity

and value with the entry made in the Bills of Entry; and whereas, by virtue of Section 112(a) of the Customs Act, 1962, 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, shall be liable to penalty; and whereas, by virtue of Section 112(b) of the Customs Act, 1962, any person who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under Section 111, shall be liable to penalty; and M/s. M N R Enterprises, being the importer and having acquired possession of the subject goods with full knowledge of the mis-declaration of description, classification, quantity and value thereof, has rendered itself liable to penalty under Section 112(a) and 112 (b) of the Customs Act, 1962 .

**1.14.1.4** Further, it appeared that M/s. M N R Enterprises has knowingly and intentionally made, signed and used false and incorrect declarations and statements in material particulars in the transaction of business for the purposes of the Customs Act, 1962 by filing Warehouse Bills of Entry containing false and incorrect information regarding description, classification, quantity and value of the imported goods. M/s. M N R Enterprises has clearly and deliberately made and used false and incorrect declarations in the Bills of Entry and supporting documents regarding critical material particulars such as description (declaring polyester fabric as cotton fabric), classification (CTH 5208 2290 instead of CTH 5407 5290), thereby rendering itself liable to penalty under Section 114AA of the Customs Act, 1962.

**1.15.1.** The investigation proceedings was culminating in the SCN GEN/ADJ/COMM/144/2026-Adjn-O/o Commr-Cus-Kandla dated 13.03.2026 answerable to the Additional/Joint Commissioner of Customs, Customs House, Kandla, having his office situated at Office of the Commissioner of Customs, Custom House, Near Balaji Temple, Kandla-370210 'within 30 days from the receipt of the Show Cause Notice as to why: -

- i. Since the goods are found to be mis-declared, the declared quantity, description and classification of the goods in the consignments covered under B.E No. 2962594 dated 30.06.2025 should not be rejected and re-quantified, re-described and re-classified as Qty-2,29,158 sqm of dyed woven fabric made of Polyester filament yarns under CTH 54075290;
- ii. Since the goods are found to be mis-declared, the declared quantity, description and classification of the goods in the consignments covered under B.E No. 3091762 dated 05.07.2025 should not be rejected and re-quantified, re-described and re-classified as Qty-1,54,471 sqm of dyed woven fabric made of Polyester filament yarns under CTH 54075290;
- iii. The declared combined assessable value of Rs.35,16,686/- in the B.E

No. 2962594 dated 30.06.20 and under B.E No. 3091762 dated 05.07.2025 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.97,48,013/- under Rule 5 of the Customs Valuation (Determination of value of imported goods) Rules, 2007, as mentioned in Table-6 above;

- iv. The goods covered under SEZ Bills of Entry no. 2962594 dated 30.06.2025 and 3091762 dated 05.07.2025 having re-determined value of Rs.97,48,013/- should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962.
- v. The goods imported vide SEZ Bills of Entry no. 2962594 dated 30.06.2025 and 3091762 dated 05.07.2025 should not be re-assessed with applicable rates of duty as per Table-7 above;
- vi. Penalty should not be imposed on the importer M/s. M N R Enterprises under Section 112(a), Section 112(b) and Section 114AA of the Customs Act, 1962.

## **2. Personal Hearing and Submissions of the Noticee**

2.1 A personal hearing in the matter was granted on 20.04.2026 at 17:30 hrs before the undersigned. The noticee was represented by Shri Deepak Mange, authorised representative. The submissions made during the course of personal hearing were broadly in line with the written reply already filed on 08.04.2026.

2.2 The authorised representative reiterated that the impugned goods are lying in the SEZ warehouse (KASEZ) and have not been cleared for home consumption (DTA). It was emphasized that the goods continue to remain under customs control and have not entered the domestic tariff area for use, sale, or consumption.

2.3 It was further submitted that the noticee had placed orders for cotton woven fabrics; however, due to an inadvertent error on the part of the overseas supplier, polyester fabrics were supplied instead. The representative stated that the said discrepancy was beyond the control of the importer and there was no mala fide intention to mis-declare the goods or evade customs duty. It was also submitted that the transactions were on credit basis and no remittance/payment has been made to the foreign supplier in respect of the impugned consignments.

2.4 The noticee requested that since the goods are not acceptable to them and have remained under customs control, permission may be granted to re-export the same directly from the SEZ without insisting upon duty payment or penal action. It was argued that no loss of revenue arises in such a situation as the goods are not being cleared into the domestic market.

2.5 The Noticee along with their written submission, submitted following judicial pronouncements to support their contention:-

- i. *Commissioner of Customs v. Stoneman Marble Industries* (2011 (264) E.L.T. 3 (S.C.)),
- ii. *Commissioner of Customs v. Mansilmpex* (2011 (270) E.L.T. 631 (S.C.))
- iii. *Siemens Ltd. v. Commissioner of Customs* (1999 (113) E.L.T. 776 (S.C.))
- iv. *Bin Sabt Jewellery v. Commissioner of Customs* (2000 (120) E.L.T. 169 (Tri.)),
- v. *Central Marketing Agency v. Commissioner of Customs (Airport), Calcutta* (2004 (178) E.L.T. 601 (Tri. – Kolkata))
- vi. *Siddiq Yusuf Merchant v. Commissioner of Customs* (2022 (1) Centax 204 (Tri.-Bom))

**3. Discussion and findings:** -I have gone through the Show Cause Notice alongwith RUDs and submission made by the Noticee in writing alongwith the case laws and records of personal hearing in detail. After going through the same, I am proceeding to decide this case. On going through the records of the case, the issues arising in the instant case for determination are as follows:

(i) Whether the impugned goods were misdeclared in respect of description/classification and whether the correct classification is CTH 5407 5290;

(ii) Whether, in the facts of the case, the declared value is required to be rejected and re-determined for the purpose proposed in the SCN;

(iii) Whether the goods are liable to confiscation under Section 111(m) of the Customs Act, 1962;

(iv) Whether the goods, though so liable, should be permitted to be re-exported from the SEZ/warehouse instead of being absolutely confiscated or forced into DTA assessment;

(v) Whether redemption fine under Section 125 and penalties under Sections 112(a), 112(b), and 114AA are imposable in the facts of this case.

### **3.1 Mis-declaration of description and classification**

There is little room for dispute that the goods, as found upon examination and as tested by the Customs House Laboratory, were not cotton woven fabrics as declared. The SCN records the laboratory findings with specific polyester composition and GSM for each consignment, and even the proprietor, in his Section 108 statement as reproduced in the SCN, acknowledged that as per the test reports the goods were classifiable under CTH 54075290 and not under the cotton heading originally declared.

Accordingly, I hold that the goods were not correctly described/classified in the Warehouse Bills of Entry and that, on the basis of the material on record, the correct tariff heading is CTH 5407 5290.

### **3.2 The importer's explanation**

The department has relied on the lack of documentary purchase trail and on the fact that both consignments from two suppliers turned out to be polyester instead of cotton. That certainly raises suspicion and I am unable to fully accept the importer's explanation as conclusively established. At the same time, adjudication cannot proceed only on suspicion when the practical relief sought is not DTA clearance but re-export of the very same

goods, still lying in customs-controlled premises. The record also shows two facts of significance: first, the goods were intercepted before home consumption; second, the importer stated that no remittance had been made because the transaction was on credit basis. These two facts are consistent with the plea that the importer no longer wants the goods in India and seeks to send them back. Further, Section 69 of the Customs Act, 1962 permits re-export of the imported warehoused goods, if the same has not been cleared for home consumption and are under the control of customs authority, as in this case the goods is in SEZ and that too under seizure.

### **3.3 Re-Determination of Assessable Value of the Imported Goods**

The SCN proposes rejection of the declared value under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and re-determination under Rule 5 based on contemporaneous import data (NIDB), resulting in an assessable value of Rs.97,48,013/- and a corresponding duty computation of Rs.97,52,041/-.

I find that the goods have been mis-declared in respect of description and classification, as established by the laboratory reports and admitted by the noticee. Such mis-declaration of material particulars directly impacts the acceptability of the declared transaction value under Section 14 of the Customs Act, 1962 read with Rule 12 of the Valuation Rules. In terms of the said provisions, where the proper officer has reason to doubt the truth or accuracy of the declared value, and the importer failed to satisfactorily justify the same. Accordingly, the declared value is liable to be rejected.

In the present case, the declared value cannot be accepted, as it is intrinsically linked with the incorrect declaration of the goods as cotton fabrics, whereas the goods have been found to be polyester fabrics. Consequently, the basis of valuation itself stands vitiated. Therefore, recourse to the sequential application of the Valuation Rules is warranted. The re-determination carried out in the SCN on the basis of contemporaneous import data of identical/similar goods under Rule 5 is found to be in accordance with law and the methodology adopted is reasonable and proper.

Accordingly, I hold that the assessable value of the imported goods is correctly re-determined at Rs.97,48,013/- and the same is hereby confirmed. The corresponding duty liability of Rs.97,52,041/- is also determined on the basis of such re-determined value.

However, it is observed that the goods have remained under customs control in the SEZ warehouse and have not been cleared for home consumption. The noticee has sought re-export of the goods and the same is being permitted. In these circumstances, while the re-determination of assessable value and duty is upheld on merits, the question of recovery of duty does not arise at this stage, as the taxable event of clearance for home consumption has not occurred.

### **3.4 Confiscability under Section 111(m)**

Section 111(m) applies where imported goods do not correspond in respect of value or any other particular with the entry made under the Act. Here, the goods declared as cotton woven fabrics were actually polyester-based woven fabrics; the quantity as declared was also found at variance when reworked on the basis of GSM and net weight. On a strict reading of the statute and on the facts recorded in the SCN, the goods are liable to confiscation under Section 111(m).

I therefore hold that the goods are liable to confiscation under Section 111(m).

#### **4. Effect of the case law cited in written submission**

The written submission contains a set of authorities which, read together, establish an important principle: where the imported goods remain under customs control, are not cleared into the domestic market, and the importer seeks re-export of the very goods without putting them to use in India, the adjudicating authority should ordinarily lean in favour of permitting re-export; and, depending on the facts, redemption fine and penalty may be waived or substantially reduced.

##### **4.1 Bin Sabt Jewellery v. Commissioner of Customs, New Delhi**

This decision, as placed in the Written Submission, is directly relevant. The Tribunal allowed re-export where goods had been imported but were not intended to be taken into the Indian market, and emphasized that the essence of "import" for domestic use lies in bringing goods into India as part of the mass of goods in the country. Where the goods remain in customs area and the importer wants to send them back, re-export is a recognised and equitable remedy. The ruling further supports the view that confiscation need not result in punitive fine/penalty in every such case, particularly where no benefit has been taken in India and the foreign supplier is willing or the importer is constrained to send the goods back.

It is a fact on record that here because the impugned goods never crossed into home consumption and have remained in customs/SEZ control.

##### **4.2 Central Marketing Agency v. Commissioner of Customs (Airport), Calcutta**

This decision directly supports the proposition that where re-export is permitted, redemption fine under Section 125 need not be imposed, as the importer does not derive any benefit in India.

The said principle supports permitting re-export in the present case. However, it cannot be applied in absolute terms. In the present case, mis-declaration and mis-classification of goods stands established, and therefore while re-export is allowed, imposition of redemption fine in lieu of confiscation is justified, though at a reasonable level.

##### **4.3 Siddiq Yusuf Merchant v. Commissioner of Customs, NhavaSheva**

This decision is a strong authority in favour of permitting re-export where goods are not compliant with statutory requirements and are not intended

for domestic use. The Tribunal held that confiscation and penalties may not be warranted in such cases and re-export is the appropriate remedy.

The principle laid down therein supports permitting re-export in the present case. However, the facts here differ inasmuch as the goods are not merely non-compliant but are mis-declared and mis-classified, attracting Section 111(m). Therefore, while re-export is allowed, complete waiver of redemption fine and penalty, as in that case, is not warranted.

#### **4.4 Siemens Ltd. v. Commissioner of Customs**

The Hon'ble Supreme Court recognised that where goods are re-exported, the importer does not derive benefit from domestic use and therefore redemption fine under Section 125 may not survive in the same manner.

This principle supports the permissibility of re-export in the present case. However, the said judgment cannot be read as laying down an absolute rule that redemption fine is not imposable in all cases of re-export. In the present case, misdeclaration is established, and therefore imposition of redemption fine remains legally sustainable, though at a reasonable level.

#### **4.5 Commissioner of Customs, Mumbai v. Mansi Impex**

The Hon'ble Supreme Court in *Commissioner of Customs, Mumbai v. Manish Impex* has held that redemption fine is not to be imposed mechanically or at arbitrary levels and that the quantum thereof must be determined having regard to the facts and circumstances of each case, including the margin of profit, nature of goods and the gravity of the offence. The judgment emphasizes that the discretion vested in the adjudicating authority is to be exercised judiciously and reasonably.

Applying the above principle to the present case, I find that the goods have been misdeclared in respect of description and classification, thereby rendering them liable to confiscation. Such misdeclaration, even if not resulting in actual clearance into the domestic tariff area, constitutes an act attracting penal consequences under the Customs Act. Therefore, the case is not one where confiscation can be ignored or treated as merely technical.

At the same time, it is noted that the goods have remained under customs control and are being permitted to be re-exported without entering the domestic market. In these circumstances, while imposition of redemption fine is warranted in lieu of confiscation, the quantum of such fine is required to be moderated, keeping in view the absence of actual domestic clearance and consequential revenue impact.

Similarly, penalty is also imposable for the act of misdeclaration which has rendered the goods liable to confiscation. However, in the absence of evidence of deliberate evasion or actual diversion into the domestic market, the penalty is required to be confined to a reasonable level commensurate with the nature of contravention.

Accordingly, I hold that redemption fine and penalty are imposable in the

present case; however, the same shall be restricted to a reasonable quantum, having due regard to the facts and circumstances of the case and in line with the principles laid down by the Hon'ble Supreme Court.

#### **4.6 Stoneman Marble Industries v. Commissioner of Customs**

This decision of the Hon'ble Supreme Court also does not deal with re-export but emphasizes that no standard formula can be laid down for redemption fine and penalty, and that such determination depends upon the facts and circumstances of each case. It further recognises that such matters fall within the discretion of the adjudicating authority.

Applying this principle, I find that a balanced approach is required in the present case. While re-export is to be permitted considering that the goods have remained under customs control, the established misdeclaration cannot be ignored. Therefore, imposition of redemption fine under Section 125 and penalty under Section 112(a) at a reasonable level is justified.

#### **5. Why re-export should be permitted in this case**

Having considered the record and the authorities cited, I find the following factors decisive:

First, the goods were intercepted while lying in Kandla SEZ warehouse and were never cleared for home consumption. They remained under customs control throughout.

Second, the importer has consistently stated, in statement, written reply, and personal hearing, that the goods supplied were not the goods intended to be purchased and that the importer does not want to clear them in India.

Third, the importer has stated that no payment/remittance has been made to the supplier and that the transaction was on credit basis. Though this by itself does not exonerate the incorrect declaration, it supports the plea that the importer is not seeking to derive commercial benefit from the goods in India.

Fourth, permitting re-export causes no prejudice to revenue in the peculiar facts, because the goods are not being released for domestic consumption. Customs supervision remains intact up to export.

Fifth, the authorities cited in the Written Submission especially Central Marketing Agency, Siddiq Yusuf Merchant, and Siemens Ltd., all support a pragmatic and non-punitive course where goods remain under customs control and are allowed to go back out of the country.

For all these reasons, I am of the view that the ends of justice would be met by permitting re-export of the seized goods under Section 69 of the Customs Act, 1962.

#### **6. Penalty under Sections 112(a), 112(b) and 114AA**

**6.1** A wrong declaration unquestionably existed. Yet penalty under

Sections 112 and 114AA is not to be imposed mechanically in every case of discrepancy. The present case has the following distinguishing features: the goods were stopped before home consumption; there is no evidence that the importer sold, diverted, or attempted to circulate the goods in India; the importer has sought re-export of the very goods; and the record does not show any remittance having been made for the impugned consignments.

The department suspected deliberate evasion because there were two consignments from different suppliers and because documentary trail was weak. That suspicion is not wholly unfounded. At the same time, it cannot be ignored that the importer, being responsible for the correctness of declaration under Section 46 of the Customs Act, has filed Bills of Entry containing incorrect description and classification, which has rendered the goods liable to confiscation under Section 111(m). Such act of omission and commission attracts penalty under Section 112(a) of the Customs Act, 1962.

Further, once the goods are held liable to confiscation, the provisions of Section 125 of the Customs Act become applicable, and therefore redemption fine is imposable in lieu of confiscation, even where the goods are permitted to be re-exported.

In the present factual setting, and taking a holistic view, I am of the considered view that penalty under Section 112(a) is imposable. However, penalty under Section 112(b) is not warranted.

**6.2** From the facts, emerging in the instant case, it is forthcoming that the noticee have mis-declared their imported goods in respect of their classification as well as quantity. The investigation also revealed that the goods were undervalued. The above facts attract imposition of penalty under Section 114AA upon the Noticee, however the quantum of penalty under Section 114AA should be confined to a reasonable level commensurate with the nature of contravention as pronounced by the various judicial foras including Supreme Court in the matter of above mentioned Mansi Impex and Stoneman Marble Industries. The goods were in customs Custody and not been cleared for home consumption. Further, the Noticee submitted that their supplier have supplied wrong products instead of their order and are willing to re-export the same, I am of the considered view that a reasonal approach in imposition of penalty under Section 114AA is required in this case.

## **7. Order**

In view of the foregoing findings, I pass the following order:

(i) I hold that the goods covered under B.E. No. 2962594 dated 30.06.2025 (DTA B/E-3276810 dated 15.07.2025) were wrongly declared. The declared quantity, description and classification are rejected and the goods are re-quantified and re-classified as 2,29,158 SQM of dyed woven fabric made of polyester filament yarns under CTH 5407 5290.

(ii) I hold that the goods covered under B.E. No. 3091762 dated 05.07.2025 (DTA B/E-3259811 dated 14.07.2025) were also wrongly declared. The declared details are rejected and the goods are re-quantified and re-classified as 1,54,471 SQM of dyed woven fabric made of polyester filament yarns under CTH 5407 5290.

(iii) I hold that the declared value in both the above Bills of Entry is not acceptable. The same is rejected and re-determined as Rs.97,48,013/- under the Customs Valuation Rules.

(iv) I hold that the goods are liable for confiscation under Section 111(m) of the Customs Act, 1962 due to mis-declaration. However, I give the Noticee an option to redeem their goods upon payment of redemption fine of Rs.5,00,000/- (Rupees Five Lakh Only) for the purpose of Re-export only from the SEZ/warehouse under Customs supervision as per Act/Rules.

(v) I impose a penalty of Rs.5,00,000/- (Rupees Five Lakh Only) on M/s. M N R Enterprises under Section 112(a) of the Customs Act, 1962. No penalty is imposed under Sections 112(b).

(vi) I impose a penalty of Rs.10,00,000/- (Rupees Ten Lakh Only) on M/s. M N R Enterprises under Section 114AA of the Customs Act, 1962.

(vii) The re-export shall be completed within 45 days from the date of communication of this order, on execution of necessary bond/undertaking, if considered necessary by the jurisdictional officer, and after due identification of the goods with reference to the seized consignments.

(viii) Failure to complete the re-export within the period so allowed, without sufficient cause and without extension granted by the competent authority, shall leave it open to the department to take further action in accordance with law.

**(Vishwajeet Singh)**  
**Commissioner(in-Situ),**  
**Custom House, Kandla**

**F.No.: GEN/ADJ/COMM/144/2026-Adjn-O/oCommr-Cus Kandla**

**DIN:-20260471ML000000C4C9**

**To(the noticee):-**

M/s M N R Enterprises, IEC: BVKPB3379P,  
A-604, Bhardwaj Bldg,  
Saptarshi Park, SwapnaNagri,  
Mulund West, Mumbai-400080

**Copy to:-**

1. The Deputy Director, DRI, Gandhidham Regional Unit, Plot No. 5 & 6, Ward-5A, Near Vinayak Hospital, Adipur-370205, Kutch for information.
2. The Deputy Commissioner (Customs), KASEZ with a request to forward all the relevant documents after re-export of the confiscated goods.
3. The Additional Commissioner (CCO), Customs Ahmedabad Zone, Ahmedabad.
4. The Assistant Commissioner (RRA), Custom House, Kandla.
5. The Superintendent (EDI), Custom House, Kandla for the purpose of uploading the OIO on the website of Kandla customs.
6. Guard file