



सीमाशुल्क आयुक्त का कार्यालय, एनएस-II
OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-II
केंद्रीकृत निर्यात आकलन कक्ष, जवाहरलाल नेहरू सीमाशुल्क भवन
CENTRALIZED EXPORT ASSESSMENT CELL, JAWAHARLAL
NEHRU CUSTOM HOUSE,
न्हावा शेवा, तालुका -उरण, जिला -रायगढ़, महाराष्ट्र- 400707
NHAVA SHEVA, TALUKA-URAN, DIST- RAIGAD, MAHARASHTRA-
400707

F. No: SG/INV-266/2022-23/SIIB(X)/JNCH
F. No: CUS/SIIB/ALT/788/2024-SIIB(E)
CUS/ASS/MISC/592/2025-CEAC

Date of Order: 08.12.2025
Date of Issue: 08.12.2025

DIN: 20251178NT0000666C37

जारीकर्ता/Passed By: Shri Raghu Kiran B.,
Additional Commissioner of Customs,
CEAC, NS-II, JNCH, Nhava Sheva.

मूल आदेश संख्या/Order-In-Original No.: 1239/2025-26/ADC/CEAC/NS-II/CAC/JNCH
निर्यातककानाम /Exporter's Name: M/s Sidhant Textile Industries (IEC: DSKPG8501H)

मूल आदेश

- यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निः शुल्क दी जाती है।
- इस आदेश के विरुद्ध अपील सीमा शुल्क अधिनियम 1962 की धारा 128 (1) के तहत इस आदेश की संसूचना की तारीख से साठ दिनों के भीतर सीमा शुल्क आयुक्त (अपील), जवाहरलाल नेहरू सीमा शुल्क भवन, शेवा, ता. उरण, जिला - रायगढ़ - 400 707, महाराष्ट्र को की जा सकती है। अपील दो प्रतियों में होनी चाहिए और सीमा शुल्क (अपील) नियमावली, 1982 के अनुसार फॉर्म सी.ए.-1 संलग्नक में की जानी चाहिए। अपील पर न्यायालय फीस के रूप में 2.00 रुपये मात्र का स्टॉप लगाया जायेगा और साथ में यह आदेश या इसकी एक प्रति लगाई जायेगी। यदि इस आदेश की प्रति संलग्न की जाती है तो इस पर न्यायालय फीस के रूप में 2.00 रुपये का स्टॉप भी लगाया जायेगा जैसा कि न्यायालय फीस अधिनियम 1870 की अनुसूची 1, मद 6 के अंतर्गत निर्धारित किया गया है।
- इस निर्णय या आदेश के विरुद्ध अपील करने वाला व्यक्ति, अपील अनिर्णीत रहने तक शुल्क या शास्ति के संबंध में विवाद होने पर माँगे गये शुल्क के 7.5% का, अथवा केवल शास्ति के संबंध में विवाद होने पर शास्ति का भुगतान करेगा।

ORDER-IN-ORIGINAL

- This copy is granted free of charge for the use of the person to whom it is issued.
- An appeal against this order lies with the Commissioner of Customs (Appeal), Jawaharlal Nehru Custom House, Nhava Sheva, Tal: Uran, Dist.: Raigad, Maharashtra - 400707 under section 128(1) of the Customs Act, 1962 within sixty days from the date of communication of this order. The appeal should be in duplicate and should be filed in Form CA-1 Annexure on the Customs (Appeal) Rules, 1982. The Appeal should bear a Court Fee stamp of Rs.1.50 only and should be accompanied by this order or a copy thereof. If a copy of this order is enclosed, it should also bear a Court Fee Stamp of Rs. 1.50 only as prescribed under Schedule 1, items 6 of the Court Fee Act, 1970.
- Any person desirous of appealing against this decision or order shall, pending the appeal, make payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

On the basis of risk analysis, NCTC identified 04 risky Shipping bills 7941721, 7946523, 7946619 and 7946645 all dated 21.02.2023 (hereinafter collectively referred to as "Shipping Bill") (**RUD-I**) filed by exporter M/s Sidhant Textile Industries (IEC: DSKPG8501H) having declared items as Readymade Garments, were put on hold i.e. Hold No. 78/2022-23-SIIB(X) dated 23.02.2023 vide F.No.SG/Misc-101/2021-22/SIIB(X) JNCH for examination of the same as the supply chain of the exporter appeared to be fake/manipulated and the declared value of the goods appeared to be very highly overvalued and mis-declared to avail illegitimate claim of drawback and other export incentives. Hence the case was taken up by this unit for detailed investigation. The exporter M/s Sidhant Textile Industries (IEC: DSKPG8501H) filed the above Shipping Bills through Customs Broker M/s Shriwin Shipping & Logistics at JWR CFS.

2. M/s Sidhant Textile Industries (IEC: DSKPG8501H) having its Registered Address at House No 3, Pocket 20, Sector 24 Rohini Near Best Mega Mall, Delhi, North Delhi, Delhi-110085 has filed 04 Shipping bills for export of following items for total declared FOB value of Rs. 4,35,88,154.62/- under Export Promotion Scheme Code 60 (Drawback & RoSCTL) for claim of total drawback benefit of Rs. 9,15,352/-, RoSCTL benefit of Rs. 17,53,263/- and IGST benefit of Rs 2179407.8. Details of the goods covered under shipping bills are tabulated as under:

TABLE-I

Sr.	SBNo.&Date	Description	RITC	FOB	DBK	Rosctl (in rupees)	IGST
No.				(in rupees)	(in rupees)	(in rupees)	Payment
1	7941721 dated 21.02.2023	Indian Readymade Garments Babies woven set of cotton	62092090	10878003.1	228438	422598	543900.15
		Girls woven set of blend	62042999				
2	7946523 dated 21.02.2023	Indian Readymade Garments Babies woven set of cotton	62092090	10948711.4	229923	433220	547435.6
		Girls woven set of blend	62042999				
3	7946619 dated 21.02.2023	Indian Readymade Garments Babies woven set of cotton	62092090	10474743.8	219970	446597	523737.2
		Mens knitted T Shirts of cotton	61091000				
		Imitation jewellery	71179090				
		Rubber Base	40169990				

		Golden Que Manager Pole	73269099				
4	7946645 dated 21.02.2023	Indian Readymade Garments Babies woven set of cotton	62092090	11286696.3	237021	450848	564334.8
		Girls woven set of blend	62042999				
Total				43588154.6	915352	1753263	2179407.8

3. **EXAMINATION OF THE GOODS:** Consequently, the subject goods pertaining to the above mentioned 04 shipping Bills as mentioned in Table-I were then examined 100% under Panchanama dated 25.02.2023 (**RUD-II**) in the presence of two independent Panchas, representatives of Customs broker and exporter. During the examination, the subject goods were found as declared in the Shipping Bill, its corresponding invoice and Packing list w.r.t. declared quantity and description. However, it was observed that value of goods declared in the above said 04 Shipping bills and its invoice appeared to be slightly overvalued. Representative Sealed Samples (RSS) of the goods from the shipping bill were drawn for the purpose of testing. Thereafter, the goods covered under above stated Shipping Bills were handed over to the Custodian, JWR Logistics CFS for safe custody.

4. **TESTING OF THE GOODS:** The representative sealed samples pertaining to the shipping bills were forwarded to DYCC, JNCH for testing vide letter dated 21.07.2023. The DYCC, JNCH forwarded the test report to SIIB(X), JNCH (**RUD-III**). The details of the DYCC report interalia, are given below:-

Table-II

Shipping bill No.and Date	Description of the goods	Lab No.	Report
7946523 dated 21.02.2023	Readymade Garments Babies Woven Set of Cotton	501/SIIB(X) Dated 24.07.2023	<p>The sample as received is in the form of readymade garment. It consists of</p> <p>1) Top</p> <p>2) Lower</p> <p>Total weight of sample as received = 136.9 gm</p> <p>Wt. of the top (base fabric) = 74.8gm</p> <p>Wt. of the top (inner fabric) = 7.3gm</p> <p>Wt. of the lower (base fabric) = 37.8gm</p> <p>Wt. of the lower (inner fabric) = 17.0gm</p> <p>TOP:</p> <p>It is made of knitted ready-made garment (girls top). Having inner lining fabric and pasted decorative materials on front side, the side fabric and inner lining fabric are composed of filament yarns of polyester. The decorative material is composed of polymeric material.</p> <p>LOWER:</p> <p>It is made of printed woven ready-made sgarment. Having inner lining fabric. The base fabric and inner lining fabric are composed of filament yarns of polyester.</p> <p>GSM of base fabric = 88.14</p> <p>GSM of inner lining fabric = 62.89</p>
7941721 Dated 21.02.2023	Girls woven Set of Blend	501/SIIB(X) Dated 24.07.2023	<p>The sample as received is in the form of girl's garments (2 pieces of together with purse). It consists of</p> <p>1) Top</p>

		2) Skirt 3) Purse TOP: It is in the form of dyed and printed woven readymade garment (Girl's Top). It is consisting of base knitted fabric composed of filament yarns of polyester, stitched with dyed knitted lining composed of filament yarns of polyester, and fitted with buttons, hook and decorative items. Total wt. of the Top = 94.8gm Wt. of base knitted fabric = 82.13gm Wt. of knitted lining = 12.20gm Wt. of decorative items = 2.90gm Wt. of buttons and hook = Balance SKIRT: It is in the form of dyed and printed woven readymade garment (girl's skirt). It is consisting of dyed and printed base woven fabric composed of filament yarns of polyester, stitched with white woven lining composed of filament yarns of polyester and fitted with elastic strip. Total wt. of the skirt = 85.00gm Wt. of base woven fabric = 62.30gm Wt. of white woven fabric lining = 17.7gm Wt. of elastic strip = Balance. GSM of base fabric = 91.80 PURSE: It is a readymade article (Girl's purse). It is made of non-woven fabric composed of polyester, pasted with dyed polymeric material and fitted with lace and button. Wt. of the purse = 28.1gm
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5. **RE-CLASSIFICATION OF THE GOODS:** As per the DYCC test report, it has been confirmed that the goods covered under the above-mentioned shipping bills were misclassified in terms of CTH, composition & description. Thus, the goods were seized vide seizure memo dated 06.03.2023 (**RUD-IV**). Furthermore, based on the said test report, it appears that the exporter has attempted to claim higher incentives in the following Shipping Bills by mis-classifying the goods as per RITC and Drawback schedule:

Table-III

Sl No.	Shipping Bill No. & Date	Description of goods	Declared			Re-determined		
			RITC	Drawback Schedule & rate	ROSCTL rate	RITC	Drawback Schedule & rate	ROSCTL rate
1	7946523 dated 21.02.2023	Indian Readymade Garments Babies Woven Set of Cotton	62092090	620901B @ 2.1%	3.89%	610620	610603 @ 2.1%	3.80%
		Girls woven set of blend	62042999	62040402 B @ 2.1%	4.35%	61113000	6111003 @ 2.1%	3.80%
2	7946645 dated 21.02.2023	Indian Readymade Garments Babies Woven Set of Cotton	62092090	620901B @ 2.1%	3.89%	610620	610603 @ 2.1%	3.80%
		Girls woven set of blend	62042999	62040402 B @ 2.1%	4.35%	61113000	6111003 @ 2.1%	3.80%

3	7941721 dated 21.02.2023	Indian Readymade Garments Babies Woven Set of Cotton	62092090	620901B @ 2.1%	3.89%	610620	610603 @ 2.1%	3.80%
		Girls woven set of blend	62042999	62040402 B @ 2.1%	4.35%	61113000	6111003 @ 2.1%	3.80%
4	7946619 dated 21.02.2023	Indian Readymade Garments Babies Woven Set of Cotton	62092090	620901B @ 2.1%	3.89%	610620	610603 @ 2.1%	3.80%

6. **INSERTION OF ALERT:** Subsequently, an alert was inserted against the exporter to withhold the export incentives claims such as Drawback, RoSCTL and other export benefits.

7. **RE-DETERMINATION OF VALUATION:** Further, to ascertain prevailing market value of the goods, the market enquiry of the goods found covered under the subject shipping bill was required to be conducted, therefore this office had requested to the exporter to represent them during the said market enquiry. Hence the market enquiry was conducted on 04.03.2023 along with authorized representative of the exporter (**RUD-V**). During the market enquiry it was found that the goods were mis-declared in terms of value. A chart showing the market value of the items ascertained during the said market enquiry has been shown in following table.

Table-IV

SB.No.	Description	Shop No. 1	Shop No. 2	Shop No. 3	Average Wholesale Value	Value of the goods after adding 30% miscellaneous expenses (in Rs)	Value declared as per Shipping Bill
		M/s Pink Baby, Shop No 1, Ground Floor, 85/89, Tantanpura Street, Khadak, Masjid Bunder(W), Mumbai- 400009	M/s Tulsi Garment, 78/80, Abhaychand Gandhi Marg, Pramukh Krupa Bldg, Vadgadi, Opp. Gujarati Vadapav Wala, Masjid Bunder(W), Mumbai-400003	M/s Lucky Fashion, 161 Creasent Tower, Samuel Street, Masjid Bunder(W), Mumbai- 400003			
7946619 dated 21.02.2023	Indian Readymade Garments Babies Woven Set of Cotton	290	285	295	290	377	454.545
7941721 dated 21.02.2023	Indian Readymade Garments	290	285	295	290	377	454.545

	Babies Woven Set of Cotton						
7946523 dated 21.02.2023	Indian Readymade Garments Babies Woven Set of Cotton	290	285	295	290	377	454.545
7946645 dated 21.02.2023	Indian Readymade Garments Babies Woven Set of Cotton	290	285	295	290	377	454.545

7.1 As per the market enquiry the value of the goods has been re-determined and accordingly the export incentives have been re-determined. The re-determined FOB value of the goods and corresponding export incentives under the Shipping Bills would be as below:

Table-V

Sl. No.	Shipping Bill No. & Date	Description of goods	Declared			Re-determined		
			FOB (INR)	Drawback (INR)	ROSCTL (INR)	FOB (INR)	Drawback (INR)	ROSCTL (INR)
1	7946523 dated 21.02.2023	Indian Readymade Garments Babies Woven Set of Cotton	5724539.2	120215.3	205969	4747932.85	99706.59	170830.69
		Girls woven set of blend	5224172.2	109709.6	227251	4332928.4	90993.16	188481.98
2	7946645 dated 21.02.2023	Indian Readymade Garments Babies Woven Set of Cotton	5335449.4	112044.4	191969	4425221.69	92929.66	159219.09
		Girls woven set of blend	5951247	124976.2	258879	4935964.25	103655.25	214714.24
3	7941721 dated 21.02.2023	Indian Readymade Garments Babies Woven Set of Cotton	6728175.4	141291.7	242080	5580348.69	117187.32	200781.15
		Girls woven set of blend	4149827.6	87146.38	180518	3441867.04	72279.21	149721.63

4	7946619 dated 21.02.2023	Indian Readymade Garments Babies Woven Set of Cotton	2713633.2	56986.3	97637	2250687.4	47264.44	80980.13
		Men's knitted T- shirts of cotton	7761110.6	162983.3	348960	6437065.13	135178.37	289427.42
		Imitation jewellery(s ample)	0	0	0	0	0	0
		Rubber Base (sample)	0	0	0	0	0	0
		Golden que manager pole (sample)	0	0	0	0	0	0
		Mate (sample)	0	0	0	0	0	0
Total			4,35,88,155	9,15,353.2	17,53,263	3,61,52,015	7,59,194	14,54,156

7.2 On the basis of above discussion, the values of goods covered under above mentioned 04 Shipping bills and their respective export incentives have been re-determined by combining Table-III and Table-V

Table-VI

Sl No.	Shipping Bill No. & Date	Description of goods	Re-Determined				
			FOB (INR)	Drawback Schedule & rate	ROSCTL rate	Drawback (INR)	ROSCTL (INR)
1	7946523 dated 21.02.2023	Indian Readymade Garments Babies Woven Set of Cotton	4747932.85	610603 @ 2.1%	3.80%	99706.59	180421.45
		Girls woven set of blend	4332928.4	6111003 @ 2.1%	3.80%	90993.16	164651.28
2	7946645 dated 21.02.2023	Indian Readymade Garments Babies Woven Set of Cotton	4425221.69	610603 @ 2.1%	3.80%	92929.66	168158.42
		Girls woven set of blend	4935964.25	6111003 @ 2.1%	3.80%	103655.25	187566.64
3	7941721 dated 21.02.2023	Indian Readymade Garments	5580348.69	610603 @ 2.1%	3.80%	117187.32	212053.25

		Babies Woven Set of Cotton					
		Girls woven set of blend	3441867.04	6111003 @ 2.1%	3.80%	72279.21	130790.95
4	7946619 dated 21.02.2023	Indian Readymade Garments	2250687.4	610603 @ 2.1%	3.80%	47264.44	85526.12
		Babies Woven Set of Cotton					
		Men's knitted T-shirts of cotton	6437065.13	610901B@ 2.1%	4.50%	135178.37	289427.42
Total			3,61,52,015.4			7,59,194	14,18,596

7.3 It is thus seen that the exporter attempted to claim undue export incentives which are summarized as under: -

Table-VII

Claimed			Re-determined			Difference	
FOB (INR)	Drawback (INR)	ROSCTL (INR)	FOB (INR)	Drawback (INR)	ROSCTL (INR)	Drawback (INR)	ROSCTL (INR)
43588155	915353.3	1753263	36152015	759194	1418596	156159.26	334667.47
Total excess export benefits (INR)						4,90,826.73	

8. As evident from the table above, and based on the report received by the DYCC, JNCH along with market enquiry conducted on 04.03.2023, it appears that the goods declared by the exporter in the Shipping Bill Nos. 7941721, 7946523, 7946619 and 7946645 all dated 21.02.2023 have been mis-declared in terms of their value. The value of the goods has been re-determined based on the market survey report dated 04.03.2023. Consequently, the export incentives such as Drawback and RoSCTL are required to be recalculated with reference to the newly re-determined FOB value of the goods, as indicated in the table above. The originally declared value of Rs. 4,35,88,154.62/- thus appears liable for rejection under Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007, and the value needs to be re-determined in accordance with the provisions of the said Rules. For the purpose of Customs Tariff Act, 1975, valuation of export goods is to be done in terms of Section 14 of the Customs Act, 1962 read with Customs Valuation (Determination of value of Export Goods) Rules, 2007 (CVR). As per the provisions of Act/Rules, transaction value of the goods is to be accepted, subject to Rule 8 of Customs Valuation (Determination of value of Export Goods) Rules, 2007. Prima facie on examination of the subject consignment, the declared value of the goods appeared to be on the higher side; the declared transaction value appeared liable for rejection under Rule 8 of the CVR and the said value is required to be re-determined by sequentially proceeding in terms of Rule 4 to 6 of the Customs Valuation Rules, 2007.

9. Accordingly, as per Rule 3(3) *ibid*, since the value of the impugned goods could not be determined under the provisions of Sub Rule (1), the value was to be re-determined by

proceeding sequentially through Rule 4 to Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

9.1 As the export goods were not standard goods, the export data in Export Commodity Data Base (ECDB) could not be used for comparing price of the goods of like kind and quality as required under Rule 4 of CVR, 2007. Further, the subject goods were not identified specifically with any brand, mark, style and other specifications, the goods of like kind and quality exported cannot be identified to compare their transaction value with the declared value of the subject goods. Hence, value of the subject goods cannot be determined under the said Rule 4 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

9.2 The Exporter has neither produced any cost of production details, manufacturing or processing of export details and correct transport details nor produced cost design or brand or an amount towards profit etc. to derive computed value of the goods. In absence of complete cost data details, value cannot be determined as per Rule 5 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

9.3 As the provisions of Rule 4 & 5 *ibid*, are not applicable in the instant case, the value of the goods is required to be determined under the provisions of Rule 6 of the CVR 2007. Rule 6 of the said Rules reads as under: -

RULE 6. Residual Method.—“Subject to the provisions of rule 3, where the value of the export goods cannot be determined under the provisions of rules 4 and 5, the value shall be determined using reasonable means consistent with the principles and the general provisions of these rules provided that local market price of the export goods may not be the only basis for determining the value of export goods”.

As per the provisions of Rule 6 *ibid*, the assessable value of the goods is proposed to be re-determined under Rule 6 *ibid*, i.e. as per the residual method. Accordingly, Market survey was conducted by the officers of SIIB (Export) on 04.03.2023. Value of the goods was taken from 3 different shops/dealers and average of their prices was taken as market value of the same. The details of the determination of the value is summarized in the Market Survey Report dated 04.03.2023.

10. PROVISIONAL RELEASE OF GOODS: The exporter, vide their letter dated 01.03.2024, requested to release the goods for export. The request of the exporter was accepted by the competent authority as per the provisions of Board Circular no.01/2011 dated 04.01.2011 and 30/2013 dated 05.08.2013 and the NOC for provisionally releasing the goods for export under section 110A of the Customs Act, 1962 on condition of execution of Bond equivalent to FOB value of the subject goods and on submission of Bank Guarantee amounting to Rs. 2,50,000/- vide HCM No 866 dt 13.03.2023 on 09.03.2023 (**RUD-VI**).

11. RECORDING OF THE STATEMENT:

11.1 During the course of investigation, statement of Shri Sidhant Garg, Proprietor of M/s Sidhant Textile Industries (IEC: DSKPG8501H) has been recorded on 01.03.2023 under section 108 of the Customs Act, 1962 (**RUD-VII**) wherein he interalia stated that

he was the proprietor of M/s Sidhant Textile Industries (IEC: DSKPG8501H) and looked after day to day business of the company like banking, marketing, sale/purchase of goods etc., that their company was a merchant cum manufacturer exporter and they purchase goods from Mumbai and then export to the buyer of overseas and also manufactured RMG by job work then exported them, that the given shipping bill was filed by CB M/s Shriwin Shipping and logistics on behalf of exporter M/s Sidhant Textile Industries, that they got orders through an agent namely Prasad Chaudhary based in Surat, that they purchases the RMG's from M/s Nair International, 1373, ground floor, Tulsi Nagar, Khadipur, Bhiwandi, Thane- 421302, that they purchased fabrics from M/s IPU Lifestyle and M/s Royal Enterprises both situated in Mumbai and got job work from Schon Apparels, Mumbai to make Girls Woven Set and Men's Knitted T-Shirt, they had also submitted the purchase invoice of the same, that the terms and conditions of payment was direct payment between within 180 days, that they paid to supplier once the delivery of goods completed at overseas, in current shipment they had not paid till date, that they filed the GSTR-1, GSTR-2A and GSTR-3B regularly, that this was their first shipment, that corpus of company is around 05 lakh, that e-way bills were generated from Bhiwandi to JWR CFS and vehicles number was also mentioned in e-way bills, that it might be an error as GSTIN registration address was of Delhi-110085, goods were actually dispatched from our work office situated in Ist Floor,1619, Near Rasoolbad Kabristan, Khadipur, Bhiwandi, which was also reflecting in e-way bills, that the said premises was in the name of Mrs Sonia Garg and she was his mother, the said property was used for getting GSTIN registration and starting the business, that he would submit the property documents and documents submitted for GST registration the next day.

11.2 During the course of investigation, statement of Shri Maruti Zinjad, G-card holder of M/s Shriwin Shipping & Logistics has been recorded on 16.02.2024 under section 108 of the Customs Act, 1962 (**RUD-VIII**), wherein he interalia stated that; he joined M/s Shriwin Shipping & Logistics after working in HD Engineers & Sons LLP till 2014 as a clerk, that he handled work related to both import and export clearance at JNCH, that they did not find any aberrations when they agreed to file the shipping bills on behalf of M/s Sidhant Textile Industries, that the Shipping bills 7941721, 7946523, 7946619 and 7946645 all dated 21.02.2023 were filed by them on behalf of M/s Sidhant Textile Industries, that they got the payment from the exporters once the goods are cleared from Customs, in case of FCL cargo 20 ft container, they got Rs 2000/-, 40 ft container 4000/- and for LCL cargo they got Rs 1000/- per shipment, that they had not received the payment for shipment of M/s Sidhant Textile Industries, that they agreed with the market enquiry report, that they were not aware about the overvaluation done by M/s Sidhant Textile Industries, they only got to know about the overvaluation during the investigation period and received the goods directly at the JWR CFS, that they had asked for all the KYC related documents of the exporter viz. copy of IEC, GST registration, Aadhar & PAN of the proprietor and bank certificate, that they would like to co-operate with the Customs authorities in the ongoing investigation in future also.

12. CORRESPONDENCE WITH CGST AUTHORITIES: Further, to ascertain the verification of genuineness of supply chain of the exporter letters were issued to Jurisdictional CGST Commissionerate on 28.04.2023 to verify the genuineness of the

exporter and to take the necessary action at their end, if any adversity is found. In the response of this letter the Jurisdictional CGST Commissionerate, Rohini Division, Delhi vide their letter received dated 24.07.2023 has forwarded point wise reply to the queries relating to M/s Sidhant Textile Industries (IEC: DSKPG8501H) is as under:- **(RUD-IX)**

- (i) *M/s Sidhant Textile Industries is existent at the declared principal place of business.*
(ii) *This exporter has filed GST returns regularly.*
(iii) *M/s Sidhant Textile Industries has not applied for any refund till date. The L-1 suppliers of this exporter are as follows*

GSTIN	Trade Name	GSTIN Status	Filing 3-E status	Filing GSTR1 status
27CHHPG0043D4ZU	IPU LIFESTYLE	ACTIVE	Mar-23	Mar-23
24BKSP6229D1ZX	KEJ GROUP OF TEXTILES	ACTIVE	May-23	May-23
27AESP5151N1ZY	PADMAVATI OVERSEAS	ACTIVE	Mar-23	Apr-23
27AJBPD5947M1ZX	SCHON APPARELS	ACTIVE	Apr-23	Apr-23
07AAACK4409J1ZM	Kotak Mahindra Bank Limited	ACTIVE	May-23	May-23
27AFBPN3410M1ZI	NAIR INTERNATIONAL	SUSPENDED (effective from 15.05.23)	Mar-23	Apr-23

13. Similarly, to ascertain the verification of genuineness of the suppliers, GST letters and reminders were sent to M/s Nair International (GSTIN-27AFBPN3410N1ZI) and M/s Royal Enterprises (GSTIN-27CDSPG4098K3ZQ) of the said exporter to their respective jurisdictional GST Commissionerates on 27.11.2024, 03.01.2025 and 30.01.2025. In the response, this office received an e-mail dated 13.01.2025 in respect of M/s Nair International, in which it was informed that “*there is no taxpayer with the above-mentioned GSTIN registered with GST and also no registration has been obtained with PAN no. AFBPN3410N*”, while in case of M/s Royal Enterprises no reply has been received by this office yet, but on checking with GSTIN at GST Portal it shows that M/s Royal Enterprises is “*active*”.

14. Further, a letter, dated 28.04.2023, was sent to verify genuineness of the supplier M/s IPU LIFESTYLE (GSTIN-27CHHPG0043D4ZU) to concerned jurisdiction of GST authority but no reply has been received by this office till now. Further, on perusal on GST Portal, it has been seen that the status of supplier M/s IPU LIFESTYLE (GSTIN-27CHHPG0043D4ZU) is “*cancelled Suo-moto*” effective from 30.09.2022 which is also the registration date of the firm. In view of the above findings, it appears that the invoices raised under these supplier name are fake.

15. In view of the above findings, it appears that, the exporter has illegally claimed Drawback and other export incentives by misdeclared goods in terms of classification and value. By misclassifying the subject goods, the exporter was attempting to claim excess export benefits of 4,90,826.73/- (Drawback + ROSCTL).

16. **Past Exports:** Further, on perusal of the past export data in respect of the subject exporter in 1.5 EDI system, no shipping bill has been found except current shipping bills.

17. RELEVANT PROVISIONS OF LAW APPLICABLE IN THIS CASE:-

(i) **Section 2(30) of the Customs Act, 1962:** Market price in relation to any goods means the wholesale price of the goods in the ordinary course of trade in India.

(ii) **Section 11 (1) of the Foreign Trade (Development and Regulation) Act, 1992:** No export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made there under and the export and import policy (now termed as Foreign Trade Policy) for the time being in force.

(iii) **Section 50 (2) of the Customs Act, 1962:** The exporter of any goods, while presenting a Shipping bill or bill of export, shall at the foot thereof make and subscribe to a declaration as to the truth of its contents.

(iv) **Section 113 (i) of the Customs Act, 1962:** Confiscation of goods attempted to be improperly exported, etc.- The following export goods shall be liable to confiscation- any goods entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act.

(v) **Section 113 (ia) of the Customs Act, 1962:** Any goods entered for exportation under claim for drawback which do not correspond in any material particular with any information furnished by the exporter or manufacturer under this Act in relation to the fixation of the rate of drawback under Section 75.

(vi) **Section 113 (ja) of the Customs Act, 1962:** Any goods entered for exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the provisions of this Act or any other law for the time being in force;

(vii) **Section 114 (iii) of the Customs Act, 1962:** In the case of any other goods, to a penalty not exceeding the value of the goods, as declared by the exporter or the value as determined under this Act, whichever is the greater.

(viii) **Section 114AA of the Customs Act, 1962:** 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 documents which is false or incorrect in any material particular, in the transaction of any business for the purpose of this Act, shall be liable to a penalty not exceeding five times of the value of goods.

(ix) **Section 114AB. Penalty for obtaining instrument by fraud, etc.**—Where any person has obtained any instrument by fraud, collusion, willful misstatement or suppression of facts and such instrument has been utilized by such person or any other person for discharging duty, the person to whom the instrument was issued shall be liable for penalty not exceeding the face value of such instrument.

Explanation: —For the purposes of this section, the expression “instrument” shall have the same meaning as assigned to it in the Explanation 1 to section 28AAA.]

(x) **Section 114AC: Penalty for fraudulent utilization of input tax credit for claiming refund.**— Where any person has obtained any invoice by fraud, collusion, willful misstatement or suppression of facts to utilize input tax credit on basis of such invoice for discharging any duty or tax on goods that are entered for exportation under claim of refund of such duty or tax on goods that are entered for exportation under claim of the refund of such duty or tax, such person shall be liable for penalty not exceeding five times the refund claimed. For the purposes of this section, the expression “input tax credit” shall have the same meaning as assigned to it in clause (63) of section 2 of the Central Goods and services Tax Act, 2017 (120 of 2017).

(xi) Section 28AAA. Recovery of duties in certain cases—(1) Where an instrument issued to a person has been obtained by him by means of—

- (a) collusion; or
- (b) willful mis-statement; or
- (c) Suppression of facts,

for the purposes of this Act or the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), or any other law, or any scheme of the Central Government, for the time being in force, by such person] or his agent or employee and such instrument is utilized under the provisions of this Act or the rules or regulations made or notifications issued there under, by a person other than the person to whom the instrument was issued, the duty relating to such utilization of instrument shall be deemed never to have been exempted or debited and such duty shall be recovered from the person to whom the said instrument was issued:

Provided that the action relating to recovery of duty under this section against the person to whom the instrument was issued shall be without prejudice to an action against the importer under section 28.

(xii) Section 28AA of the Customs Act, 1962 Interest on delayed payment of duty—

(1) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made there under, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2), whether such payment is made voluntarily or after determination of the duty under that section.

(2) Interest at such rate not below ten per cent. And not exceeding thirty-six per cent. Per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

(3) Notwithstanding anything contained in sub-section (1), no interest shall be payable where,

- (a) the duty becomes payable consequent to the issue of an order, instruction or direction by the Board under section 151A; and
- (b) such amount of duty is voluntarily paid in full, within forty-five days from the date of issue of such order, instruction or direction, without reserving any right to appeal against the said payment at any subsequent stage of such payment.

(xiii) Section 75A(2) of Customs Act, 1962: Where any drawback has been paid to the claimant erroneously or it becomes otherwise recoverable under this Act or the rules made there under, the claimant shall, within a period of two months from the date of demand, pay in addition to the said amount of drawback, interest at the rate fixed under section 28AA and the amount of interest shall be calculated for the period beginning from the date of payment of such drawback to the claimant till the date of recovery of such drawback.

B. Customs and Central Excise Duties Drawback Rules, 2017.

Rule 17: Repayment of erroneous or excess payment of drawback and interest.—Where an amount of drawback and interest, if any, has been paid erroneously or the amount so paid is in excess of what the claimant is entitled to, the claimant shall, on demand by a proper officer of Customs repay the amount so paid erroneously or in excess, as the case may be, and where the claimant fails to repay the amount it shall be recovered in the manner laid down in sub-section (1) of section 142 of the Customs Act, 1962.

Rule 18 (1): Where an amount of drawback has been paid to an exporter or a person utilized by him (hereinafter referred to as the claimant) but the sale proceeds in respect of such export goods have not been utilized by or on behalf of the exporter in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), including any extension of such period, such drawback shall, except under circumstances or conditions specified in sub-rule (5), be recovered

(xiv) Rule 11 of the Foreign Trade (Regulations), 1993: Stipulates that on exportation out of any customs port of any goods, whether liable to duty or not, the owner of the such goods shall in the S/bill or any other documents prescribed under the Customs Act, 1962, state the value, quantity and description of such goods to the best of his knowledge and belief and certify that the quality and specifications of the goods as stated in those documents, are in accordance with the terms of the export contract entered into with the buyer or consignee in pursuance of which the goods are being exported and shall subscribe a truthful declaration of such statement at the foot of such Shipping bill or any other documents.

(xv) CBLR, 2018

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

18. Whereas, from the investigation, the following facts emerge that:

18.1 M/s Sidhant Textile Industries (IEC: DSKPG8501H) having its Registered Address at House No 3, Pocket 20, Sector 24 Rohini Near Best Mega Mall, Delhi, North Delhi, Delhi- 110085 has filed 04 Shipping bills for export of following items for total declared FOB value of Rs. 4,35,88,154.62/- under Export Promotion Scheme Code 60 (Drawback & RoSCTL) for claim of total drawback benefit of Rs. 9,15,352/- and RoSCTL benefit of Rs. 17,53,263/-.

18.2 The Exporter has violated the provisions of Rule 11 of the Foreign Trade (Regulations), 1993 in as much, as they did not make a correct declaration of description, value and classification of goods in the Shipping Bills filed by them to the Customs authorities.

18.3 As the Exporter had not made declaration truthfully in the said Shipping Bills, they have violated the conditions of Section 50(2) of the Customs Act, 1962. Hence, it appears that there was a deliberate mis-classification, overvaluation, mis-statement and suppression of facts regarding the actual description of the impugned goods, on the part of the Exporter with mala-fide intention to claim undue export benefits not legitimately payable to them. Further, as per DYCC reports, the goods were found to be misclassified. Thus, it appeared that the said goods were attempted to be exported in violation of Section 50 of the Customs Act, 1962 read with section 11(1) of Foreign Trade (Development & Regulation) Act 1992 & Rules 11 of Foreign Trade Rules 1993, as exporter had furnished wrong declaration to the Custom Authorities.

18.4 It is thus clear that the exporters had mis-classified the impugned goods in terms of their nature, description, classification and value and attempted to defraud the government by claiming undue higher amount of Drawback and Rosctl and thereby acted in manner which rendered the said goods liable for confiscation in terms of the provisions

of sections 113(i), 113(ia) & 113(ja) of the Customs Act, 1962. Therefore, M/s Sidhant Textile Industries is liable for penal action under section 114(iii) of the Customs Act, 1962.

18.5 It further appears that the exporter M/s Sidhant Textile Industries (IEC: DSKPG8501H) have rendered themselves liable to penalty in terms of section 114(iii) of the Customs Act, 1962 on account of mis-declaration of description, value & classification of the impugned goods. The exporter has knowingly & intentionally caused to sign & used the documents to provide the undue advantage to the exporter with mala-fide intent to avail undue/excess export benefits in form of Drawback, Rosctl and other export benefits. Therefore, M/s Sidhant Textile Industries (IEC: DSKPG8501H) also liable for penalty u/s 114AA of Customs Act, 1962 for this intentional mis-declaration.

18.6 The goods were attempted to be exported by mis-declaration for which confiscation is proposed, also the drawback & Rosctl claim in the live shipping Bills as mentioned in Table-VII are proposed to be re-determined, as the NOC for provisionally releasing the goods for export under section 110A of the Customs Act, 1962 on condition of execution of Bond equivalent to FOB value of the subject goods and on submission of Bank Guarantee amounting to Rs. 2,50,000/-, vide HCM No 866 dt 13.03.2023, on 09.03.2023 was given by competent authority.

18.7 To verify the genuineness of the exporter's supply chain, letters were issued to the Jurisdictional CGST authorities on 28.04.2023, and in response, the CGST Commissionerate, Rohini Division, Delhi, vide letter received on 24.07.2023, confirmed that M/s Sidhant Textile Industries exists at the declared place of business, has been filing GST returns regularly, and has not claimed any refund to date, while also providing details of its L-1 suppliers. However, further verification of suppliers revealed serious discrepancies: repeated letters dated 27.11.2024, 03.01.2025, and 30.01.2025 were sent to the jurisdictions of M/s Nair International (GSTIN 27AFBPN3410N1ZI) and M/s Royal Enterprises (GSTIN 27CDSPG4098K3ZQ), resulting in an official reply dated 13.01.2025 confirming that no such GSTIN or PAN exists for M/s Nair International, rendering its invoices fake, while no departmental reply was received for M/s Royal Enterprises though the GST portal shows it as "active." Similarly, for M/s IPU Lifestyle (GSTIN 27CHHPG0043D4ZU), no jurisdictional reply was received, but the GST portal shows its registration as "cancelled suo-moto" from the very date of its registration (30.09.2022), clearly indicating non-genuine existence; accordingly, the invoices issued in the name of these suppliers appear fake, and the genuineness of the exporter's declared supply chain is seriously compromised. Therefore, the invoice raised by the above suppliers appear to be fake, hence the exporter M/s Sidhant Textile Industries (IEC: DSKPG8501H) have rendered themselves liable to penalty in terms of Section 114AC of the Customs Act, 1962.

18.8 The Custom Broker M/s Shriwin Shipping & Logistics failed to ascertain the correctness of details entered under the above mentioned shipping bills as the goods covered under the above-mentioned shipping bills were mis-classified in terms of CTH, composition & description. The regulation 10 (d) of the CBLR, 2018 mandates that the Custom Broker has to always advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant

Commissioner of Customs. In the instant case, the CB has not presented any evidence of guiding the exporter correctly in the classification of the impugned goods and has rendered themselves liable for penalty under section 114(iii) and 114AA of the Customs Act, 1962.

18.9 Now, therefore M/s Sidhant Textile Industries (IEC: DSKPG8501H) having its Registered Address at House No 3, Pocket 20, Sector 24 Rohini Near Best Mega Mall , Delhi, North Delhi, Delhi- 110085 are hereby called upon to show cause to the Additional/Joint Commissioner of Customs, NS-II, JNCH, Nhava Sheva within 30 days of the receipt of this notice **as to why:**

- (i) The declared value of the impugned goods covered under the shipping bills no. 7941721, 7946523, 7946619 and 7946645 all dated 21.02.2023 is Rs . 43588154.62/- filed by M/s Sidhant Textile Industries (IEC: DSKPG8501H) should not be rejected under Rule 8 and should not be re-determined as Rs. 36152015.44/- under Rule 6 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.
- (ii) The goods covered under the Shipping Bill Nos 7941721, 7946523, 7946619 and 7946645 all dated 21.02.2023 filed by M/s Sidhant Textile Industries (IEC: DSKPG8501H) should not be re-classified as detailed in Table-III above. Consequently, on account of such misclassification the goods valued of Rs. 4,35,88,154.62/- should not be confiscated under the provisions of Sections 113(i), 113(ia) & 113(ja) of the Customs Act, 1962.
- (iii) The claimed Drawback amount of Rs. 9,15,352/- and RoSCTL amount of Rs. 17,53,263/- covered under the Shipping Bill Nos. 7941721, 7946523, 7946619 and 7946645 all dated 21.02.2023 should not be re-determined as Drawback amount of Rs. 7,59,193.99/- and RoSCTL amount of Rs 14,18,595.53/-.
- (iv) Penalty should not be imposed upon the exporter M/s Sidhant Textile Industries (IEC: DSKPG8501H) under Sections 114(iii) and 114AA for omission on the part of the Exporter which have rendered the export goods liable for confiscation under Section 113(i), 113(ia) & 113(ja) of the Customs Act, 1962 of the Customs Act, 1962.
- (v) Penalty should not be imposed upon the exporter M/s Sidhant Textile Industries (IEC: DSKPG8501H) under Sections 114AC for fraudulent utilization of Input Tax Credit for claiming refund which have rendered the export goods liable for confiscation under the aforesaid provisions of the Customs Act, 1962.
- (vi) The bond should not be enforced and Bank Guarantee of Rs. 2,50,000/- (Rupees Fifty Thousand Only) at the time of provisional release of the goods for export, should not be appropriated against export incentives, applicable interest, redemption fine and penalty etc. arising out of this order.

18.10 Further, M/s Shriwin Shipping & Logistics addressed R.No.106, Maladhari Compound, Sahar Rd, Swami Nityanand Marg, Opp. ICICI Bank, Andheri (E), Mumbai-400069 are hereby called upon to show cause to the Additional/Joint Commissioner of Customs, NS-II, JNCH, Nhava Sheva within 30 days of the receipt of this notice as to why:-

- (i) Penalty should not be imposed upon them under Section 114(iii) and 114AA of the Customs Act, 1962 in violation of regulation 10(n) of CBLR, 2018.

19. Further, the exporter, M/s Sidhant Textile Industries, vide their letter dated 06.11.2025, has requested a **waiver of the Personal Hearing and Show Cause Notice**, expressing their willingness to pay any fine or penalty as directed.

20. Also, the Customs Broker, M/s Shriwin Shipping & Logistics vide their letter dated 06.12.2025 (received via email) has requested a **waiver of the Personal Hearing and Show Cause Notice**, expressing their willingness to pay any fine or penalty as directed

DISCUSSION AND FINDINGS

21. I have carefully gone through the facts of the case and evidences available on records. During the course of investigation 100% Examination conducted by the Investigating Agency and subsequent DyCC Test Reports and Market Enquiry conducted by the Investigating Agency which revealed the mis-declaration of description/composition % of the export goods and accordingly declaration of wrong RITC which further resulted in mis-declaration of Drawback/RoSCTL in the subject four S/Bills Nos. 7941721, 7946523, 7946619 and 7946645 all dated 21.02.2023. The exporter had submitted the waiver of SCN and PH expressing their willingness to pay any fine or penalty as directed. Therefore, I am constrained to proceed with the adjudication proceedings ex-parte, on the basis of available facts and evidences on record.

22. I find that the following issues are required to be decided in the instant case:

- (i) Whether the total declared FOB value of the said 04 S/Bills. Nos. 7941721, 7946523, 7946619 and 7946645 all dated 21.02.2023 of Rs.4,35,88,154.62/- as mentioned at table-I above, should be rejected under Rule 8 of the CVR (X), 2007 and should be re-determined at Rs. 36152015/- under Rule 6 of the said Rules *ibid*?
- (ii) Whether the goods covered under subject 04 S/Bills having declared FOB Value of Rs. 4,35,88,154.62/- should be re-assessed with re-determined FOB value of Rs. 3,61,52,015/- and re-determined RITC & export benefits as detailed at Table-V above?
- (iii) Whether the goods vide subject 04 S/Bills having declared FOB Value of Rs 4,35,88,154.62/- as detailed at Table-I, should be confiscated u/s. 113 (i), 113 (ia) and 113 (ja) of the Customs Act, 1962?
- (iv) Whether the total export incentives of said 04 S/Bills, i.e. Drawback of Rs. 9,15,352/- should be rejected and re-determined to Rs. 7,59,194/- and also RoSCTL of Rs. 17,53,263/- should be rejected and re-determined to Rs. 14,18,596/-?

- (v) Whether penalty should be imposed upon the Exporter, M/s. Sidhant Textile Industries u/s. 114 (iii), 114AA & 114AC of the Customs Act 1962 for omission and commission on the part of the Exporter for attempting to claim undue/excess export benefit.
- (vi) Whether the Bond & BG submitted at the time of provisional release for export should be enforced and appropriate towards the fine/penalty imposable on the Exporter?

23. I find that in the instant case, the exporter, M/s Sidhant Textile Industries (IEC: DSKPG8501H) having its Registered Address at House No 3, Pocket 20, Sector 24 Rohini Near Best Mega Mall, Delhi, North Delhi, Delhi- 110085 has filed 04 Shipping bills Nos. 7941721, 7946523, 7946619 and 7946645 all dated 21.02.2023 for export of following items for total declared FOB value of Rs. 4,35,88,154.62/- under Export Promotion Scheme Code 60 (Drawback & RoSCTL) for claim of total drawback benefit of Rs. 9,15,352/-, RoSCTL benefit of Rs. 17,53,263/- and IGST benefit of Rs 2179407.8

24. I find that on the basis of specific intelligence from NCTC, it was suspected that the Exporter was attempting to export a risky consignment of goods and suspected mis-declaration of description, classification, value and availment of undue/excess export incentives thereof. Accordingly, the subject goods were kept on hold by the Officers of SIIB (X), JNCH for thorough examination of the same. I find that the goods were examined 100% under Panchanama dated 25.02.2023 in the presence of representative of Customs broker and exporter. During examination, it was noticed that number of packages & quantity were found as declared in the said 04 S/Bills, however, *prima facie* on visual inspection of the goods it appeared that owing to nature of the goods the same are not in conformity with declared composition of goods, therefore appeared mis-classified and also appeared grossly overvalued. Therefore, RSS in duplicate were randomly drawn and sealed for the purpose of testing of declared description and valuation angle as well as to conduct Market Inquiry to ascertain Present Market Value of the goods.

25. I find that the RSS drawn were forwarded to DyCC, JNCH for testing purpose, reported that there is difference in composition of the goods (as detailed in Table-II above) and therefore the same are wrongly classified as well as the goods appeared to be overvalued. On the basis of DyCC Test Reports it appeared that the declared RITC are not correct and the Investigating Agency proposed relevant RITCs for the subject goods same is required to be re-classified under relevant RITCs in the S/Bills. The details of re-determination of RITC of the goods is detailed at Table-III above.

26. I find that based on the DYCC test report and Market enquiry, the export incentives Drawback of Rs. 9,15,352/- should be rejected and re-determined to Rs. 7,59,194/- and also RoSCTL of Rs. 17,53,263/- should be rejected and re-determined to Rs. 14,18,596/- as detailed in Table-VI above.

27. I find that at the request of the Exporter, the Competent Authority has granted permission for provisional release of goods for taking the goods for export after execution of Bond equivalent to the declared FOB Value of the subject export goods and deposit of

Cash Security amounting to Rs. 2,50,000/- vide Challan No. HCM-866 dated 13.03.2023. And accordingly, provisional release of goods was allowed for taking the goods for export.

28. I find that during the course of investigation, letters were forwarded to Jurisdictional CGST authorities to verify the genuineness of the exporter's supply chain. Letters were issued to the Jurisdictional CGST authorities on 28.04.2023, and in response, the CGST Commissionerate, Rohini Division, Delhi, vide letter received on 24.07.2023, confirmed that M/s Sidhant Textile Industries exists at the declared place of business, has been filing GST returns regularly, and has not claimed any refund to date, while also providing details of its L-1 suppliers. However, further verification of suppliers revealed serious discrepancies: repeated letters dated 27.11.2024, 03.01.2025, and 30.01.2025 were sent to the jurisdictions of M/s Nair International (GSTIN 27AFBPN3410N1ZI) and M/s Royal Enterprises (GSTIN 27CDSPG4098K3ZQ), resulting in an official reply dated 13.01.2025 confirming that no such GSTIN or PAN exists for M/s Nair International, rendering its invoices fake, while no departmental reply was received for M/s Royal Enterprises though the GST portal shows it as "active." Similarly, for M/s IPU Lifestyle (GSTIN 27CHHPG0043D4ZU), no jurisdictional reply was received, but the GST portal shows its registration as "cancelled suo-moto" from the very date of its registration (30.09.2022), clearly indicating non-genuine existence; accordingly, the invoices issued in the name of these suppliers appear fake, and the genuineness of the exporter's declared supply chain is seriously compromised.

29. I find that being the goods are found to be of not properly declared in the export documents as found to be mis-declared its description/composition % and accordingly mis-declared RITC of the goods and requisite Sr. Nos. of export incentives in form of Drawback/RoSCTL/IGST Refund which could have been resulted in availment of undue & excess Drawback, RoSCTL & IGST Refund, however, timely interception of consignments and insertion of Alert in EDI System, the export incentives against said 04 S/Bills are withheld/suspended. Further, during the CGST verification, the supplier M/s Nair International (GSTIN 27AFBPN3410N1ZI) and M/s Royal Enterprises appear to be fake. It appeared that the Purchase Invoices from these supplier appears manipulated & appears fraudulently obtained to substantiate the declared value of the goods in export documents. Therefore, the Investigating Agency proposed rejection of value of the impugned goods under the provisions of Rule 8 of CVR (X), 2007. I find that the Investigating Agency is right to re-determine the value of the goods conducted a Market Inquiry in presence of authorized representative of the Exporter. Accordingly, the Investigating Agency has obtained average wholesale price of the goods (as detailed in Table-IV above). Accordingly, the Investigating Agency proposed re-determined value of the goods covered under subject four (04) S/Bills at **Rs. 3,61,52,015 /-** (Rupees Three Crores sixty one lakhs fifty two thousand fifteen only). I agree with the method adopted by the Investigating Agency to re-determine the value of the goods and subsequent proposal thereof.

30. I find that the exporter had not made declaration truthfully in the Shipping Bills No. 7941721, 7946523, 7946619 and 7946645 all dated 21.02.2023 and thus, they have violated the conditions of Section 50(2) of the Customs Act, 1962 read with Section 11(1)

of Foreign Trade (Development & Regulation) Act 1992 & Rules 11 of Foreign Trade Rules 1993, as exporter had furnished wrong declaration to the Custom Authorities. Hence, it appears that there is a deliberate mis-declaration, mis-statement and suppression of facts regarding the actual value of the impugned goods on the part of the exporter with mala-fide intention to avail undue export benefit not legitimately payable to them. Hence, the declared value i.e. Rs. 4,35,88,154.62/- appeared to be liable for rejection in terms of Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and the value needs to be re-determined to Rs. 3,61,52,015.44/- as per Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007, read with Section 14 of the Customs Act, 1962.

- i. I find that the exporter had inflated FOB value of Rs. 74,36,139.18/- of the goods covered under shipping bills No. 7941721, 7946523, 7946619 and 7946645 all dated 21.02.2023 and thereby illegally attempted to avail excess/undue export benefit and thereby acted in a manner which rendered the said goods is liable for confiscation in terms of the provisions of Section 113(i), 113(ia) & 113(ja) of the Customs Act, 1962.
- ii. I find that the export incentives to the tune of Rs. 26,68,616.25/- claimed under shipping bills No. 7941721, 7946523, 7946619 and 7946645 all dated 21.02.2023, is liable to be rejected.
- iii. In view of the discussion and findings above, I find that IEC holder of M/s Sidhant Textile Industries (IEC: DSKPG8501H) is liable for penalty under Section 114(iii), 114AA of the Customs Act, 1962 on account of inflated FOB value and mis-declaration.
- iv. In view of the above, I find that the present case also merits imposition of Redemption Fine under Section 125 of the Customs Act, 1962 in lieu of confiscation.
- v. I find that the exporter has deposited security of Rs 2,50,000/- HCM No 866 dt 13.03.2023 for shipping bills for provisional release of goods attempted to be exported vide Shipping Bills no. 7941721, 7946523, 7946619 and 7946645 all dated 21.02.2023 and the same is liable to be appropriated against excess export incentives, applicable interest, redemption fine and penalty etc.

31. I find that on perusal of export data on ICES System pertaining to subject four S/Bills, it appeared that the total IGST Refund supposed to be claimed by the Exporter amounting to Rs. 2179407.8/-(Approx.) is at stake against subject four SBs, however, being an alert inserted in the EDI System, the same appears not been disbursed to the Exporter. Furthermore, being the goods has been exported, the said intended claim of IGST Refund is liable to be rejected in total. However, it is a matter of fact that the Exporter has attempted to claim undue/excess IGST Refund on the basis of mis-declared value of the goods (overvaluation).

32. I find that, on the basis of the facts and circumstances mentioned herein above, it appears that the Exporter have knowingly and deliberately indulged themselves in wilful mis-statement and alleged suppression of facts with regard to Shipping Bills mentioned in SCN, with an intent to violate the provisions of Custom Act by

their aforesaid acts of omission and commission appears to have rendered the impugned goods liable for confiscation under Section 113 (i) & 113 (ia) of the Customs Act, 1962. I rely upon the order of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.) wherein the Hon'ble Madras High Court held in para 23 of the judgment as below:

"23. The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields. The fine under Section 125 is in lieu of confiscation of the goods. The payment of fine followed up by payment of duty and other charges leviable, as per sub-section (2) of Section 125, fetches relief for the goods from getting confiscated. By subjecting the goods to payment of duty and other charges, the improper and irregular importation is sought to be regularized, whereas, by subjecting the goods to payment of fine under sub-section (1) of Section 125, the goods are saved from getting confiscated. Hence, the availability of the goods is not necessary for imposing the redemption fine. The opening words of Section 125, "Whenever confiscation of any goods is authorized by this Act....", brings out the point clearly. The power to impose redemption fine springs from the authorization of confiscation of goods provided for under Section 111 of the Act. When once power of authorization for confiscation of goods gets traced to the said Section III of the Act, we are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing the payment of the redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act. We accordingly answer question No. (i)."

32.1 I find that the above view of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.), has been cited by Hon'ble Gujarat High Court in case of M/s Synergy Fertichem Pvt. Ltd reported in 2020 (33) G.S.T.L. 513 (Guj.) and the same have not been challenged by any of the parties in operation. Hence, I find that any goods improperly exported as provided in any sub-section of Section 113 of the Customs Act, 1962 are liable to confiscation and merely because the exporter was not caught at the time of clearance of the exported goods, can't be given differential treatment. In view of the above, I find that the decision of the Hon'ble Madras High Court in the case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.), which has been passed after observing the decision of Hon'ble Bombay High Court in case of M/s Finesse Creations Inc reported vide 2009 (248) ELT 122 (Bom)-upheld by Hon'ble Supreme Court in 2010(255) ELT A.120(SC), is squarely applicable in the present case. Accordingly, I observe that the present case also merits the imposition of a Redemption Fine.

33. In this regard, I find that the GST Circular No. 31/05/2018-GST dated 09.02.2018 assigns the Central Tax officers (Principal Commissioner/Commissioner of Central Tax, Additional/Joint Commissioner of Central Tax, Deputy/Assistant Commissioner of Central Tax, Superintendent and Inspector of Central Tax) to function

as the Proper Officers in relation to the issue of show cause notices and orders under sections 73 and 74 of the CGST Act and section 20 of the IGST Act (read with sections 73 and 74 of the CGST Act), up to the monetary limits as mentioned in the said circulars. Thus, the proper officer as defined under section 2 (91) of the CGST Act 2017 and assigned functions vide Circular No. 31/05/2018-GST dated 09.02.2018 are to exercise powers under section 73 and 74 of the CGST Act 2017 and can issue notices and orders under the said Sections/Acts. Accordingly, this Order shall be forwarded to the concerned Central GST Unit for initiation of suitable action at their end for *mala fide* intention of the Exporter to avail undue/excess IGST Refund on the basis of overvaluation of the goods, which is legitimately not due to them. Therefore, it is required to refer this case to Jurisdictional CGST Authorities to make thorough enquiry into the GST payments of M/s. Sidhant Textile Industries and their suppliers and verify whether they have had made any GST Payment against the raised Invoices pertaining to exports of RMGs vide subject four S/Bills Nos. 7941721, 7946523, 7946619 and 7946645 all dated 21.02.2023 filed at JNPT and take necessary action in case any discrepancies or violations of CGST Act/Rules found.

34 On perusal of the facts of the case it is apparent that the Investigating Agency during examination of goods found that the goods were mis-declared in terms of description/composition %, RITC, Drawback/RoSCTL Sr. No. and the same are grossly overvalued. I find that the SCN proposed confiscation of the goods u/s. 113 (i), 113 (ia) & 113 (ja) of the Customs Act, 1962 and proposed penal action on the Exporting firm u/s. 114 (iii) and penalty on the Partner of the Exporting firm u/s. 114AC of the said Act *ibid*. I find that Shri Sidhant Garg, Proprietor of M/s. Sidhant Textile Industries was instrumental in making the declarations in the export documents, wherein, he suppressed the facts w.r.t. the composition of the goods, RITC, Drawback/RoSCTL Sr. No. and value etc. Therefore, I find that the acts of omission and commission on the part of the Exporting Firm, M/s. Sidhant Textile Industries rendered the goods liable for confiscation u/s. 113 (i), 113 (ia) & 113 (ja) of the Customs Act, 1962 and subsequently rendered themselves and the proprietor liable for penal action u/s. 114 (iii) and 114AC of the said Act *ibid*.

35. Further, I find that the Custom Broker M/s Shriwin Shipping & Logistics failed to ascertain the correctness of details entered under the above mentioned shipping bills as the goods covered under the above-mentioned shipping bills were mis-classified in terms of CTH, composition & description. The regulation 10 (d) of the CBLR, 2018 mandates that the Custom Broker has to always advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs. In the instant case, the CB has not presented any evidence of guiding the exporter correctly in the classification of the impugned goods and has rendered themselves liable for penalty under section 114(iii) and 114AA of the Customs Act, 1962

ORDER

36. In view of the above discussions and findings, I pass the following order,

- i. I deny and reject the declared value of Rs. 4,35,88,154.62/- of goods covered under Shipping Bills No. 7941721, 7946523, 7946619 and 7946645 all dated 21.02.2023 in terms of Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and re-determined to Rs. 3,61,52,015.44/- under Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007, read with Section 14 of the Customs Act, 1962.
- ii. I order confiscation of goods covered under above said 04 shipping bills having total FOB value of Rs. 4,35,88,154.62/- detailed as per Table-1 above, under the provisions of Sections 113(i), 113(ia) & 113(ja) of the Customs Act, 1962. I impose a Redemption Fine of Rs. 4,00,000 under Section 125 of the Customs Act, 1962, in lieu of confiscation.
- iii. I deny and reject the export incentives to the tune of Rs. 26,68,616.25/- (Drawback Rs. 9,15,353.25/- and RoSCTL Rs. 17,53,263.47/-) in respect of Shipping Bills No. 7941721, 7946523, 7946619 and 7946645 all dated 21.02.2023. In the event any amount has been sanctioned or disbursed, the same shall be recoverable from the exporter along with applicable interest under Rules 17 of the Customs, Central Excise Duties and Service Tax Drawback Rule, 2017, read with the Section 75 of the Customs Act, 1962 & 75A (2) of the Customs Act, 1962 read with Section 28AA and Section 28AAA including the intended claim of IGST Refund amounting to Rs 21,79,407.8/-. The re-determined Drawback amount is Rs. 7,59,193.99/- and RoSCTL amount is Rs 14,18,595.53/-.
- iv. The Regional Authority, DGFT, Mumbai is requested to take necessary action w.r.t. rejecting the benefit to the Exporter claimed under RoSCTL Scheme to the Exporter, M/s. Sidhant Textile Industries 04 S/Bills Nos 7941721, 7946523, 7946619 and 7946645 all dated 21.02.2023.
- v. The jurisdictional CGST Authorities, Rohini, Delhi requested to make thorough enquiry into the GST payments of M/s. Sidhant Textile Industries and their suppliers and verify whether they have had made any GST Payment against the raised Invoices pertaining to exports of RMGs vide four S/Bills Nos. 7941721, 7946523, 7946619 and 7946645 all dated 21.02.2023 filed at JNPT and take necessary action in case any discrepancies or violations of CGST Act/Rules found.
- vi. I impose a penalty of Rs. 100,000 /- under Section 114(iii) of the Customs Act, 1962 on the exporter M/s. Sidhant Textile Industries (IEC: DSKPG8501H) for their acts of omission and commission to fraudulently claim ineligible export benefits by deliberate mis-classification and overvaluation of subject goods and thus rendering the subject goods liable for confiscation
- vii. I impose the penalty of Rs. 100,000/- under Sections 114AA of the Customs Act, 1962 on Shri Sidhant Garg, Proprietor of M/s Sidhant Textile Industries (IEC: DSKPG8501H) for the acts of omission and commission to avail undue/excess export benefits in form of Drawback & Rosctl.
- viii. I impose penalty of Rs. 100,000 /- on Shri Sidhant Garg, proprietor of M/s. Sidhant Textile Industries u/s. 114AC of the Customs Act, 1962.
- ix. I order to appropriate the amount deposited as security of Rs 2,50,000/- vide HCM No 866 dt 13.03.2023 for shipping bills for provisional release of goods attempted to be exported vide Shipping Bills no. 7941721, 7946523, 7946619 and

7946645 all dated 21.02.2023 against export incentives, applicable interest, redemption fine and penalty etc. as confirmed and ordered herein.

- x. I impose a penalty of Rs. 50,000/- under Section 114(iii) of the Customs Act, 1962 on the Customs broker M/s Shriwin Shipping & Logistics in violation of regulation 10(n) of CBLR, 2018.
- xi. I impose the penalty of Rs. 50,000 /- under Sections 114AA of the Customs Act, 1962 on Shri Maruti Zinjad, G-card Holder of the Customs broker M/s Shriwin Shipping & Logistics in violation of regulation 10(n) of CBLR, 2018.

37. This order is issued without prejudice to any other action that may be taken in respect of the goods in question and/or against the persons concerned or any other person, if found involved, under the provisions of the Customs Act, 1962, and/or any other law for the time being in force in the Republic of India.



(RAGHU KIRAN B.)
ADDL COMMISSIONER OF CUSTOMS
CEAC, NS-II, JNCH

To,

1. M/s Sidhant Textile Industries (IEC: DSKPG8501H), House No 3, Pocket 20, Sector 24 Rohini Near Best Mega Mall, Delhi, North Delhi, Delhi- 110085
2. M/s Shriwin Shipping & Logistics, R.No.106, Maladhari Compound, Sahar Rd, Swami Nityanand Marg, Opp. ICICI Bank, Andheri (E), Mumbai-400069.

Copy to:

1. The Additional Commissioner of Customs, CAC, NS-II, JNCH, Mumbai.
2. The Asstt. Commissioner of Customs, SIIB(X), JNCH
3. The Asstt. Commissioner of Customs, IRMC, JNCH
4. The Dy. Director, Additional Director General of Foreign Trade, Central Licensing Area (CLA), 'A' Wing I.P. Bhawan, I.P. Estate, New Delhi-110002 for necessary action w.r.t. disbursal of export benefit under RoSCTL Scheme.
5. The Dy. Commissioner of GST, CGST, Ambedkar Bhawan, Delhi Western Commissionerate, Division Rohini, 4th Floor, Sector 16, Rohini, Delhi (To take Necessary action against Exporter for IGST Refund under the provision of CGST Act, 2017)
6. The Dy./Asstt. Commissioner of Customs, CRAC (X), JNCH, Nhava Sheva.
7. The Dy./Asstt. Commissioner of Customs, CRRC Cell, JNCH, Nhava Sheva
8. The Dy./Asstt. Commissioner of Customs, Drawback Section, JNCH, Nhava Sheva.
9. Supdt/CHS, JNCH for display on Notice Board.
10. Office Copy