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|  | OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOMS HOUSE, MP & SEZ MUNDRA, KUTCH-GUJARAT -370421 PHONE : 02838-271426/271428 FAX :02838-271425 |  |
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|----------|-----------------------------------|-------------------------------------------------------------------------------------------------------------|
| A | File No. | CUS/AG/MISC/292/2025-Gr 3-O/o Pr Commr-Cus-Mundra |
| B | OIO No. | MCH/ADC/AKM/312/2024-25 |
| C | Date of Order | 20.02.2025 |
| D | Passed by | Amit Kumar Mishra Additional Commissioner, Import Assessment, Custom House, Mundra. |
| E | SCN No./IR No. & Date | CUS/SIIB/319/543/2024-SIIB dated 17.02.2025 |
| F | Noticee / Party / Importer | M/s Super Sign Industries, Unit-II, Revenue Block No. 28, Village-Ujeti, Panchamahals-389350 |
| G | DIN | 20250271MO0000888C58 |

1. The Assessment/Speaking Order is granted to concern free of charge.
2. Any person aggrieved by this Order – in – Original may file an appeal under Section 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. 1 to

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

3. Appeal shall be filed within Sixty days from the date of Communication of this Order.
4. Appeal should be accompanied by a Fee of Rs. 5/- (Rupees Five Only) under Court Fees Act it must accompanied by (i) copy of the Appeal, (ii) this copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five Only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.
5. Proof of payment of duty / interest / fine / penalty / deposit should be attached with the appeal memo.
6. While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respect.
7. An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty or Penalty are in dispute, where penalty alone is in dispute.

BRIEF FACT OF THE CASE: -

M/s Super Sign Industries (IEC 0516940457), (hereinafter referred to as 'the importer' for the sake of brevity) having address at Unit-II, Revenue Block No. 28, Village-Ujeti, Panchamahals-389350, filed home consumption (H) Bill of Entry No. 6389180 dated 29.10.2024 for import of goods declared as "Un Bleached/ Undyed Polyester Warp Knitted Fabric Raw Material (Raw Material for manufacture flex Banner industrial use only)(28 GSM) and (33 GSM) " under HSN Code 60053600 through their authorised Customs Broker M/s. Him Logistics Pvt. Ltd. CB code AABCH9627GCH001 (hereinafter referred as 'the CB' for sake of brevity). Further, importer has availed COO benefit under Notification No. 50/2018 dated 30.06.2018 Sr. No. 645. The details of the B/E are as follows: -

Table-A

| S r N o. | B/E N o. & date | Bill of Lading No. & Date Container N o. | Declared Goods | Declare d HSN Code | Declare d Quan tity | Declared Unit Pri ce | Declared Assessabl e Value (i n Rs.) | Declare d Duty (in Rs.) |
|-------------------|---------------------------------|--------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|--------------------------|-------------------------------------|----------------------------|-----------------------------------------------|-------------------------------|
| 1. | 6389180 dated 29/ 10/2024 | YSO24090 71 dated 3 0.09.2024 & ZCSU65 805565, T LLU51990 99 Vessel name Torrance | Un Bleach ed/ Undye d Polyeste r Warp Kn itted Fabri c Raw Material(2 8 GSM) | 6005360 0 | 24855K gs./8877 46.24 S QM | 1.328US D/Kgs. | 2804012/- | 6,58,3 82/- |
| | | | Un Bleach ed/ Undye d Polyeste r Warp Kn itted Fabri c Raw Material(3 3 GSM) | 6005360 0 | 25266 Kgs./76 5609 S QM | 1.252 US D/Kgs. | 26,86,925/ - | 6,30,8 90/- |
| Total= | | | | | 50121 Kgs. | | 54,90,937/ - | 12,89, 272/- |

2. DGFT vide Notification No. 33/2024-25 dated 01.10.2024 amended import policy of certain HSN code including 60049000. Import policy of the goods imported under these HSN code has been changed from "Free" to "Prohibited" if CIF value is less than 3.5 US Dollar/kg.

3. On checking EDI import data, it is noticed that importer M/s Super Sign Industries has filed B/E No. 6389180 dated 29.10.2024 through

their CB M/s HIM Logistics Private Limited for import of “Un Bleached/ Undyed Polyester Warp Knitted Fabric Raw Material having different GSM i.e. 28 and 33 GSM” under HSN Code 60053600 having unit price less than 3.5USD/Kgs. as prescribed in DGFT Notification No. 33/2024-25 dated 01.10.2024. Further, importer has availed COO benefit under Notification No. 50/2018 dated 30.06.2018 Sr. No. 645 wherein 20% concession on applied rate of duty has been extended. Hence, effective rate of BCD is @ 16%. On tracking the vessel on Shipping Line Website, it was found that Torrance Vessel (EA6), Voyage No. 29 reached on Ningbo Port on 08.10.2024 and departed on 12.10.2024, However, as per House BL No. YSO2409071 dated 30.09.2024 uploaded in e Sanchit, Laden on board date at Ningbo port is 30.09.2024.

4. In view of above discrepancy, goods covered under impugned B/E No. 6389180 dated 29.10.2024 was put on hold to rule-out possibility of bypassing policy restriction and duty evasion, if any.

5. As per para 2.17 of handbook of Procedure, 2023 notified by Director General of Foreign Trade vide public notice No. 01/2023 dated 01.04.2023, date of reckoning import is reproduced below: -

(a) Date of reckoning of import is decided with reference to date of shipment / dispatch of goods from supplying country as given in Paragraph 11.11 of Handbook of Procedures and not the date of arrival of goods at an Indian port.

Further para 11.11 of Handbook of procedure is as under :-

Date of shipment/ dispatch in respect of import will be reckoned as under :-

| S. No. | Mode of Transportation | Date of Shipment/ Dispatch |
|--------|-------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|
| (i) | By Sea | The date affixed on the Bill of Lading |
| (ii) | By Air | Date of relevant Airway Bill provided this represents date on which goods left last airport in the country from which the import is effected. |
| (iii) | From land-Locked Countries | Date of dispatch of goods by rail, road or other recognised mode of transport to consignee in India through consignment basis. |
| (iv) | By Post Parcel | Date stamp of office of dispatch on the packet or dispatch note |
| (v) | By Registered Courier Service | Date affixed on Courier Receipt / Waybill |
| (vi) | Multimodal Transport | Date of handing over goods to first carrier in a combined transport Bill of Lading |

6. Summons was issued to Shipping Line M/s Star Shipping Line Pvt. Ltd. under section 108 of the Customs Act, 1962 for recording their statement on 08.11.2024 and statement of Shri Prashant Makwana, authorized representative of M/s Star Shipping Line Pvt. Ltd. was recorded

on 08.11.2024 wherein he provided the port of call list of "Torrance Vessel (EA6), Voyage No. 29" and as per port of call list, Torrance vessel reached on Ningbo Port on 08.10.2024 and departed from Ningbo port on 12.10.2024. Shri Prashant Makwana also interalia stated in his statement that correct laden on board date of containers is 12.10.2024 and containers were physically loaded from Ningbo Port on Torrance vessel on 12.10.2024 as Master Bill of Lading No. GOSUNGB2035545 dated 12.10.2024 has been issued by their company on which Laden on board date is clearly mentioned as 12.10.2024. He further stated that they file mostly IGM as per Master BL, however, sometimes, they file IGM on House Bill of Lading on consignee/ forwarder request.

7. Further, Statement of Shri Rohit Marwah, authorised representative of Indian Forwarder M/s Nedlloyd Logistics India Pvt. Ltd. was recorded on 26.12.2024 wherein he interalia stated that

- the containers were handed over at Ningbo port to shipping line on 26.09.2024 and for 30.09.2024 sailing, accordingly, our agent released HBL for 30.09.2024.
- he agreed that vessel reached on Ningbo Port on 08.10.2024 and container was loaded after reaching the vessel i.e. 12.10.2024.
- Yes, they have updated M/s Super Sign Industries regarding the delay on 12.10.2024 via phone. Delay notice was sent to importer on WhatsApp (9899986424 Sh. Nitin, Operation Manager of M/s Super Sign Industries).

8. From the above, it appears that container were physically laden on board on Torrance Vessel on 12.10.2024, accordingly, Master Bill of Lading No. GOSUNGB2035545 dated 12.10.2024 was issued by shipping line bearing date of issue i.e. 12.10.2024 and laden on board date as 12.10.2024. Hence, in terms of para 2.17 and 11.11 of HBP, 2023, date of reckoning of import is 12.10.2024.

9. Further, the examination of the goods was carried out at Landmark CFS, Mundra on dated 12.11.2024 in the presence of Shri Ramashankar R. Prasad, Sr. Executive, Operations, Mundhra CFS and Shri Sharban Kumar Sahoo, Authorized representative of M/s HIM Logistics Pvt. Ltd. After placing of the container, the seal placed on the containers were checked/verified and found intact and tally with the number mentioned in the Bill of lading. Before beginning the examination, the weightment slip of the containers generated at CFS weighbridge were cross-checked. The weight mentioned on the slips as well as Bills of Lading are as under.

| Sr. No. | Bill of entry no. and Date | Container No. | B/L weight (Kg) | CFS weight (Kg) | Difference (kgs) |
|---------|----------------------------|---------------|-----------------|-----------------|------------------|
| 1 | 6389180 dated 29.10.2024 | TLLU5199099 | 24855 | 25380 | 525 |
| | | ZCSU6580565 | 25266 | 25530 | 264 |
| Total | | | 50121 | 50910 | 789 |

10. The line bottle seal was cut open and on opening, it was found that goods(fabric) were stuffed into the container in the form of rolls which were packed in PP bags. Therefore, entire cargo was de-stuffed in the warehouse with the help of labours. During de-stuffing, it was found that goods were covered in green coloured PP Bags and one sticker is pasted on each PP bags wherein name of importer, Product, Specification, width, length, type and country of origin were mentioned is stuffed with rolls covered with green PP Bags. The details of the goods found are as under: -

| Container No. | Description of the goods | Width | No. of Rolls |
|---------------|----------------------------------------------------------|-------|--------------|
| TLLU5199099 | Unbleached/Undyed Polyester Warp Knitted Fabric (28 GSM) | 2.08 | 25 |
| | | 2.68 | 21 |
| | | 3.35 | 24 |
| ZCSU6580565 | Unbleached/Undyed Polyester Warp Knitted Fabric (33 GSM) | 3.35 | 57 |
| | TOTAL | | 127 |

11. During examination of goods imported vide B/E No. 6389180 dated 29.10.2024, goods declared as unbleached/undyed polyester warp Knitted Polyester Fabric were found as Fabric. Further, on visual examination, actual nature, composition of the goods could not be ascertained visually, therefore 02 type representative samples were drawn of different GSM and forwarded to CRCL, Kandla for testing purpose vide Test Memo No. 189 & 190/2024-25 both dated 05.11.2024. The CRCL test report as under: -

| Test Memo No. | Item Description in BE | Item Found during examination | Report |
|---------------|------------------------------------------------------------------------|-------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 189 | Un Bleached/ Undyed Polyester Warp Knitted Fabric Raw Material(28 GSM) | Fabric | The Sample is received in the form of cut piece of white (undyed) loosely Knitted (Net Type) of fabric having inserted yarn on both side. It is composed of Polyester filament yarn (non-textured). Since sample is very loosely knitted fabric (without selvedge), so it is not possible to ascertain the exact GSM/ Warp Knitted/ Weft Knitted. AZO dyes not detected. |
| 190 | Un Bleached/ Undyed Polyester Warp Knitted Fabric Raw | Fabric | The Sample is received in the form of cut piece of white (undyed) loosely Knitted (Net Type) of fabric having inserted yarn on both side. It is composed of Polyester filament yarn (non-textured). Since sample is very loosely knitted fabric (without selvedge), so it is not possible to ascertain |

| | |
|------------------|-------------------------------------------------------------------|
| Material(33 GSM) | the exact GSM/ Warp Knitted/ Weft Knitted. AZO dyes not detected. |
|------------------|-------------------------------------------------------------------|

12. Since CRCL has given test report for limited parameters mentioning that goods are white (undyed) loosely knitted (net type) of fabric having inserted yarn on both side. It is composed of polyester filament yarn. However, test report was not clear about whether the goods are warp/weft knitted fabric. However, since DGFT Notification No. 33/2024-25 dated 01.10.2024 covers both warp and weft knitted fabric classifiable under CTH 60053600 and 60063100, hence, further testing was not conducted as goods became prohibited in nature due to CIF value declared by importer which is less than 3.5USD/Kgs. Further, importer has imported same fabric through various previous B/E under same CTH, hence, prima facie, there appears to be no requirement of change of classification.
13. Further, the test result received from CRCL Kandla were communicated to importer vide email dated 03.12.2024 for perusal and acceptance purpose. No reply on email was received in this regard.
14. Further, the transaction value declared by the importer appears to be fair as per previous import of same fabric made by M/s Super Sign Industries under CTH 60053600, hence, there appears to be no reason for rejecting transaction value in terms of Rule 12 of Custom Valuation Rule, 2007. The details of previous B/E are as under: -

| Sr No. | B/E No. & date | Declared Goods | Declared HSN Code | Declared Quantity | Declared Unit Price | Declared Assessable Value (in Rs.) | Declared Duty (in Rs.) |
|--------|--------------------------|----------------------------------------------------------------|-------------------|-------------------|---------------------|------------------------------------|------------------------|
| 1. | 5724875 dated 21.09.2024 | Un Bleached/ Undyed Polyester Warp Knitted Fabric Raw Material | 60053600 | 25402 Kgs. | 1.30 USD/Kgs. | 28,07,896/- | 6,59,293/- |
| 2. | 5725366 dated 21.09.2024 | Un Bleached/ Undyed Polyester Warp Knitted Fabric Raw Material | 60053600 | 25280 Kgs. | 1.36 USD/Kgs. | 29,13,956/- | 6,84,197/- |
| 3. | 5758629 dated 23.09.2024 | Un Bleached/ Undyed Polyester Warp Knitted | 60053600 | 25488 Kgs. | 1.27 USD/Kgs. | 27,53,105/- | 6,46,430/- |

| | | | | | | | |
|--|--|------------------------|--|--|--|--|--|
| | | Fabric Raw Material | | | | | |
|--|--|------------------------|--|--|--|--|--|

15. In view of above, it appears that actual laden on board date of container and Master Bill of Lading date is 12.10.2024 which is evident from Port of call list of Torrance Vessel, statement of Shri Prashant Makwana, Authorised representative of M/s Star Shipping Line Pvt. Ltd. and as per para 2.17 and 11.11 of HBP, 2023, date of reckoning of import is 12.10.2024 which is much after than the Notification No. 33/2024-25 date 01.10.2024. However, importer filed their B/E on the basis of House Bill of lading wherein incorrect laden on board date i.e. 30.09.2024 is mentioned. Since, DGFT vide Notification No. 33/2024-25 dated 01.10.2024 changed the import policy of certain CTH (including 60053600) from free to prohibited if CIF value is less than 3.5 US Dollar/ Kg., and in this case also, CIF value of goods imported vide B/E No. 6389180 dated 29.10.2024 is less than the MIP fixed vide DGFT Notification No. 33/2024-25 dated 01.10.2024, hence, Goods imported vide impugned B/E No. 6389180 dated 29.10.2024 became prohibited in nature.

16. In view of above, statement of Sh. Abhyudaya Singh, authorised representative of M/s Super Sign Impex was recorded on 12.12.2024 under section 108 of the Customs Act, 1962 wherein he interalia stated that

- He was not aware about this notification
- As per the documents, since, vessel reached on Ningbo Port on 08.12.2024 and departed on 12.12.2024. Hence, prima facie, it appears that 12.10.2024 is actual laden on board date.
- He agrees that Unit Price of Un bleached Undyed Polyester Warp Knitted Fabric 28 GSM and 33 GSM has been declared @ .036 and 0.040 Per SQM however as per DGFT notification, BE needs to be filed on MIP of 3.5USD/KG.
- They are ready to accept enhanced CIF value @ 3.5 USD/Kgs as per MIP Notification and ready to pay the differential duty accordingly.
- He has perused the test report and I accept the test report dated 20.11.2024 issued by CRCL, Kandla. Further, based on test report, he hereby accepts the classification 60053600.
- CB M/s HIM Logistics Provided checklist without consideration of MIP Notification. Hence, we were not about the notification and I approved the checklist for filing of B/E No. 6389180 dated 29.10.2024.
- On being asked about intimating the department about vessel delay notice provided by Shipping line, he stated that they were not aware about giving intimation regarding vessel delay to custom authorities and since, they were not aware about DGFT Notification, hence, they did not try to change Laden on board date.

17. Further, statement of Shri Rohit Mehra, authorized representative of M/s HIM Logistics Private Limited was recorded on 02.01.2025 under section 108 of the Customs Act, 1962 wherein he interalia stated that:-

- We were aware about this notification at the time of filing of B/E.
- As per Laden on Board date available on Master BL No. GOSUNGB2035545 dated 12.10.2024, Container was loaded on vessel on 12.10.2024. However, we got only House Bill of Lading from importer for filing Bill of Entry which is having bill of lading date 30.09.2024.
- Container was laden on board on 12.10.2024, Goods fall under purview of MIP Notification. However, we filed B/E on the basis on House Bill of Lading as we only received House Bill of Lading for BE filing purpose.
- At the time of filing B/E, we tried to check at ICEGATE Custom Duty Calculator but same was not working at that time. Further, since BL was dated 30.09.2024, no doubt was raised in our mind. Hence, we filed Bill of Entry and B/E was assessed in RMS, hence, no query was raised in system.
- We don't track consignment at the time of filing of B/E. We file Bill of Entry based on House Bill of Lading or Master Bill of Lading details provided by the importer or forwarder.

18. In view of the above, prima facie, it appears that importer M/s Super Sign Industries was aware that containers were physically loaded on vessel on 12.10.2024 and in this regard, vessel delay notice was served to him by Indian forwarder, still, importer allowed to file B/E on the basis of House Bill of Lading wherein date of laden on board is mentioned as 30.09.2024 which shows that importer was well aware about the DGFT Notification No. 33/2024-25 dated 01.10.2024 vide which import condition of certain Fabric falling under certain HSN code (including 60053600) was changed from "Free" to "prohibited" if CIF value is less than 3.5 USD/Kgs. Hence, importer willingly tried to clear goods based on House Bill of lading wherein mentioned date of Laden of container is 30.09.2024 and date of Bill of lading is 30.09.2024. However, cargo was never loaded physically on vessel on 30.09.2024. Indian Forwarder M/s Nedlloyd Logistics India Pvt. Ltd. informed the importer about the vessel delay notice and forwarded the copy of same. Still, importer neither informed the department about vessel delay and filed B/E on the basis on House Bill of Lading instead of Master Bill of Lading wherein actual date of laden on board of container i.e. 12.10.2024 and date of Bill of lading i.e. 12.10.2024 was mentioned.

19. Hence, prima facie, it appears that importer in order to bypass Policy Restriction and evade higher duty on Minimum Import Price fixed vide Notification No. 33/2024-25 dated 01.10.2024 filed B/E No. 6389180 dated 29.10.2024 on the basis of House Bill of Lading wherein wrong facts i.e. wrong date of laden on board were mentioned. From the statement of Shri Abhyudaya Singh, authorised representative of M/s Super Sign Impex, recorded on 12.12.2024, it is evident that importer was well aware about the vessel delay, however, they neither communicated the same to department nor CB so that they can bypass prohibition and higher duty applicable on MIP fixed vide DGFT Notification No. 33/2024-25.

20. Further, as per para 2.17 and 11.11 of HBP, 2017, date of reckoning of import in case of sea shipment is date of Bill of Lading. Since, in this case, containers were physically loaded on Torrance vessel on 12.10.2024 and Master Bill of lading was issued on 12.10.2024. Hence, Date of reckoning of import of this consignment is 12.10.2024.

21. Since, DGFT Notification No. 33/2024-25 dated 01.10.2024 has been effective from 01.10.2024 and due to revised policy condition from free to Prohibited as per Notification No. 33/2024-25, it appears that goods imported vide impugned B/E No. 6389180 dated 29.10.2024 became prohibited in nature. Therefore, it appears that the importer has contravened Section 17 and Section 46 of the Customs Act, 1962. These acts of omission and commission on the part of importer has made the goods imported vide B/E No. 6389180 dated 29.10.2024 having declared assessable value (CIF Value) of Rs. 54,90,937/- liable for confiscation under Section 111 (d) and (m) of the Custom Act, 1962, hence, impugned goods imported vide Bill of Entry No. 6389180 dated 29.10.2024 has been Seized vide Seizure Memo dated 16.01.2025 under section 110(1) of the Customs Act, 1962, and goods has been handed over to the custodian i.e. M/s Mundhra Container Freight Station Pvt. Ltd. vide Supurtanama dated 16.01.2025 and in compliance of Board Instruction No. 02/2024-Customs dated 15.02.2024, Incident report no. 34/2024-25 dated 20.01.2025 has been issued accordingly.

22. Further, since importer was well aware about the vessel delay, still he allowed to file B/E on House Bill of Lading wherein incorrect Laden on board date was mentioned, hence, suppressed correct facts/ documents from the department and tried to clear cargo on the basis of House Bill of Lading bearing false laden on board date which implies that importer has tried to clear goods by submitting false documents or document having false laden on board date intentionally to department to clear prohibited goods. Hence, it appears that due to above said act of omission and commission on the part of importer, importer has rendered themselves liable for penal action under Section 112 (a) and 114AA of the Customs Act, 1962.

23. **RELEVANT LEGAL PROVISIONS:**

(A) RELEVANT PROVISIONS OF CUSTOMS ACT, 1962:

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

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

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

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

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

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

Section 46. Entry of goods on importation:

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

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

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

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

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(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;

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

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

Any person, -

- a. who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or
 - (b),
shall be liable, -
- i.
- ii. in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher:

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

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

24. Summary of Investigations Conducted:

24.1 The importer Super Sign Industries (IEC 0516940457), had filed Bill of Entry No. 6389180 dated 29.10.2024 at Mundra port (INMUN1) for import of 'Undyed/ Unbleached Polyester Warp Knitted Fabric having different GSM i.e. 28 and 33 GSM' at 1.32 and 1.25 USD/Kgs respectively under 60053600 which is less than the MIP fixed vide DGFT notification No. 33/2024-25 dated 01.10.2024 and Bill of Lading date of consignment is 30.09.2024. On tracking the vessel on Shipping Line Website, it was found that Torrance Vessel (EA6), Voyage No. 29 reached on Ningbo Port on 08.10.2024 and departed on 12.10.2024. However, as per BL No. YSO2409071 dated 30.09.2024 uploaded in e Sanchit, Laden on board date at Ningbo port is 30.09.2024. Hence, B/E No. 6389180 dated 29.10.2024 was put on hold for SIIB examination purpose. And statement of Shri Prashant Makwana, authorised representative of M/s Star Shipping Service Private Limited was recorded on 08.11.2024 wherein he interalia confirmed that containers of impugned B/L were loaded on vessel on 12.10.2024 and Master BL No. GOSUNGB2035545 dated 12.10.2024 was issued accordingly. Hence, as per para 2.17 and 11.11 of Handbook of procedure, 2023, date of reckoning of import is 12.10.2024. Further, DGFT Notification was issued on 01.10.2024, hence, goods fall under purview of DGFT Notification No. 33/2024-25 dated 01.10.2024. Further, Statement of authorized representative of importer was recorded on 12.12.2024 wherein he interalia accepted that actual date of laden on board of container is 12.10.2024 and goods fall under purview of DGFT Notification No. 33/2024-25 dated 01.10.2024 and they are ready to clear goods on enhanced CIF value. Further, authorized representative of Indian Forwarder M/s Nedlloyd Logistics India Pvt. Ltd. in his statement dated 26.12.2024 stated that they intimate the importer about the vessel delay and also sent the vessel delay notice to importer. However, importer M/s Super Sign Impex never intimated the department as well as CB M/s HIM logistics Pvt. Ltd. about vessel delay and allowed to file B/E on House Bill of Lading wherein wrong facts i.e. date of laden of board date of container, was mentioned. Hence, prima facie, it appears that importer has willingly filed B/E No. 6389180 dated 29.10.2024 on House Bill of lading, wherein wrong particulars were mentioned, in order to bypass policy restriction and evade higher duty on MIP imposed vide DGFT Notification No. 33/2024-25 dated 01.10.2024.

24.2 Accordingly, it is found that, the importer has failed to produce correct/ true documents i.e. Bill of Lading and weight of the impugned goods. Thus, by the act of omission and commission at the level of importer, it appears that, the importer has contravened the provisions of

Section 46 and Section 17 of the Customs Act, 1962, in as much as, they failed to make correct and true declaration and information to the Customs Officer in the form of Bill of Entry and also failed to assess their duty liability correctly. The relevant portion of said provisions is as under:

Section 17. Assessment of duty. –

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

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

Section 46. Entry of goods on importation. –

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

24.3 Importer Super Sign Industries (IEC 0516940457) vide their letter dated 30.01.2025 stated that they do not want any Show Cause Notice and personal hearing and requested to decide matter on merit basis.

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

- i. The declared quantity i.e. 24855 Kgs. of item no. 1 imported vide impugned Bill of Entry no. 6389180 dated 29.10.2024 is liable to be rejected and same to be re determined as “25380 Kg”.
- ii. The declared quantity i.e. 25266 Kgs. of item no. 2 imported vide impugned Bill of Entry no. 6389180 dated 29.10.2024 is liable to be rejected and same to be re determined as “25530 Kg”.
- iii. As per para 2.17 and 11.11 of HBP, 2023, the date 12.10.2024 mentioned on Master Bill of Lading No. GOSUNGB2035545 dated 12.10.2024 is correct date of reckoning of import in case of B/E No. 6389180 dated 29.10.2024 and hence the declared value of item i.e. Undyed/ Unbleached Polyester Warp Knitted Fabric having different GSM i.e. 28 and 33, imported vide impugned Bill of Entry no. 6389180 dated 29.10.2024 are in contravention of DGFT Notification No. 33/2024-25 dated 01.10.2024 and section 46 of the Customs Act, 1962, hence, item imported vide Bill of Entry no. 6389180 dated 29.10.2024 became prohibited in nature and therefore liable for confiscation under Section 111(d) and (m) of the Customs Act, 1962.

- iv. The Bill of Entry no. 6389180 dated 29.10.2024 is liable to be re-assessed accordingly under Section 17(4) of the Customs Act, 1962.
- v. The importer M/s Super Sign Industries (IEC 0516940457) is liable for Penalty under Section 112(a) of the Customs Act, 1962.
- vi. The importer M/s Super Sign Industries (IEC 0516940457) is liable for Penalty under Section 114AA of the Customs Act, 1962.

26. WAIVER OF NOTICE AND PERSONAL HEARING

The importer vide Letter dated 04.02.2025 has requested that they do not want any Show Cause Notice or Personal Hearing in the matter and necessary adjudication proceeding/action may be initiated in respect of the said Bill of Entry as per the Customs Act, 1962.

DISCUSSION & FINDING

27. I have carefully gone through the Investigation report No. 115/2024-25 dated 17.02.2025 issued by the Deputy Commissioner of Customs (SIIB), Mundra and I find that Importer M/s Super Sign Industries vide their letter dated 04.02.2025 has requested for waiver of the show cause notice and personal hearing in the matter. Therefore I find that the principle of natural justice as provided in section 122A of the Customs Act, 1962 has been completed. Hence I proceed to decide the case on the basis of the documentary evidence available on records.

I find that in the instant case, the importer had filed Bill of Entry No. 6389180 dated 29.10.2024 for import of goods declared as “Un Bleached/ Undyed Polyester Warp Knitted Fabric Raw Material (Raw Material for manufacture flex Banner industrial use only)(28 GSM) and (33 GSM) “ under HSN Code 60053600 through their authorised Customs Broker M/s. Him Logistics Pvt. Ltd. The said consignment was examined 100% by the SIIB, Mundra. The details of the B/E are as follows: -

Table-B

| S r N o. | B/E N o. & date | Bill of Lading No. & Date Container No | Declared Goods | Declare d HSN Code | Declare d Quan tity | Declared Unit Pri ce | Declared Assessabl e Value (i n Rs.) | Declare d Duty (in Rs.) |
|-------------------|---------------------------------|------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|--------------------------|-------------------------------------|----------------------------|-----------------------------------------------|-------------------------------|
| 1. | 6389180 dated 29/ 10/2024 | YSO24090 71 dated 3 0.09.2024 & ZCSU65 805565, T LLU51990 99 Vessel | Un Bleach ed/ Undye d Polyeste r Warp Kn itted Fabri c Raw Material(2 8 GSM) | 6005360 0 | 24855K gs./8877 46.24 S QM | 1.328US D/Kgs. | 2804012/- | 6,58,3 82/- |

| | | | | | | | | |
|--------|--|------------------|------------------------------------------------------------------------|----------|------------------------|----------------|-------------|-------------|
| | | name Torrance | Un Bleached/ Undyed Polyester Warp Knitted Fabric Raw Material(33 GSM) | 60053600 | 25266 Kgs./765609 S QM | 1.252 USD/Kgs. | 26,86,925/- | 6,30,890/- |
| Total= | | | | | 50121 Kgs. | | 54,90,937/- | 12,89,272/- |

28. I find that Bill of Entry was filed on the basis of House Bill of Lading wherein date of laden on board is mentioned as 30.09.2024. I further find that statement of Shri Prashant Makwana, authorised representative of M/s Star Shipping Service Private Limited was recorded on 08.11.2024 wherein he interalia confirmed that containers of impugned B/L were loaded on vessel on 12.10.2024 and Master BL No. GOSUNGB2035545 dated 12.10.2024 was issued accordingly. Hence, as per para 2.17 and 11.11 of Handbook of procedure, 2023, date of reckoning of import is 12.10.2024. Further, DGFT Notification was issued on 01.10.2024, hence, goods fall under purview of DGFT Notification No. 33/2024-25 dated 01.10.2024.

29. I find that DGFT vide Notification No. 33/2024-25 dated 01.10.2024 changed the import policy of certain CTH (including 60053600) from free to prohibited if CIF value is less than 3.5 US Dollar/ Kg., and in this case also, CIF value of goods imported vide B/E No. 6389180 dated 29.10.2024 is less than the MIP fixed vide DGFT Notification No. 33/2024-25 dated 01.10.2024, hence, Goods imported vide impugned B/E No. 6389180 dated 29.10.2024 became prohibited in nature.

30. In this regard, I place reliance on the import policy, which the Central Government has amended, in respect of policy condition for specific HS codes covered under Chapter 60 of the ITC(HS) 2022, Schedule-1 (Import policy). The relevant part of Notification 33/2024-25 dated 01.10.2024 issued by the DGFT is stated as under:

[To be published in the Gazette of India Extraordinary Part-II, Section-3, Sub-Section (ii)]

Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Foreign Trade
Vanijya Bhawan

Notification No. 33 /2024-25
New Delhi, Dated: 1st October, 2024

Subject: Imposition of Minimum Import Price on Synthetic Knitted Fabrics up to 31st December 2024 –reg.

S.O.: In exercise of powers conferred by Section 3 and Section 5 of FT (D&R) Act, 1992, read with paragraph 1.02 and 2.01 of the Foreign Trade Policy, 2023, as amended from time to time, and in partial modification to Notification No. 77/2023 dated 16.03.2024, the Central Government hereby **extends** the condition of Minimum Import Price (MIP) on the following 5 ITC (HS) Codes of Synthetic Knitted Fabrics from **15th September, 2024 to 31st December 2024** as under :

| ITC(HS) Code | Item Description | Existing Import Policy | Revised Import Policy | Existing Policy Condition | Revised Policy Condition |
|--------------|------------------------------------------------------------|------------------------|-----------------------|---------------------------|--------------------------------------------------------------------------------|
| 60063100 | -Of synthetic fibres : -- Unbleached or bleached | Free | Prohibited | - | However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram |
| 60063200 | -Of synthetic fibres : -- Dyed | Free | Prohibited | - | However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram |
| 60063300 | -Of synthetic fibres : -- Of yarns of different colours | Free | Prohibited | - | However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram |
| 60063400 | -Of synthetic fibres : -- Printed | Free | Prohibited | - | However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram |
| 60069000 | -- Other | Free | Prohibited | - | However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram |

2. All other terms and conditions in the Notification No. 77/2023 dated 16.03.2024 shall remain unchanged.

3. In addition to the above, the Central Government hereby revises the Import Policy Condition of the following ITC (HS) Codes under Chapter 60 of ITC(HS) 2022, Schedule-I (Import Policy), for the period upto 31st December, 2024, with immediate effect:

: 2 :

| ITC(HS) Code | Item Description | Existing Import Policy | Revised Import Policy | Existing Policy Condition | Revised Policy Condition |
|--------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|-----------------------|---------------------------|--------------------------------------------------------------------------------|
| 60019200 | - Other : -- Of man-made fibres | Free | Prohibited | - | However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram |
| 60041000 | Knitted or crocheted fabrics of a width exceeding 30 cm, containing by weight 5 percent or more of elastomeric yarn or rubber thread, other than those of heading 60.01. | Free | Prohibited | - | However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram |
| 60049000 | - Other | Free | Prohibited | - | However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram |
| 60053600 | - Of synthetic fibres : -- Other, unbleached or bleached | Free | Prohibited | - | However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram |
| 60053790 | --- Other | Free | Prohibited | - | However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram |
| 60053900 | - Of synthetic fibres : -- Other, printed | Free | Prohibited | - | However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram |
| 60062200 | - Of cotton : -- Dyed | Free | Prohibited | - | However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram |
| 60064200 | - Of artificial fibres: -- Dyed | Free | Prohibited | - | However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram |

A

31. Accordingly, I hold that the item as detailed in the Table below falls under the ambit of Notification 33/2024-25 dated 01.10.2024 and are prohibited for import at a CIF value of less than 3.5 USD. Further, I find that during the examination, 789 Kgs. were found in excess of declared weight of 50121 Kgs.

Table-C

| Sr. No. | Declared Description | No. of Rolls | Qty. found during examination (in Kg.) | Declared CTH | Remarks |
|---------|----------------------------------------------------------|--------------|----------------------------------------|--------------|------------------------------------------------------------------------------------------------------------------|
| 1 | Unbleached/Undyed Polyester Warp Knitted Fabric (28 GSM) | 70 | 25380 | 60053600 | CIF value is less than USD 3.5 hence item is prohibited as per the DGFT Notification 33/2024-25 dated 01.10.2024 |
| 2 | Unbleached/Undyed Polyester Warp Knitted Fabric (33 GSM) | 57 | 25530 | 60053600 | CIF value is less than USD 3.5 hence item is prohibited as per the DGFT Notification 33/2024-25 dated 01.10.2024 |

Accordingly, I hold that these goods cannot be released for home consumption as they are prohibited within the meaning of Section 2(33) and Section 11 of the Customs Act 1962 and Hence, I hold that these are liable for confiscation under Section 111 (d) and 111(m) of the Customs Act,1962.

32. I find that based on the Investigation carried out by SIIB, the importer was well aware about the vessel delay, still he allowed to file B/E on House Bill of Lading wherein incorrect Laden on board date was mentioned, hence, suppressed correct facts/ documents from the department and tried to clear cargo on the basis of House Bill of Lading bearing false laden on board date which implies that importer has tried to clear goods by submitting false documents or document having false laden on board date intentionally to department to clear prohibited goods. Hence, due to above said act of omission and commission on the part of importer, importer has

rendered themselves liable for penal action under Section 112 (a) and 114AA of the Customs Act, 1962.

33. I find that goods imported vide B/E No. 6389180 dated 29.10.2024 have also been found mis-declared in terms of weight. Due to revised policy condition as per Notification No. 33/2024-25, the goods imported vide impugned Bill of Entry became prohibited in nature. I find that the importer while filing the impugned Bill of Entry has subscribed to a declaration regarding correctness of the contents of Bill of Entry under Section 46(4) of the Act, *ibid*. Further, Section 46 (4A) of the Act, casts an obligation on the importer to ensure accuracy of the declaration and authenticity of the documents supporting such declaration. In the instant case, the importer failed to discharge the statutory obligation cast upon him and made wrong declaration in the Bill of Entry

34. I find that the Importer- M/s Super Sign Industries vide Letter dated 18.02.2025 has requested for re-export of goods. As discussed in para *supra*, the goods are liable for confiscation under Section 111(d) and (m) *ibid*. . Section 125 of the Customs Act, 1962 Provide that Whenever confiscation of any goods is authorized by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation where is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods an option to pay in lieu of confiscation such fine as the said officer thinks fit. I find that said provision grant an option to owner of the confiscated goods to pay fine in lieu of confiscation .Therefore, I find it appropriate to allow for redeem under section 125 of the Customs Act, 1962 for re-export purpose only.

In view of the above, I pass following Order:

ORDER

- i. I reject the declared quantity i.e. "24855 Kgs. of item no. 1 imported vide impugned Bill of Entry no. 6389180 dated 29.10.2024 and order the same to be re determined as "25380 K g " .
- ii. I reject the declared quantity i.e. "25266 Kgs. Of item no. 2 imported vide impugned Bill of Entry no. 6389180 dated 29.10.2024 and order the same to be re determined as "25530 Kg".
- iii. I order to confiscate the goods of impugned Bill of Entry no. 6389180 dated 29.10.2024 having value Rs 54,90,937/-(Fifty Four Lakhs

ninety thousand nine hundred thirty seven only) under section 111(d) and Section 111 (m) of Customs Act, 1962. These goods cannot be released for home consumption. However, I give the option to the importer to redeem the same for re-export on payment of Rs. 5,40,000/ (Rs Five Lakh Forty thousand only) as redemption fine under Section 125 of the Customs Act.

- iv. I impose the penalty of Rs 2,00,000./- (Rs Two Lakhs only) on the importer M/s Super Sign Industries under Section 112 (a) (i) of Customs Act, 1962.
- v. I impose the penalty of Rs 2,00,000 /- (Rs. Two Lakhs only) on the importer M/s Super Sign Industries under Section 114 AA of Customs Act, 1962.

28. This order is issued without prejudice to any other action which may be contemplated against the importer or any other person under provisions of the Customs Act, 1962 and rules/regulations framed thereunder or any other law for the time being in force in the Republic of India.

Signed by

Anilkumar Mishra

Date: 20-02-2025 12:44:46

COMMISSIONER ADC/JC-II-

O/o Pr Commissioner-Customs-
Mundra

To,

M/s Super Sign Industries,
Unit-II, Revenue Block No. 28, Village-Ujeti,
Panchamahals-389350

Copy to:

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