

OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-V)
सीमाशुल्कआयुक्त (एनएस - V) कार्यालय
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA,
जवाहरलालनेहरुसीमाशुल्कभवन, न्हावाशेवा,
TALUKA – URAN, DISTRICT - RAIGAD, MAHARASHTRA -400707
तालुका - उरण, जिला - रायगढ़, महाराष्ट्र 400707

DIN – 20250778NX000000BD8B

Date of Order: 18.07.2025

F. No. S/10-077/2024-25/COMMR/GR.VB/NS-V/CAC/JNCH **Date of Issue: 18.07.2025**

SCN No.: 771/2024-25/COMMR/NS-V/CAC/JNCH

SCN Date: 22.07.2024

Passed by: Sh. Anil Ramteke

Commissioner of Customs, NS-V, JNCH

Order No: 128/2025-26/COMMR/NS-V/CAC/JNCH

Name of Noticee: M/s. Global Mind (IEC: CHEPK5508E) and Other

ORDER-IN-ORIGINAL

मूल - आदेश

1. The copy of this order in original is granted free of charge for the use of the person to whom it is issued.

1. इस आदेश की मूल प्रति की प्रतिलिपि जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निःशुल्क दी जाती है।

2. Any Person aggrieved by this order can file an Appeal against this order to CESTAT, West Regional Bench, 34, P D'Mello Road, Masjid (East), Mumbai - 400009 addressed to the Assistant Registrar of the said Tribunal under Section 129 A of the Customs Act, 1962.

2. इस आदेश से व्यथित कोई भी व्यक्ति सीमाशुल्क अधिनियम 1962 की धारा 129 (ए) के तहत इस आदेश के विरुद्ध सी.ई.एस.टी.ए.टी., पश्चिमी प्रादेशिक न्यायपीठ (वेस्ट रीज़नल बेंच), 34, पी. डी.मेलो रोड, मस्जिद (पूर्व), मुंबई - 400009 को अपील कर सकता है, जो उक्त अधिकरण के सहायक रजिस्ट्रार को संबोधित होगी।

3. Main points in relation to filing an appeal: -

3. अपील दाखिल करने संबंधी मुख्य मुद्दे:-

Form - Form No. CA3 in quadruplicate and four copies of the order appealed against (at least one of which should be certified copy).

फार्म - सीए3, चार प्रतियों में तथा उस आदेश की चार प्रतियाँ, जिसके खिलाफ अपील की गयी है (इन चार प्रतियों में से कम से कम एक प्रति प्रमाणित होनी चाहिए).

Time Limit - Within 3 months from the date of communication of this order.

समय सीमा - इस आदेश की सूचना की तारीख से 3 महीने के भीतर

Fee -फीस-

(a) Rs. One Thousand - Where amount of duty & interest demanded & penalty imposed is Rs. 5 Lakh or less.

(क) एक हजार रुपये जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम 5 लाख रुपये या

उस से कम है।

- (b) Rs. Five Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 5 Lakh but not exceeding Rs. 50 Lakh.
- (ख) पाँच हजार रुपये – जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम 5 लाख रुपये से अधिक परंतु 50 लाख रुपये से कम है।
- (c) Rs. Ten Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 50 Lakh.
- (ग) दस हजार रुपये – जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम 50 लाख रुपये से अधिक है।

Mode of Payment - A crossed Bank draft, in favor of the Asstt. Registrar, CESTAT, Mumbai payable at Mumbai from a nationalized Bank.

भुगतान की रीति – क्रॉस बैंक ड्राफ्ट, जो राष्ट्रीय कृत बैंक द्वारा सहायक रजिस्ट्रार, सी.ई.एस.टी.ए.टी., मुंबई के पक्ष में जारी किया गया हो तथा मुंबई में देय हो।

General - For the provision of law & from as referred to above & other related matters, Customs Act, 1962, Customs (Appeal) Rules, 1982, Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982 may be referred.

सामान्य - विधि के उपबंधों के लिए तथा ऊपर यथा संदर्भित एवं अन्य संबंधित मामलों के लिए, सीमाशुल्क अधिनियम, 1962, सीमाशुल्क (अपील) नियम, 1982, सीमाशुल्क, उत्पाद शुल्क एवं सेवा कर अपील अधिकरण (प्रक्रिया) नियम, 1982 का संदर्भ लिया जाए।

4. Any person desirous of appealing against this order shall, pending the appeal, deposit 7.5% of duty demanded or penalty levied therein and produce proof of such payment along with the appeal, failing which the appeal is liable to be rejected for non-compliance with the provisions of Section 129E of the Customs Act 1962.

4. इस आदेश के विरुद्ध अपील करने के लिए इच्छुक व्यक्ति अपील अनिर्णीत रहने तक उसमें माँगे गये शुल्क अथवा उद्गृहीत शास्ति का 7.5 % जमा करेगा और ऐसे भुगतान का प्रमाण प्रस्तुत करेगा, ऐसा न किये जाने पर अपील सीमाशुल्क अधिनियम, 1962 की धारा 129 E के उपबंधों की अनुपालना न किये जाने के लिए नामंजूर किये जाने की दायी होगी।

Subject: Adjudication of Show Cause Notice No. 771/2024-25/COMMR/NS-V /CAC/ JNCH dated 22.07.2024 issued to M/s Global Mind (IEC: CHEPK5508E) – reg.

1. BRIEF FACTS OF THE CASE

1.1 It is stated in the Show Cause Notice (SCN) NO. 771/2024-25/COMMR/NS-V /CAC/ JNCH dated 22.07.2024 that based on the intelligence developed by the Special Investigation and Intelligence Branch [SIIB(I)], Import, JNCH, that spectacle/optical lenses were being imported from China by undervaluing them, two consignments of the said goods, imported by M/s. Global Mind (IEC: CHEPK5508E) vide Bills of Entry (BE) No. 6808700 dated 08.02.2020 and 6871448 dated 13.02.2020, filed through their authorized Customs Broker, M/s. Sigma Forwarders (CHA-ALEPJ7162KCH002) were intercepted by SIIB(I), JNCH.

1.2 Details of the subject BEs were verified in the ICES and found as following:

Table-I

Sr No	Description	Particulars	Particulars
1	Bill of Entry No & date	6808700 dated 08.02.2020	6871448 dated 13.02.2020
2	IGM No	2246051 dated 06.02.2020	2246051 dated 06.02.2020
3	Declared description of the goods	Optical Mould, Optical Frame, Optical Frame Lens, etc.	Optical Frame Lens, Optical Frame, Sunglass, Car Monitor, Car Accessories, etc.
4	Invoice Value	USD 19700 (CIF)	USD 24750 (CIF)
5	Value declared	Rs. 1528346.97/-	Rs. 1785696.95/-
6	Duty	Rs. 411518/-	Rs. 526424/-
7	Country of Origin	China	China
8	Container No	TCLU6248625	MOTU1411660
9	CFS	M/s. ICTPL	M/s. ICTPL

1.3. As per the subject SCN, the subject goods imported via BE No. 6808700 dated 08.02.2020 and 6871448 dated 13.02.2020 were put on hold vide Hold No. 213/2019-20 SIIB(I) dated 10.02.2020 and 217/2019-20 SIIB(I) dated 14.02.2020 respectively. Further, the said consignments were examined by the SIIB (I) Officers under Panchnama dated 14.02.2020 and 24.02.2020 respectively. On the basis of contemporaneous import data of similar items, it appeared that the value of items as detailed in Table A & B below were mis-declared to evade customs duty.

Table A: (B/E No. 6808700 dtd. 08.02.2020)

Sr No.	Item no. in the BE	Description of goods declared	Quantity declared	Declared A.V. (Rs.)	Declared value per kg(Rs.)	Remarks
1	1	Bracelet(Imitation jew.)	56 Kgs	4,848/-	83.58	Seized Vide Seizure Memo dated 13.03.2020
2	2	Chain(Imitation jew.)	42 Kgs	3,636/-	86.57	
3	3	Bangle(Imitation jew.)	45.2 Kgs	3,913/-	86.57	
4	5	Optical Mould	423 Kgs	36,623/-	86.57	
5	6	Optical Frame Lens	244056 pairs	2,64,130/-	1.08	
6	7	Optical Frame (made of plastic, Iron)	101267 Pcs	8,03,706/-	7.93	
7	8	Sunglass (made of iron plastic)	21597 pcs	2,33,734/-	10.82	
8	9	Reading frame with glass (made of iron plastic)	17301 Pcs	1,37,309/-	7.94	
Total (in Rs.)				14,87,899/-		

TABLE-B (B/E No. 6871448 dated 13.02.2020)

Sr.No.	Item No. in the BE	Description of goods declared	Quantity declared	Declared A.V.(Rs.)	Declared Value per kg/pcs	Remarks
1	2	Optical Accessories	229 Kgs	9,913/-	43.29	Seized Vide Seizure Memo dated 13.03.2020
2	3	Reading Frame with Glass	23300 Pcs	2,01,731/-	8.66	
3	4	Empty Optical Box	864 Kgs	31,169/-	36.08	
4	5	Optical Frame	23778 Pcs	1,88,714/-	7.94	
5	6	Optical Frame lens	109078Pairs	1,41,660/-	1.30	
6	7	Sunglass	140560 Pcs	11,15,554/-	7.94	
7	8	Monometers	240	8,658/-	36.08	
8	9	Optical Mould	53 Kgs	1,912/-	36.08	
9	10	Airbed	32 Kgs	1,154/-	36.06	
10	11	Car Monitor	12 Kgs	433/-	36.07	
11	12	Arm Rest Box	26.5 Kgs	956/-	36.07	
12	13	Car Accessories	9 Kgs	325/-	36.1	
13	15	Car Wireless Charger	15 Kgs	541/-	36.06	
14	20	Bag clip	26 Kgs	1,126/-	43.31	
15	21	Socket Wrench Set	1335 Kgs	48,160/-	36.07	
Total (in Rs.)				17,52,006/-		

As the impugned goods appeared liable for confiscation under Section 111(m) of the Customs Act, 1962, the same were seized under Section 110 of the Customs Act, 1962 vide Seizure Memo dated 13.03.2020. Vide SIIB(I) letter dated 13.03.2020, the remaining non-offending goods imported under the subject two Bills of Entry were allowed to be released on payment of duty and on completion of other customs procedures.

1.4. Re-determination of Value:

In order to arrive at the appropriate value of the goods, a market inquiry was proposed to be conducted. However, due to the COVID-19 situation, the market inquiry could not be conducted. In the absence of a market inquiry, the value has been arrived at considering the contemporaneous import values as available in NIDB and the evidence gathered.

As the goods appeared undervalued, values at which identical or similar goods were imported at or about the same time in comparable quantities in a comparable commercial transaction were analysed, and it was noticed that the similar/identical goods were being imported at higher values. Therefore, under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR, 2007), the declared value was rejected. The value of the imported goods needs to be re-determined in accordance with Rule 4 to 9 of the CVR, 2007. Rule 4 and Rule 5 of the CVR, 2007 stipulate valuation based on the contemporaneous import data of identical and similar goods respectively. Hence, the value of the imported goods has been arrived by using the contemporaneous import data of identical/similar goods. The values so arrived under Rule 5 of CVR, 2007 in respect of the subject two consignments are tabulated and annexed to this SCN as Annexure-A. Accordingly, the declared Assessable Value Rs. 14,87,899/- in respect of seized goods imported vide B/E No. 6808700 dated 08.02.2020 has been re-determined to Rs. 1,42,95,670/-, consequently differential duty comes to be Rs. 35,32,164.11/-. Further, the declared Assessable Value Rs. 17,52,006/- in respect of seized goods imported vide B/E No. 6871448 dated 13.02.2020 has been re-determined to Rs. 90,14,684.5/-, consequently differential duty comes to be Rs. 21,29,070.39/-. Therefore, total differential duty in respect of the subject two consignments comes to be Rs. 56,61,234.5/-.

1.5. Provisional Release - In view of the Importer's letter dated 19.03.2020 stating that they were ready to pay duty on a provisional basis and to provide a bond for the balance duty determined after provisional assessment, SIIB(I) vide letter dated 17.04.2020 addressed to Appraising Group 5B granted NOC for provisional release of the seized goods vide two Seizure Memos both dated 13.03.2020. Accordingly, the importer submitted a Security Deposit of Rs. 70,70,550/- vide Challan No. HC-135/22.06.2020, which covered differential duty of Rs. 56,61,234/- and Redemption Fine and Penalty of Rs. 14,15,310/- in respect of the subject two Bills of Entry No. 6808700 dated 08.02.2020 and 6871448 dated 13.02.2020, and got the goods released on a provisional basis on 05.07.2020.

1.6. Summons and statements of the Importer & Custom Brokers:

1.6.1 Statement of the Authorised Representative of the Importer, Mr. Mahabir Prasad Sharma of M/s. Global Mind (IEC: CHEPK5508E) dated 27.05.2024 was recorded under Section 108 of the Customs Act, 1962 wherein he inter alia stated that:

(i) He is the authorized representative of M/s. Global Mind (IEC: CHEPK5508E) owned by Shri Saravesh Kumar. He is the Consultant of the said company. Their company mainly trades in optical frames, optical lenses, frames, optical accessories, gift items, and other trading

goods. After investigation by SIIB(I)/JNCH in 2020, the importer closed this business as they suffered huge losses during that time.

(ii) They have imported Spectacle Lenses/Optical Frame Lens and other misc. trading items in the period 2019-2020. Two Bills of Entry No. 6808700 dated 08.02.2020 and B/E No. 6871448 dated 13.02.2020 were examined under Panchnama by SIIB (I)/JNCH. Further, there are eleven (11) Past Bills of Entry having one of the items as Optical Frame Lenses filed before two Bills of Entry 6808700 dated 08.02.2020 and 6871448 dated 13.02.2020.

(iii) Both Bills of Entry No. 6808700 dated 08.02.2020 and 6871448 dated 13.02.2020 and Past Bills of Entry were filed by Custom Broker, M/s Sigma Forwarders on behalf of M/s Global Mind at JNCH port. They came to know about the CHA through a reference by an IEC registry agent.

(iv) He was shown the examination Panchnama dated 14.02.2020 & 24.02.2020 and asked whether he agrees with the examination Panchnama and its findings. He acknowledged and stated that the examination Panchnama dated 14.02.2020 & 24.02.2020 for the BE No. 6808700 dated 08.02.2020 and 6871448 dated 13.02.2020 is correct as per his knowledge.

(v) When asked that the goods i.e. lenses were declared as "optical frame lens" in the Bills of Entry No. 6808700 dated 08.02.2020 and 6871448 dated 13.02.2020 and no specification/detailed description was given in the Bill of Entry, whereas upon examination the optical frame lenses were found as Blue Cut RT, SV HC, Progressive Blue Cut, Blue Cut Cyl, HC Progressive, Photogrey HC, RT Bifocal, PC HMC, HC RT Lenses. He stated that their firm/company has been importing similar types of optical frame lenses of low quality in stocklot in the past. As a general practice, they have declared these goods as Optical Frame lenses in the Bills of Entry. He accepted that the company should have declared the detailed description of the Goods as found during the Examination Panchnama.

(vi) On asking that the Goods optical lenses imported vide Bills of Entry No. 6808700 dated 08.02.2020 and 6871448 dated 13.02.2020 were undervalued and what he has to say about it, he stated that the Goods imported by them are stock lot having mix/different types of lenses. They got the goods at very reasonable prices from the Chinese Supplier.

(vii) When asked about the criteria/specification that decides the values of the optical frame lenses, he stated that the basic factor for that is the quality of the raw material used and type/specification of lenses such as their power, coating (HC/HMC), Type (Progressive, Round Top, Photogrey, etc.)

(viii) He was asked to submit the transaction/Bank Advice/Remittance, sales invoice copies, GST Return related to imports made under BE No. 6808700 dated 08.02.2020 and 6871448 dated 13.02.2020 as well as for the past imports made by M/s Global Mind. He requested two weeks' time to submit the same. However, he did not submit the transaction details.

(ix) He was asked about the past imports of OPTICAL/Spectacle Lenses imported by M/s Global Mind since 2019 where only a general description as "OPTICAL FRAME Lens" is given and declared value of these goods were also similar to the value declared in the above-

mentioned Two Bills of Entry examined under Panchnama. He submitted that they buy the goods in stock lot and got the prices of low-quality stock lot goods at very reasonable prices from their Chinese supplier. All these goods were similar to goods imported vide above-mentioned Two Bills of Entry where goods were examined under Panchnama and as a general practice, they have declared these goods as spectacle lenses in the Bills of Entry.

(x) On asking how he arrived at the HSN Code mentioned in BE No. 6808700/08.02.2020 and 6871448/13.02.2020, he answered that his Company arrived at these HSN Codes through online sources and with the help of CHA.

(xi) He was shown the differential duty calculation sheet of examined Bills of Entry No. 6808700/08.02.2020 and 6871448/13.02.2020 as well as the past Bills of Entry for the period of 2019 to 2020 and asked whether he agreed to pay the differential duty as per the duty calculation sheet. He agrees with the differential duty calculation sheet and submitted that it will be difficult for them to pay differential duty as they have closed their business after the investigation by SIIB/JNCH in Feb 2020 as they suffered huge losses during that time.

1.6.2 Summons were sent to M/s. Saravesh Kumar, Proprietor of M/s. Global Mind on 22.10.2020, 10.11.2020, 17.08.2021, 08.09.2021 & 18.09.2023 to record their statement under Section 108 of the Customs Act, 1962, but no one appeared for the same.

1.7. The import of identical/similar items in the last five years by the importer was also analysed, and it appeared that the value in the consignments of similar items imported by M/s. Global Mind in the past, as mentioned in Annexure-B of the subject SCN, was also mis-declared. Therefore, the value and duty of those consignments were re-determined on the basis of findings of the investigation as discussed in foregoing paragraphs. The re-determined value, duty, and consequential differential duty are tabulated and annexed to the subject SCN in Annexure-B. In view of the above, the total declared Assessable Value of Rs. 29,28,220/- in respect of goods imported vide 11 past bills of entry mentioned in Annexure-B to the subject SCN has been re-determined to Rs. 5,30,17,992/-, consequently, the total differential duty comes to Rs. 1,21,81,331/-.

1.8 The relevant provisions of law relating to import and valuation of goods in general, the Policy and Rules relating to imports, the liability of the goods to confiscation and the persons concerned are liable to penalty for illegal importation under the provisions of the Customs Act, 1962 and the other laws were mentioned in the subject SCN. The same are not reproduced in this Order in Original for the sake of brevity.

(i) Section (46) - Entry of goods on importation

(ii) Section (17) - Assessment

(iii) Section (110) -Seizure

(iv) Section 111 - Confiscation of improperly imported goods etc.

(v) Section 112 - Penalty for improper importation of goods etc.

(vi) Section (114) - Penalty for short-levy or non-levy of duty in certain cases

(vii) Section (125) - Option to pay fine in lieu of confiscation

(viii) Section 28 - Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded

1.9 Upon examination, it has been found that the spectacle lenses imported by M/s. Global Mind were significantly undervalued in the Bills of Entry compared to the value found from the analysis of identical or similar goods imported around the same time in similar quantities based on NIDB data. The declared value of the imported goods does not correspond to the actual value as required by law. This under-valuation indicates a deliberate act to evade customs duty. Therefore, these goods are liable for confiscation under Section 111(m) of the Customs Act, 1962, which pertains to goods that are declared to be of a particular value, specification, or quantity but are not so.

1.10 M/s. Global Mind, through their authorized Customs Broker M/s. Sigma Forwarders, facilitated the importation of goods that were undervalued to evade customs duties. This deliberate act of undervaluation, as evidenced by the discrepancy between the declared and re-determined values, implicates both the importer and the Customs Broker in activities that render the goods liable to confiscation under Section 111. As such, penalties under Section 112(a) of the Customs Act, 1962, are warranted against M/s. Global Mind for their roles in this attempted evasion.

1.11 The import declarations submitted by M/s. Global Mind were found to contain false information regarding the value of the spectacle lenses. The substantial under-valuation in the Bills of Entry compared to the actual market value and NIDB values clearly indicates the submission of false documentation to mislead customs authorities and evade duty. This constitutes an offense under Section 114AA of the Customs Act, 1962, which addresses the use of false or incorrect material information in import or export documentation. Thus, importer appears to be liable for the imposition of penalties under Section 114AA of the Customs Act, 1962.

1.12 Now, therefore, M/s. Global Mind (IEC- CHEPK5508E) having registered address as "230, Danapur, Kyampur, Ghazipur, Barabanki, Uttar Pradesh, PIN-225405," through its Proprietor Mr. Saravesh Kumar, is hereby called upon to show cause to the Commissioner of Customs, NS-V, JNCH, Mumbai Customs-II, having office situated at Jawaharlal Nehru Customs House (JNCH), Taluka Uran, Distt: Raigad, Nhava Sheva, Maharashtra-400707 (the Adjudicating Authority), as to why:

(a) For live consignments of goods imported vide Bills of Entry No. 6808700 dated 08.02.2020 and 6871448 dated 13.02.2020:

- i. The total declared Assessable Value of the offending goods amounting to Rs. 32,39,905/-(Rupees Thirty-Two Lakhs Thirty-Nine Thousand Nine Hundred Five Only) should not be rejected under in terms of Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR, 2007) and the same should not be re-determined to Rs. 2,33,10,355/-(Rupees Two Crores Thirty-Three

Lakh Ten Thousand Three Hundred Fifty-Five Only) as per Rule 5 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR, 2007).

- ii. The self-assessment done by the importer in terms of Section 17(1) should not be rejected and re-assessed as per Section 17(4) of the Customs Act, 1962. Consequent to such re-assessment, the differential duty amounting to Rs. 56,61,235/- (Rupees Fifty-Six Lakh Sixty-One Thousand Two Hundred Thirty-Five Only) along with applicable interest, in respect of the impugned goods imported, should not be paid by the Importer.
- iii. The impugned goods having re-determined Assessable Value of Rs. 2,33,10,355/- (Rupees Two Crores Thirty-Three Lakh Ten Thousand Three Hundred Fifty-Five Only) should not be confiscated under Section 111 (m) of the Customs Act, 1962.
- iv. Penalty under Section 112(a) of the Customs Act, 1962 should not be imposed against the importer.
- v. Penalty under Section 114AA of the Customs Act, 1962 should not be imposed on the importer.
- vi. Penalty under Section 114AA of the Customs Act, 1962 should not be imposed on Mr. Saravesh Kumar, Proprietor of M/s. Global Mind.
- vii. The Bond submitted by the importer should not be enforced and Security Deposit of Rs. 70,70,550/- (Rupees Seventy Lakh Seventy Thousand Five Hundred Fifty) should not be appropriated against the aforesaid demand.

(b) For past consignments of goods imported vide Bills of Entry mentioned in Annexure-B:

- i) The total declared value of offending goods covered under past BEs, as mentioned in Annexure-B of the subject SCN, amounting to Rs. 29,28,220/- (Rupees Twenty-Nine Lakh Twenty-Eight Thousand Two Hundred Twenty) should not be rejected under Rule 12 of the Customs Valuation Rules, 2007 and same should not be re-determined to Rs. 5,30,17,992/- (Rupees Five Crore Thirty Lakh Seventeen Thousand Nine Hundred Ninety-Two Only) as per Rule 5 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR, 2007).
- ii) The self – assessment in respect of past BEs, as mentioned in Annexure B of the subject SCN, done by the importer in terms of Section 17(1) should not be rejected and re-assessed as per Section 17(4) of the Customs Act, 1962. Consequent to such re-assessment, the differential duty amounting to Rs. 1,21,81,831/- (Rupees One Crore Twenty-One Lakh Eighty-One Thousand Eight Hundred Thirty-One Only) should not be

demanded under Section 28(4) of the Customs Act, 1962, along with applicable interest as per Section 28AA of the Customs Act, 1962.

iii) The impugned goods having total re-determined Assessable Value of Rs. 5,30,17,992/- (Rupees Five Crore Thirty Lakh Seventeen Thousand Nine Hundred Ninety-Two Only) for the Bills of Entry as mentioned in Annexure-B of the subject SCN, should not be confiscated under Section 111(m) of the Customs Act, 1962.

iv) For acts of omission and commission and wilful suppression of facts, as discussed in the foregoing paragraphs, a penalty should not be imposed on Importer under Sections 112(a) and/or 114A, and 114AA of the Customs Act, 1962.

1.13. Now, therefore, M/s Sigma Forwarders (Customs Broker), is hereby called upon to Show Cause to the Commissioner of Customs, NS-V, JNCH, Mumbai Customs-II, having office situated at Jawaharlal Nehru Customs House (JNCH), Taluka Uran, Distt: Raigad, Nhava Sheva, Maharashtra-400707 (the Adjudicating Authority), as to why:

i.) Penalty under Section 112(a) and/or 114AA of the Customs Act, 1962 should not be imposed on them.

PERSONAL HEARING AND WRITTEN SUBMISSIONS

2. There is two Noticees in the subject SCN, (i) M/s Global Mind and (ii) M/s Sigma Forwarders (Customs Broker).

2.1 In compliance with the provisions of Section 28(8) read with Section 122A of the Customs Act, 1962, and in terms of principle of natural justice, the Noticees were granted opportunities for personal hearing (PH) in terms of Section 28(8) read with Section 122A of the Customs Act, 1962. A date-wise record of personal hearings is as under:

2.2 An opportunity for PH was granted to the Noticees on 03.06.2025. The importer did not attend the same. Further, again an opportunity for PH was granted to the Noticees on 12.06.2025 & 26.06.2025 but the Noticees did not attend the same. The Personal hearing letters intimating the personal hearing date were forwarded to the Noticees via speed post at the registered address mentioned in the show cause notice. The PH letters dated 12.06.2025 & 26.06.2025 was displayed on Notice Board through CHS Section/JNCH. However, the Noticees neither attended any of the PH nor submitted any response to the said PH letters.

DISCUSSION AND FINDINGS

3.1 I have carefully gone through the subject Show Cause Notice (SCN) and its enclosures, material on record and facts of the case. Accordingly, I proceed to decide the case on merit.

3.2 Section 122A of the Customs Act, 1962, stipulates that the Adjudicating Authority shall give an opportunity of being heard to a party in a proceeding, if the party so desires. The

adjudicating authority may, if sufficient cause is shown, at any stage of proceeding, grant time, from time to time, to the parties or any of them and adjourn the hearing, provided that no such adjournment shall be granted more than three times to a party during the proceeding.

3.3 I find that in the instant case, in compliance of provisions of Section 28(8) read with Section 122A of the Customs Act, 1962 and in terms of the principle of natural justice, multiple Personal Hearings opportunities were granted by the Adjudicating Authority to the Noticees. It is observed that PH letters were sent on the address given in the SCN via Speedpost. However, the Noticees neither appeared before the Adjudicating Authority in the Personal Hearings granted to them nor submitted any letter or email in response to the Personal Hearing intimation letters. From the aforesaid facts, it is observed that sufficient opportunities have been given to the Noticees but they chose not to join the adjudication proceedings.

3.4 The Noticees did not participate in the adjudication proceedings inspite of the fact of service of letters for personal hearings in terms of Section 153 of Customs Act, 1962. Section 153 of the Customs Act, 1962 reads as under:

SECTION 153. Modes for service of notice, order, etc. - (1) *An order, decision, summons, notice or any other communication under this Act or the rules made thereunder may be served in any of the following modes, namely: -*

(b) *by a registered post or speed post or courier with acknowledgement due, delivered to the person for whom it is issued or to his authorised representative, if any, at his last known place of business or residence;*

Therefore, in terms of Section 153 of the Customs Act, 1962, it is observed that PH letters were duly served to the Noticees, but they did not respond. From the aforesaid facts, it is observed that sufficient opportunities have been given to the Noticees but they chose not to join the adjudication proceedings. As the matter pertains to recovery of government dues, so even in absence of the Noticees from adjudication proceedings, I am compelled to decide the matter in the interest of revenue in time bound and logical manner.

3.5 In this regard, it is pertinent to refer to the case of *Sumit Wool Processors Vs. C.C, Nhava Sheva [2014 (312) E.L.T. 401 (Tri. - Mumbai)]* wherein Hon'ble CESTAT, Mumbai has observed that natural justice not violated when opportunity of being heard given and notices sent to addresses given by the Noticee. If appellants fail to avail such opportunity, mistake lies on them - Principles of natural justice not violated.

"8.3 We do not accept the plea of Mr. Sanjay Kumar Agarwal and Mr. Parmanand Joshi that they were not heard before passing of the impugned orders and principles of natural justice has been violated. The records show that notices were sent to the

addresses given and sufficient opportunities were given. If they failed in not availing of the opportunity, the mistake lies on them. When all others who were party to the notices were heard, there is no reason why these two appellants would not have been heard by the adjudicating authority. Thus, the argument taken is only an alibi to escape the consequences of law. Accordingly, we reject the plea made by them in this regard.” 2014 (312) E.L.T. 401 (Tri. - Mumbai)”

3.6 Having complied with the requirement of the principle of natural justice and having granted Personal Hearings to the Noticees, I proceed to decide the matter being time bound in terms of Section 28(9) of the Customs Act, 1962. Considering the aforesaid scenario, I take up this SCN for discussion on the merit of the case. With regard to proceeding to decide the case following the principle of natural justice, reliance is placed on the decision of the Hon’ble High Court of Allahabad in the case of *Modipon Ltd. vs CCE, Meerut [reported in 2002 (144) ELT 267 (All.)]* effectively dealing with the issue of natural justice and personal hearing. The extract of the observations of Hon’ble Court is reproduced herein below for reference:

“Natural justice - Hearing - Adjourment - Adjudication - Principle of audi alteram partem does not make it imperative for the authorities to compel physical presence of the party for hearing and go on adjourning proceedings so long as party does not appear before them - What is imperative for the authorities to afford the opportunity- If the opportunity afforded is not availed of by the party concerned, there is no violation of the principles of natural justice. The fundamental principles of natural justice and fair play are safeguards for the flow of justice and not the instruments for delaying the proceedings and thereby obstructing the flow of justice.

Natural justice - Hearing - Adjudication - Requirement of natural justice complied with if person concerned afforded an opportunity to present his case before the authority - Any order passed after taking into consideration points raised in such application not invalid merely on ground that no personal hearing had been afforded, all the more important in context of taxation and revenue matters. [1996 (2) SCC 98 relied on][para 22]”.

3.7 The fact of the matter is that a Show Cause Notice No. 771/2024-25/COMMR/NS-V/CAC/JNCH dated 22.07.2024 was issued to the Noticees, M/s Global Mind (IEC: CHEPK5508E) & M/s Sigma Forwarders (Customs Brokers) on the basis of investigation done by SIIB(I), JNCH in respect of B/E No. 6808700 dtd. 08.02.2020 and 6871448 dtd. 13.02.2020 and 11 past BEs as per Annexure-B to the subject SCN. It is alleged in the subject SCN that vide above Bs/E, the Noticees had imported goods having description as “Optical Mould, Optical Frame, Optical Frame Lens, Sunglass, Imitation Jewellery, Car Monitor, Car Accessories, etc.” grossly undervaluing them to evade Customs duty. Thus, the subject SCN proposes rejection of the declared Assessable Value of the imported goods and re-determination of the same; the declared Assessable Value Rs. 14,87,899/- in respect of goods

imported vide B/E No. 6808700 dated 08.02.2020 has been re-determined to Rs. 1,42,95,670/- , consequently differential duty comes to be Rs. 35,32,164.11/-. Further, the declared Assessable Value Rs. 17,52,006/- in respect of goods imported vide B/E No. 6871448 dated 13.02.2020 has been re-determined to Rs. 90,14,684.5/-, consequently differential duty comes to be Rs. 21,29,070.39/-. Therefore, total differential duty in respect of the subject two consignments comes to be Rs. 56,61,234.5/-.

3.7.1 Furthermore, the total declared Assessable Value of Rs. 29,28,220/- in respect of goods imported vide 11 past Bs/E mentioned in Annexure-B to the subject SCN has been re-determined to Rs. 5,30,17,992/-, consequently the total differential duty of the 11 past Bs/E mentioned in Annexure-B to the subject SCN comes to Rs. 1,21,81,331/-.

3.7.2 Hence, demand of total differential duty in respect of B/E No. 6808700 dated 08.02.2020 and 6871448 dated 13.02.2020 and 11 past Bs/E mentioned Annexure-B in the subject SCN is Rs. 1,78,42,565.5/- along with interest in terms of Section 28AA of the Customs Act, 1962 invoking extended period under Section 28(4) *ibid*; confiscation of the impugned goods under Section 111(m), *ibid*; imposition of penalty on the Noticees under Section 112(a), 114A & 114AA, *ibid*; and enforcement of Security Deposit submitted by the Noticee i.e M/s Global Mind.

3.8 Before proceeding further, it is pertinent to mention here that the subject SCN proposed on acts of omissions and commissions committed by the importer firm, M/s Global Mind which have rendered the impugned imported goods is liable to confiscation under Section 111(m) of the Customs, 1962, have been discussed. It is also proposed for 11 past Bs/E as mentioned in Annexure-B to the subject SCN therein that M/s Global Mind, is liable for penalty under Section 112(a) and /or 114A, and 114 AA of the Customs, 1962. However, in point (v) of the charging Para 10 of the subject SCN, penalty has been proposed on M/s Global Mind only under Section 112(a) of the Customs Act, 1962, and not under Section 112(a) and/or Section 114A, *ibid*.

3.9 In this regard, I find that in the subject SCN, acts of omissions and commissions committed by M/s Global Mind which have rendered the impugned goods liable to confiscation under Section 111(m) of the Customs, 1962, have been elaborately discussed. I find that ingredients for imposing penalty under Section 112(a) and/or 114A on the importer firm, M/s Global Mind, in respect of goods mentioned in Annexure-B to the subject SCN, have been elaborately explained. It is clearly mentioned therein that M/s Global Mind, is liable for penalty under Section 112(a) and/or 114A *ibid*. Therefore, I hold that M/s Global Mind is liable for penalty under Section 112(a) and/or 114A, *ibid*, in respect of goods mentioned in Annexure-B to the subject SCN.

3.10 I now proceed to frame the issues to be decided in the instant SCN before me. On a careful perusal of the Show Cause Notice and case records, I find that following main issues are involved in the case which are required to be decided:

(i) Whether the total declared Assessable Value of the offending goods amounting to Rs. 32,39,905/- (Rupees Thirty-Two Lakh Thirty-Nine Thousand Nine Hundred Five only) for the goods imported under B/E No 6808700 dated 08.02.2020 and 6871448 dated 13.2.2020, and Rs. 29,28,220/- (Rupees Twenty-Nine Lakh Twenty-Eight Thousand Two Hundred Twenty Only) for the goods imported under 11 past B/Es as mentioned in Annexure-B to the subject SCN, should be rejected under in terms of Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR, 2007) and the same should be re-determined to Rs. 2,33,10,355/- (Rupees Two Crore Thirty-Three Lakh Ten Thousand Three Hundred Fifty-Five Only) and to Rs. 5,30,17,992/- (Rupees Five Crore Thirty Lakh Seventeen Thousand Nine Hundred Ninety-Two Only) as per Rule 5 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR, 2007).

(ii) Whether the self-assessment done by the importer in terms of Section 17(1) should be rejected and re-assessed as per Section 17(4) of the Customs Act, 1962. Consequent to such re-assessment, the differential duty amounting to Rs. 56,61,235/- (Rupees Fifty-Six Lakh Sixty-One Thousand Two Hundred Thirty-Five Only) for the goods imported under B/E No. 6808700 dated 08.02.2020 and 6871448 dated 13.02.2020, and the differential duty amounting to Rs. 1,21,81,831/- (Rupees One Crore Twenty-One Lakh Eighty-One Thousand Eight Hundred Thirty-One Only) for the goods imported under 11 past Bs/E as mentioned in Annexure-B to the subject SCN, respectively, along with applicable interest, in respect of the impugned goods imported, should be paid by the Importer.

(iii) Whether the impugned goods in respect of B/E No. 6808700 dated 08.02.2020 and 6871448 dated 13.02.2020 having re-determined assessable value of Rs.2,33,10,355/- (Rupees Two Crore Thirty-Three Lakh Ten Thousand Three Hundred Fifty-Five Only) and the impugned goods under 11 past Bs/E as mentioned in Annexure-B to the subject SCN having total re-determined assessable value of Rs. 5,30,17,992/- (Rupees Five Crore Thirty Lakh Seventeen Thousand Nine Hundred Ninety-Two Only) should be confiscated under Section 111 (m) of the Customs Act, 1962.

(iv) Whether Penalty under Section 112(a) and/or 114A of the Customs Act, 1962 should be imposed on M/s Global Mind for the acts of omission and commission which have rendered the imported goods covered under Bill of Entry No. 6808700 dated 08.02.2020 and 6871448 dated 13.02.2020, and 11 past Bills of Entry as mentioned in Annexure-B to the subject SCN.

(v) Whether Penalty under Section 114AA of the Customs Act, 1962 should be imposed on the importer i.e M/s Global Mind.

(vi) Whether Penalty under Section 114AA of the Customs Act, 1962 should be imposed on Mr. Saravesh Kumar, Proprietor of M/s Global Mind.

(vii) Whether the Security Deposit submitted by the importer should be enforced and Security Deposit of Rs. 70,70,550/- (Rupees Seventy Lakh Seventy Thousand Five Hundred Fifty Only) should be appropriated against the demand from the importer.

(viii) Whether Penalty under Section 112(a) and/or 114AA of the Customs Act, 1962 should be imposed on M/s Sigma Forwarders (Customs Broker).

3.11 After having identified and framed the main issues to be decided, I now proceed to examine each of the issues individually based on the facts and circumstances mentioned in the subject SCN; provision of the Customs Act, 1962; nuances of various judicial pronouncements, as well as documents / evidences available on record.

3.12 Whether the total declared Assessable Value of the offending goods amounting to Rs. 32,39,905/- (Rupees Thirty-Two Lakh Thirty-Nine Thousand Nine Hundred Five only) for the goods imported under B/E No 6808700 dated 08.02.2020 and 6871448 dated 13.2.2020, and Rs. 29,28,220/- (Rupees Twenty Nine Lakh Twenty Eight Thousand Two Hundred Twenty Only) for the goods imported under 11 past B/Es as mentioned in Annexure-B to the subject SCN, should be rejected under in terms of Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR, 2007) and the same should be re-determined to Rs.2,33,10,355/- (Rupees Two Crore Thirty-Three Lakh Ten Thousand Three Hundred Fifty-Five Only) and to Rs. 5,30,17,992/- (Rupees Five Crore Thirty Lakh Seventeen Thousand Nine Hundred Ninety-Two only) as per Rule 5 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR, 2007).

3.12.1 I note that based on specific input that the importer M/s. Global Mind has imported the goods namely **“Optical Mould, Optical Frame, Optical Frame Lens, Sunglass, Car Monitor, Car Accessories, etc.”** by undervaluing the same, SIIB (I), JNCH, Nhava Sheva initiated investigation into the import made by the Noticees vide Bill of Entry No. 6808700 dated 08.02.2020 and 6871448 dated 13.02.2020. For the valuation of the goods imported vide the Bill of Entry No. 6808700 dated 08.02.2020 and 6871448 dated 13.02.2020, the sale price of identical or similar goods were imported at or about the same time in comparable quantities in a comparable commercial transaction were analysed using contemporaneous import data from NIDB, and it was noticed that the similar/identical goods were being imported at higher values. The details of the declared value and re-determined value are as under as per Annexure-A to the subject SCN:

(B/E No. 6808700 dtd. 08.02.2020)

Sr No.	Description of goods declared	Declared value per kg (in Rs.)	Redetermined Value (per kg) (in Rs.)
1	Bracelet (Imitation jew.)	86.57	215.00
2	Chain (Imitation jew.)	86.57	215.00
3	Bangle (Imitation jew.)	86.57	215.00
4	Optical Mould	86.57	400.00
5	Optical Frame Lens	1.05	24.00
6	Optical Frame (made of plastic, Iron)	7.93	700.00
7	Sunglass (made of iron plastic)	10.82	30.00
8	Reading frame with glass (made of iron plastic)	7.94	18.00

(B/E No. 6871448 dated 13.02.2020)

Sr. No.	Description of goods declared	Declared Value per kg/pcs	Redetermined Value (per kg) (in Rs.)
1	Optical Accessories	43.29	295.00
2	Reading Frame with Glass	8.66	18.00
3	Empty Optical Box	36.08	80.00
4	Optical Frame	7.94	70.00
5	HC	1.30	24.00
	BC RT	1.30	54.00
	Prog.HMC	1.30	72.00
	HMC	1.30	33.00
	Reading lences	1.30	11.00
6	Sunglass	7.94	30.00
7	Monometers	36.08	230.00
8	Optical Mould	36.08	400.00
9	Airbed	36.06	70.00
12	Car Accessories	62.5	225.00
14	Bag clip	43.31	70.00
15	Socket Wrench Set	36.07	75.00

3.12.2 From the above facts, it is clear that there is a significant difference between the value declared by the importer and the value found from the analysis of identical or similar goods imported around the same time in similar quantities, based on NIDB data. This shows that the value of the goods was deliberately undervalued. Therefore, the goods were imported in violation of the Customs Act, 1962.

Therefore, declared transaction value of the goods cannot be considered as transaction value and the same is liable to be rejected in terms of Rule 12 of the CVR, 2007 and should be re-determined in terms of Rule 5 of the CVR, 2007. So, the importer mis-declared the value of goods in the Bills of Entry No. 6808700 dated 08.02.2020 and 6871448 dated 13.02.2020, and the goods were found to be undervalued.

Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 provides for “Rejection of Declared Value”, which is reproduced below:

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

(2) Where the proper officer is satisfied that the value cannot be determined under Rule 3, the value shall be determined by proceeding sequentially through Rules 4 to 9.”

In the present case, as the declared value is found to be grossly undervalued when compared with contemporaneous import data (NIDB), the declared transaction value is liable to be rejected under Rule 12, and re-determined using the subsequent rules.

Accordingly, the re-determination of value is to be done under Rule 5, which provides for “Transaction value of identical goods”, and states:

“Where the value cannot be determined under Rule 3, the value shall be based on the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued.”

In view of the above, it is clear that the declared value has been rightly rejected under Rule 12, and the value of the imported goods has been appropriately re-determined under Rule 5 of the CVR, 2007, based on identical goods data available from NIDB.

3.12.3 Further, from the data analysis from ICES 1.5 system, it was found that the importer M/s. Global Mind had imported same goods in the past as well. The importer had filed 11 Bills of Entry for import of same items i.e. Optical Frame Lens etc., in the past approximately on the same price as declared in the live Bill of Entry No. 6808700 dated 08.02.2020 and 6871448 dated 13.02.2020. Since the undervaluation of goods has been established in case of live consignment, the same modus operandi was followed in the past consignments as well, therefore, the importer had not declared the correct value of the similar goods in all the past 11 B/Es as mentioned in the subject SCN as Annexure-B and by doing so, the importer evaded legitimate Customs duty. Thus, all the above past consignments were imported in contravention of Customs Act, 1962 by suppressing the true transaction value of the imported goods. Therefore, the importer had mis-declared the goods imported vide above all 11 past Bs/E in terms of value and the goods therein were undervalued. Therefore, the assessable value of the goods imported vide above all 11 past B/Es have been re-determined following the same methodology as was adopted in the case of live B/Es and re-determined assessable value, of all 11 past B/Es has been calculated and the same was arrived at ₹5,30,17,992/-.

3.12.4 In view of the above, value declared by the importer for the clearance of the impugned imported goods i.e. Optical Mould, Optical Frame, Optical Frame Lens, Sunglass, Imitation Jewellery, Car Monitor, Car Accessories, etc.” could not be considered as true transaction value and the same is liable to be rejected in terms of Rule 12 of the Customs Valuation Rule, 2007. Therefore, I hold that the declared assessable value of Rs. 32,39,905/- (Rupees Thirty-Two Lakh Thirty-Nine Thousand Nine Hundred Five only) for the goods imported under B/E No 6808700 dated 08.02.2020 and 6871448 dated 13.2.2020, and the declared assessable value of Rs. 29,28,220/- (Rupees Twenty-Nine Lakh Twenty-Eight Thousand Two Hundred Twenty Only) for the goods imported under 11 past B/Es as mentioned in Annexure-B to the subject SCN, is liable to be rejected and should be re-determined to Rs.2,33,10,355/- (Rupees Two Crore Thirty-Three Lakh Ten Thousand Three Hundred Fifty-Five Only) for the goods imported under B/E No 6808700 dated 08.02.2020 and 6871448 dated 13.2.2020 and to Rs. 5,30,17,992/- (Rupees Five Crores Thirty Lakhs Seventeen Thousand Nine Hundred Ninety-Two only) for the goods imported under 11 past B/Es as mentioned in Annexure-B to the subject SCN as per Rule 5 of the Rules, 2007 (CVR, 2007).

3.13 Whether the self-assessment done by the importer in terms of Section 17(1) should be rejected and re-assessed as per Section 17(4) of the Customs Act, 1962. Consequent to such re-assessment, the differential duty amounting to Rs. 56,61,235/- (Rupees Fifty-Six Lakh Sixty-One Thousand Two Hundred Thirty-Five Only) for the goods imported under B/E No. 6808700 dated 08.02.2020 and 6871448 dated 13.02.2020, and the differential duty amounting to Rs. 1,21,81, 831/- (Rupees One Crore Twenty-One Lakh Eighty-One Thousand Eight Hundred Thirty-One Only) for the goods imported under 11 past Bs/E as mentioned in Annexure-B to the subject SCN, respectively, along with applicable interest, in respect of the impugned goods imported, should be paid by the Importer.

3.13.1 After having determined the correct valuation of the impugned imported goods, it is imperative to the self-assessment done by the importer in terms of section 17 (1) should be rejected and re-assessed as per section 17 (4) and determine whether the demand of differential Customs duty as per the provisions of Section 28(4) of the Customs Act, 1962, in the subject SCN is sustainable or otherwise. The relevant legal provision is as under:

Assessment of duty (Section 17) of the Customs Act, 1962 :

Section 17(1) After an importer has entered any imported goods under section 46 or an exporter has entered any export goods under section 50 the imported goods or the export goods, as the case may be, or such part thereof as may be necessary may, without undue delay, be examined and tested by the proper officer.

Section 17(4) : Notwithstanding anything contained in this section, imported goods or export goods may, prior to the examination or testing thereof, be permitted by the proper officer to be assessed to duty on the basis of the statements made in the entry relating thereto and the documents produced and the information furnished under sub-section (3); but if it is found subsequently on examination or testing of the goods or otherwise that any statement in such entry or document or any information so furnished is not true in respect of any matter relevant to the assessment, the goods may, without prejudice to any other action which may be taken under this Act, be re-assessed to duty.

SECTION 28(4) of the Customs Act, 1962.

Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded. –

(4) Where any duty has not been [levied or not paid or has been short-levied or short-paid] or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of, -

- (a) collusion; or*
- (b) any wilful mis-statement; or*
- (c) suppression of facts,*

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or not paid or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

3.13.2 Consequent upon amendment to the Section 17 of the Customs Act, 1962 vide Finance Act, 2011, 'Self-assessment' has been introduced in Customs clearance. **Under self-assessment, it is the importer who has to ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect**

of the imported goods while presenting the Bill of Entry. In this regard, I observe that self-assessment has been introduced on 08.04.2011 vide Finance Act, 2011 wherein under Section 17(1) of the Customs Act, 1962 an importer is required to do self-assessment, thus placing more reliance on the importers. Further, as per the provisions of Section 46 (4) of the Customs Act, 1962, the importer of any goods is required to file a Bill of Entry before the proper officer mentioning therein the true and correct quality, quantity and value of the goods imported and subscribe to a declaration as to the truth and accuracy of the contents of such Bill of Entry. In the instant case, as explained in paras supra, the Noticee/importer has willfully evaded payment of applicable duty due to undervaluation of the impugned goods, resulting in a loss of Government revenue and in turn accruing monetary benefit. Since the Noticee/importer has willfully mis-declared and suppressed the facts with an intention to evade applicable duty due to undervaluation, hence, the self-assessment done by the importer in terms of Section 17(1) is liable to be rejected and the same should be re-assessed in term of Section 17(4) of the Customs Act, 1962.

3.13.3 Further, I have determined in the preceding paras that M/s Global Mind, had evaded Customs duty by intentionally suppressing the actual value of the imported goods by not declaring the same at the time of filing of the Bills of Entry. They deliberately suppressed the actual value of the goods before Customs and undervalued the same. In view of this fact, the importer deliberately mis-declared the goods by undervaluation with an intention to evade Customs duty by declaring the lower value in order to get financial benefits. Thus, the importer indulged in wilful mis-statement and suppressed the facts with intention to evade duties of customs. Therefore, the matter falls under the purview of Section 28(4) of the Customs Act, 1962. As the Noticee got monetary benefit due to their wilful mis-declaration and evasion of customs duty on the subject goods, hence, I find that duty is correctly demandable under Section 28(4) of the Customs Act, 1962, by invoking extended period.

3.13.4 In view of the foregoing, I find that, due to deliberate suppression and wilful mis-statement, duty demand against the Importer has been correctly proposed under Section 28(4) of the Customs Act, 1962 by invoking the extended period of limitation. In support of my stand of invoking extended period, I rely upon the following court decisions:

(a) 2013(294) E.L.T.222(Tri. -LB): Union Quality Plastic Ltd. Versus Commissioner of C.E. & S.T., Vapi [Misc. Order Nos.M/12671-12676/2013-WZB/AHD, dated 18.06.2013 in Appeal Nos. E/1762-1765/2004 and E/635- 636/2008]
In case of non-levy or short-levy of duty with intention to evade payment of duty, or any of circumstances enumerated in proviso ibid, where suppression or wilful omission was either admitted or demonstrated, invocation of extended period of limitation was justified

(b) 2013(290)E.L.T.322 (Guj.): Salasar Dyeing & Printing Mills (P) Ltd. Versus C.C.E. & C., Surat-I; Tax Appeal No. 132 of 2011, decided on 27.01.2012.

Demand - Limitation - Fraud, collusion, wilful misstatement, etc. - Extended period can be invoked up to five years anterior to date of service of notice - Assessee's plea that in such case, only one year was available for service of notice, which should be reckoned from date of knowledge of department about fraud, collusion, wilful misstatement, etc., rejected as it would lead to strange and anomalous results;

3.13.5 In terms of Section 46(4) of the Customs Act, 1962, the importer is required to make a true and correct declaration in the Bill of Entry submitted for assessment of Customs duty. However, in the instant case, I find that the Noticee had evaded payment of applicable duty due to undervaluation on the goods imported by them. I find that the Noticee evaded correctly payable duty by intentionally suppressing the correct value of the imported product by not declaring the same at the time of filing of the Bills of Entry. By resorting to this deliberate and wilful evasion of duty, the Noticee has not paid the correctly leviable duty due to undervaluation on the imported goods resulting in loss to the government exchequer. Thus, I find that this wilful and deliberate act was done with the clear intention to evade payment of due duty. As the importer has wrongfully assessed the impugned goods and evaded the payment of the applicable duty thereon on the date of importation, the Noticee can only come clean of its liability by way of payment of duty not paid.

3.13.6 The scheme of RMS wherein the importers are given so many facilitations, also comes with responsibility of onus for truthful declaration. The Tariff classification and Description of the item, are the first parameters that decides the rate of duty for the goods, which is the basis on which Customs duty is payable by any importer. However, if the importer does not declare the complete details and evades payment of correctly payable duty, it definitely amounts to mis-leading the Customs authorities, with an intent to evade payment of legitimate Customs duty leviable on the said imported goods.

3.13.7 I find that in the instant case, as elaborated in the foregoing paras, to evade payment of correctly leviable duty, the Noticee undervalued the goods and suppressed the correct value of the impugned goods, at the time of filing of the Bills of Entry. It is evident that with malafide intention the importer had been evading Customs Duty over a long period of time causing loss to Government Revenue which the importer had been doing knowingly and wilfully so as to maximize monetary gains by evading customs duty. The investigation carried out by the SIIB (Import), JNCH, brought such violations to the notice of the Customs authorities. Therefore, it is apparent that M/s. Global Mind has been deliberately contravening the provisions of the Customs Act, 1962, which shows 'mens rea' on their part. Therefore, I find that in the instant case there is an element of 'mens rea' involved. In the instant case, the Noticee deliberately chose to undervalue the imported goods to evade duty, being fully aware of the correct value of the imported goods. This wilful and deliberate act clearly brings out their 'mens rea' in this case. Once the 'mens rea' is established on the part of the Noticee, the extended period of limitation, automatically get attracted.

3.13.8 In view of the foregoing, I find that, due to deliberate / wilful undervaluation of the goods, differential duty is correctly demandable from the Noticee under Section 28(4) of the Customs Act, 1962 by invoking the extended period of limitation. In support of my stand of invoking extended period, I rely upon the following court decisions:

(a) 2013(294)E.L.T.222(Tri.-LB): Union Quality Plastic Ltd. Versus Commissioner of C.E. & S.T., Vapi [Misc. Order Nos.M/12671-12676/2013-WZB/AHD, dated 18.06.2013 in Appeal Nos. E/1762-1765/2004 and E/635- 636/2008]

In case of non-levy or short-levy of duty with intention to evade payment of duty, or any of circumstances enumerated in proviso ibid, where suppression or wilful omission was either admitted or demonstrated, invocation of extended period of limitation was justified

(b) Judgment in *M.J. Exports* and the Judgment in *Union of India Vs. Security & Finance Ltd.* wherein it is stated that, “it would be open under Section 28 for the Competent Authority, to issue a show cause notice. Section 28 is the provision under the Act, if there has been non-payment or short payment and the like, to adjudicate the dispute to decide whether there has been a breach and/ or the like and consequently recovery of duty which has not been paid or short paid. Such an exercise would not be without jurisdiction. Once duty is payable the importer would be liable for interest on the unpaid duty under section 28AB, as by operation of law, when duty is not paid or short paid on ascertainment of such non-payment and ascertainment of interest under section 28AB becomes payable”.

3.13.9 Accordingly, I find that the differential duty resulting from re-determination of the value of the imported goods as proposed in the subject Show Cause Notice, is recoverable from M/s Global Mind under extended period in terms of the provisions of Section 28(4) of the Customs Act, 1962.

3.13.10 Therefore, I hold that the differential duty amounting to Rs. 56,61,235/- (Rupees Fifty-Six Lakh Sixty-One Thousand Two Hundred Thirty-Five Only) for the goods imported under B/E No. 6808700 dated 08.02.20202 and 6871448 dated 13.02.2020, and the differential duty amounting to Rs. 1,21,81, 831/- (Rupees One Crore Twenty-One Lakh Eighty-One Thousand Eight Hundred Thirty-One Only) for the goods imported under 11 past B/Es as mentioned in Annexure-B to the subject SCN, respectively evaded by M/s Global Mind, should be demanded and recovered under Section 28(4) of the Customs Act, 1962 by invoking extended period.

3.13.11 As per Section 28AA of the Customs Act, 1962, 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) of Section 28AA, whether such payment is made voluntarily or after determination of the duty under that section. From the above provisions, it is evident that regarding demand of interest, Section 28AA of the Customs

Act, 1962 is unambiguous and mandates that where there is a short payment of duty, the same along with interest shall be recovered from the person who is liable to pay duty. The interest under the Customs Act, 1962 is payable once demand of duty is upheld and such liability arises automatically by operation of law. In an umpteen number of judicial pronouncements, it has been held that payment of interest is a civil liability and interest liability is automatically attracted under Section 28AA of the Customs Act, 1962. Interest is always accessory to the demand of duty as held in case of *Pratibha Processors Vs UOI [1996 (88) ELT 12 (SC)]*. In *Directorate of Revenue Intelligence, Mumbai Vs. Valecha Engineering Limited*, Hon'ble Bombay High Court observed that, in view of Section 28AA, interest is automatically payable on failure by the assessee to pay duty as assessed within the time as set out therein.

3.13.12 I have already held in the above paras that the differential paid duty amounting to Rs. 56,61,235/- (Rupees Fifty-Six Lakh Sixty-One Thousand Two Hundred Thirty-Five Only) for the goods imported under B/E No. 6808700 dated 08.02.2020 and 6871448 dated 13.02.2020, and the differential duty amounting to Rs. 1,21,81, 831/- (Rupees One Crore Twenty-One Lakh Eighty-One Thousand Eight Hundred Thirty-One Only) for the goods imported under 11 past B/Es as mentioned in Annexure-B to the subject SCN, should be demanded and recovered from the Noticee under the provisions of Section 28(4) of the Customs Act, 1962 by invoking extended period. Therefore, in terms of the provisions of Section 28AA of the Customs Act, 1962, interest on the aforesaid amount of differential duty is also liable to be recovered from M/s Global Mind.

3.14. Whether the impugned goods having re-determined assessable value of Rs. 2,33,10,355/- (Rupees Two Crores Thirty-Three Lakh Ten Thousand Three Hundred Fifty-Five Only) and the impugned goods under 11 past Bs/E as mentioned in Annexure-B to the subject SCN having total re-determined assessable value of Rs. 5,30,17,992/- (Rupees Five Crore Thirty Lakh Seventeen Thousand Nine Hundred Ninety-Two Only) should be confiscated under Section 111 (m) of the Customs Act, 1962.

3.14.1 I find that in the era of self-assessment, the Noticee had wrongly self-assessed the Bills of Entry and evaded the payment of legitimate duty in respect of the impugned imported goods covered under Bill of Entry No. 6808700 dated 08.02.2020 and 6871448 dated 13.02.2020, and Bills of Entry as mentioned in Annexure - B to the subject SCN. As the Noticee got monetary benefit due to their wilful mis-declaration and evasion of applicable duty due to undervaluation on the aforesaid goods, I find that duty was correctly demanded under Section 28(4) of the Customs Act, 1962 by invoking extended period.

3.14.2 In this regard, I observe that self-assessment has been introduced on 08.04.2011 vide Finance Act, 2011 wherein under Section 17(1) of the Customs Act, 1962, an importer is required to do self-assessment, thus, placing more reliance on the importers. Further, as per the provisions of Section 46(4) of the Customs Act, 1962, the importer of any goods is required to file a Bill of Entry before the proper officer mentioning therein the true and correct quality,

quantity and value of the goods imported and subscribe to a declaration as to the truth and accuracy of the contents of such Bill of Entry. It is an admitted fact that the benefit of less duty on account of mis-declaring the value accrued to the importer.

3.14.3 As discussed above, I find that the subject Bills of Entry were self-assessed by the importer M/s Global Mind. They were having knowledge of correct value of the imported goods. However, still they willfully suppressed the correct value and undervalued the same before Customs authorities. By resorting to the aforesaid undervaluation, they paid lower duty and thereby evaded legitimately payable duty. Under the self-assessment scheme, it is obligatory on the part of importers to declare truthfully all the particulars relevant to the assessment of the goods, ensuring their accuracy and authenticity, which the importer clearly failed to do with malafide intention. They suppressed the fact before the Customs Department regarding correct value of the goods to claim the undue duty benefit at the time of clearance of the said imported goods. Thus, the importer, by their various acts of omission and commission discussed above, have rendered the impugned goods liable for confiscation under 111(m) of the Customs Act, 1962. I agree with the proposal made in the subject SCN and hold the impugned goods having re-determined assessable value of Rs. 2,33,10,355/- (Rupees Two Crores Thirty-Three Lakh Ten Thousand Three Hundred Fifty-Five Only) and the impugned goods under 11 past Bs/E as mentioned in Annexure-B to the subject SCN having total re-determined assessable value of Rs. 5,30,17,992/- (Rupees Five Crore Thirty Lakhs Seventeen Thousand Nine Hundred Ninety-Two Only) is liable for confiscation under Section 111 (m) of the Customs Act, 1962.

3.15 Whether Penalty under Section 112(a) and/or 114A of the Customs Act, 1962 should be imposed on M/s Global Mind for the acts of omission and commission which have rendered the imported goods covered under Bill of Entry No. 6808700 dated 08.02.2020 and 6871448 dated 13.02.2020, and 11 past Bills of Entry as mentioned in Annexure-B to the subject SCN.

3.15.1 As discussed above, I find that the subject Bills of Entry were self-assessed by the importer M/s Global Mind Enterprises. They were having knowledge of correct value of the imported goods. However, still they willfully suppressed the correct value and undervalued the same before Customs authorities. By resorting to the aforesaid undervaluation, they paid lower rate of duty and thereby evaded legitimately payable duty. Under the self-assessment scheme, it is obligatory on the part of importers to declare truthfully all the particulars relevant to the assessment of the goods, ensuring their accuracy and authenticity, which the importer clearly failed to do with malafide intention. They suppressed the fact before the Customs Department regarding correct value of the goods to claim the undue duty benefit at the time of clearance of the said imported goods. Thus, the importer, by their various acts of omission and commission discussed above, have rendered the impugned goods liable for confiscation under Section 111(m) of the Customs Act, 1962 and thereby made themselves liable for penalty under Section 112(a) *ibid*. Accordingly, I agree with the proposal made in the subject

3.15.2 Further, I find that as per Section 114A, imposition of penalty is mandatory once the elements for invocation of extended period is established. Hon'ble Supreme Court in *Grasim Industries Ltd. V. Collector of Customs, Bombay* [(2002) 4 SCC 297=2002 (141) E.L.T.593 (S.C.)] has followed the same principle and observed:

"Where the words are clear and there is no obscurity, and there is no ambiguity and the intention of the legislature is clearly conveyed, there is no scope for Court to take upon itself the task of amending or altering the statutory provisions." (para 10).

Hon'ble Supreme Court has again in *Union of India Vs. Ind-Swift Laboratories* has held: *"A taxing statute must be interpreted in the light of what is clearly expressed. It is not permissible to import provisions in a taxing statute so as to supply any assumed deficiency..."* [2011 (265) ELT 3 (SC)].

Thus, in view of the mandatory nature of penalty under Section 114A no other conclusion can be drawn in this regard. I also rely upon case reported in 2015 (328) E.L.T. 238 (Tri. - Mumbai) in the case of *SAMAY ELECTRONICS (P) LTD. Versus C.C. (IMPORT) (GENERAL), Mumbai*, in which it has been held:

Penalty - Imposition of - Once demand confirmed under Section 28 of Customs Act, 1962 read with Section 9A of Customs Tariff Act, 1975 on account of fraud, penalty under Section 114A ibid mandatory and cannot be waived - Therefore imposition of penalty cannot be faulted - Section 114A ibid.

3.15.3 As I have held above, that the extended period of limitation under Section 28(4) of the Customs Act, 1962 for the demand of duty is rightly invoked in the present case. Therefore, penalty under Section 114A is rightly proposed on the Noticee, M/s Global Mind, in the impugned SCN. Accordingly, the Noticee is liable for a penalty under Section 114A of the Customs Act, 1962 for wilful mis-declaration and suppression of facts, with an intent to evade duty.

3.15.4 I have already held above that by their acts of omission and commission, the importer has rendered the goods liable for confiscation under Section 111(m) of the Customs Act, 1962, making them liable for a penalty under Section 112(a) ibid. However, I find that the penalty under Section 114A and Section 112(a) of the Customs Act, 1962 are mutually exclusive and both cannot be imposed simultaneously. Therefore, in view of fifth proviso to Section 114A, no penalty is imposed on the Noticee under Section 112(a) ibid.

3.16 Whether Penalty under Section 114AA of the Customs Act, 1962 should be imposed on the importer i.e M/s Global Mind as well as on Shri Saravesh Kumar, proprietor of M/s Global Mind.

3.16.1 I find that the importer has mis-declared the subject goods by way of gross undervaluation and, deliberately and knowingly. I find that the importer has furnished documents such as Bills of Entry and its invoices containing false or incorrect valuation with the purpose of clearance of the imported goods by undervaluing the goods. In the instant case, there is clear evidence of suppression of facts in term of valuation of the impugned goods. The import declarations submitted by M/s Global Mind were found to contain false information regarding the value of the impugned goods. The substantial under-valuation in the Bills of Entry compared to the value found from the analysis of identical or similar goods imported around the same time in similar quantities based on NIDB data clearly indicates the submission of false documentation to mislead customs authorities and evade duty. Thus, I find that the importer was actively and knowingly involved in evading Customs duty by resorting to undervaluation and mis-declaration of imported goods before Customs authorities which rendered the goods liable for 111(m) of Customs Act, 1962. The importer cleared the undervalued impugned imported goods by knowingly and intentionally resorting to use of false and incorrect declaration of value.

3.16.2 Since M/s Global Mind is a proprietary concern owned by Shri Saravesh Kumar, and the acts of the firm are legally attributable to its proprietor, the liability for the offence committed rests upon the firm itself. In view of the findings discussed in the preceding paras, I hold that M/s Global Mind, through its proprietor Shri Saravesh Kumar, has knowingly made false declarations by way of undervaluation with the intent to evade Customs duty. Therefore, I agree with the proposal made in the subject Show Cause Notice and hold that penalty is imposable on M/s Global Mind under Section 114AA of the Customs Act, 1962, for making false and incorrect declarations with intent to evade duty.

3.16.3 Further, the subject Show Cause Notice proposes imposition of penalty under Section 114AA of the Customs Act, 1962 on both M/s Global Mind and Shri Saravesh Kumar, Proprietor of M/s Global Mind. However, as discussed supra, since a proprietary concern and its proprietor are not distinct legal entities, the penalty under Section 114AA of the Customs Act, 1962 is imposable either on M/s Global Mind or on Shri Saravesh Kumar, but not on both separately for the same offence. Accordingly, I hold that penalty under Section 114AA is to be imposed on M/s Global Mind, being the proprietary concern involved in the offence.

3.16.4 In view of the above facts and credible evidences, I find that M/s Global Mind, has deliberately and intentionally committed the contraventions as discussed supra covered under the ambit and scope of Section 114AA of the Customs Act, 1962 and accordingly, has rendered themselves liable to penalty under Section 114AA of the Customs Act, 1962.

3.17. Whether the Security Deposit submitted by the importer should be enforced and Security Deposit of Rs. 70,70,550/- (Rupees Seventy Lakh Seventy Thousand Five Hundred Fifty Only) should be appropriated against the demand from the importer.

3.17.1 I find that in the instant case, during the course of investigation, M/s Global Mind had submitted Security Deposit of Rs. 70,70,550/- (Rupees Seventy Lakh Seventy Thousand Five Hundred Fifty Only) as detailed in para 5 of the subject SCN. I have held in foregoing discussion that the Noticee is liable to pay the differential duty amount of Rs. 56,61,235/- (Rupees Fifty-Six Lakh Sixty-One Thousand Two Hundred Thirty-Five Only) for the goods imported under B/E No. 6808700 dated 08.02.2020 and 6871448 dated 13.02.2020, and the differential duty amounting to Rs. 1,21,81, 831/- (Rupees One Crore Twenty-One Lakh Eighty-One Thousand Eight Hundred Thirty-One Only) for the goods imported under 11 past Bs/E as mentioned in Annexure-B to the subject SCN, respectively, along with applicable interest thereon. In view of the above, I find that the aforesaid Security Deposit of Rs. 70,70,550/- (Rupees Seventy Lakh Seventy Thousand Five Hundred Fifty Only) submitted by the Noticee is required to be enforced and the Security Deposit of ₹70,70,550/- deposited by the Noticee is required to be appropriated for recovery of outstanding amount of aforesaid differential duty along with the applicable interest thereon.

3.18 Whether Penalty under Section 112(a) and/or 114AA of the Customs Act, 1962 should be imposed on M/s Sigma Forwarders (Customs Broker).

3.18.1 I find that M/s Global Mind, through their authorized Customs Broker, M/s Sigma Forwarders, facilitated the importation of goods that were undervalued to customs duties. This deliberate act of undervaluation, as evidenced by the discrepancy between the declared and re-determined values, implicates the Customs Broker, M/s Sigma Forwarder in activities that render the goods liable to confiscation under Section 111(m) of the Customs Act, 1962.

3.18.2 I find that M/s Sigma Forwarders (Customs Broker) was well aware about appropriate valuation of the imported goods. He knowingly and intentionally mis-declared the goods as evidenced by discrepancy between the declared and re-determined values, implicates in activities that render the goods liable to confiscation under Section 111(m) of the Customs Act, 1962, with intent to avail monetary benefit and to evade payment of appropriate customs duty by undervaluation of the impugned goods. This acts of undervaluation of the impugned goods has rendered the impugned goods liable for confiscation under Section 111(m) of Customs Act, 1962 making M/s Sigma Forwarders (Customs Broker) is liable for a penalty under Section 112(a) of the Customs Act, 1962.

3.18.3 Further, in the instant case, as established in paras supra, there is *mens rea* on the part of M/s Sigma Forwarders (Customs Broker) by evasion of Customs duty by mis-declared value as undervaluation of the impugned goods. I find that M/s Sigma Forwarders intentionally signed the declaration or document which is false in material particular, they are liable to penalty. The aforesaid acts of omission or commission of M/s Sigma Forwarder (Customs Broker) resulted in use of false and incorrect declaration in the clearance of goods, hence, M/s Sigma Forwarders is liable for penal action under Section 114AA of the Customs Act, 1962.

3.18.4 Accordingly, I agree with the proposal made in the subject SCN and hold that penalty should be imposed on M/s Sigma Forwarders (Customs Broker) in terms of Section 112(a) and 114AA of the Customs Act, 1962.

4. In view of the facts of the case, the documentary evidences on record and findings as detailed above, I pass the following order:

ORDER

- (i) I order that the declared assessable value of Rs. 32,39,905/- (Rupees Thirty-Two Lakh Thirty-Nine Thousand Nine Hundred Five only) for the goods imported under B/E No. 6808700 dated 08.02.2020 and 6871448 dated 13.02.2020 rejected and re-determined to Rs. 2,33,10,355/- (Rupees Two Crore Thirty-Three Lakh Ten Thousand Three Hundred Fifty-Five Only).
- (ii) I order that the declared assessable value of Rs. 29,28,220/- (Rupees Twenty-Nine Lakh Twenty-Eight Thousand Two Hundred Twenty Only) for the goods imported under 11 B/Es as mentioned in Annexure-B to the subject SCN, rejected and re-determined to Rs. 5,30,17,992/- (Rupees Five Crore Thirty Lakh Seventeen Thousand Nine Hundred Ninety-Two Only).
- (iii) I hold that the goods imported vide B/E No. 6808700 dated 08.02.2020 and 6871448 dated 13.02.2020 having declared assessable value of 32,39,905/- (Rupees Thirty-Two Lakh Thirty-Nine Thousand Nine Hundred Five only) and re-determined to Rs. 2,33,10,355/- (Rupees Two Crore Thirty-Three Lakh Ten Thousand Three Hundred Fifty-Five Only) liable for confiscation under Section 111(m) of the Customs Act, 1962. I also impose a Redemption Fine of **Rs. 23,00,000/- (Rupees Twenty-Three Lakh Only)** on M/s Global Mind in lieu of confiscation under Section 125(1) of the Customs Act, 1962.
- (iv) I hold that the goods imported vide 11 Bills of Entry as mentioned in Annexure-B to the subject SCN, having declared assessable value of **Rs. 29,28,220/- (Rupees Twenty-Nine Lakh Twenty-Eight Thousand Two Hundred Twenty Only)** and re-determined to **Rs. 5,30,17,992/- (Rupees Five Crore Thirty Lakh Seventeen Thousand Nine Hundred Ninety-Two Only)** liable for confiscation under Section 111(m) of the Customs Act, 1962. I also impose a Redemption Fine of **Rs. 50,00,000/- (Rupees Fifty Lakh Only)** on M/s Global Mind in lieu of confiscation under Section 125(1) of the Customs Act, 1962.
- (v) I confirm the demand of differential duty of **Rs. 56,61,235/- (Rupees Fifty-Six Lakh Sixty-One Thousand Two Hundred Thirty-Five Only)**, short levied/short paid on

the said vide B/E No. 6808700 dated 08.02.2020 and 6871448 dated 13.02.2020 under Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA *ibid*.

(vi) I confirm the demand of differential duty of **Rs. 1,21,81, 831/- (Rupees One Crore Twenty-One Lakh Eighty-One Thousand Eight Hundred Thirty-One Only)**, short levied/short paid on the goods imported vide 11 Bills of Entry as mentioned in Annexure-B to the subject SCN, under Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA *ibid*.

(vii) I also impose a penalty equivalent to differential duty of **Rs. 56,61,235/- (Rupees Fifty-Six Lakh Sixty-One Thousand Two Hundred Thirty-Five Only)** on the goods covered vide Bill of Entry No. 6808700 dated 08.02.2020 and 6871448 dated 13.02.2020 under Section 114A of the Customs Act, 1962 **along with applicable interest under** Section 28AA of the Customs Act, 1962.

In terms of the first and second proviso to Section 114A *ibid*, if **duty and interest is paid within thirty days** from the date of the communication of this order, the amount of penalty liable to be paid shall be **twenty-five per cent of the duty and interest**, subject to the condition that the amount of penalty is also paid within the period of thirty days of communication of this order.

(viii) As penalty is imposed under Section 114A of the Customs Act, 1962, I refrain from imposing penalty under Section 112(a) in terms of the fifth proviso to Section 114A *ibid*.

(ix) I also impose a penalty equivalent to differential duty of **Rs. 1,21,81, 831/- (Rupees One Crore Twenty-One Lakh Eighty-One Thousand Eight Hundred Thirty-One Only)**, on the goods covered under 11 Bills of Entry as mentioned in Annexure - B to the subject SCN under Section 114A of the Customs Act, 1962, **along with applicable interest under** Section 28AA of the Customs Act, 1962.

In terms of the first and second proviso to Section 114A *ibid*, if **duty and interest is paid within thirty days** from the date of the communication of this order, the amount of penalty liable to be paid shall be **twenty-five per cent of the duty and interest**, subject to the condition that the amount of penalty is also paid within the period of thirty days of communication of this order.

(x) As penalty is imposed under Section 114A of the Customs Act, 1962, I refrain from imposing penalty under Section 112(a) in terms of the fifth proviso to Section 114A *ibid*.


(xi) I impose a penalty of Rs. **60,00,000/- (Rupees Sixty Lakh Only)** in respect of goods covered under Bills of Entry No. 6808700 dated 08.02.2020 and 6871448 dated 13.02.2020 under Section 114AA of the Customs Act, 1962, on M/s Global Mind.

(xii) I impose a penalty of Rs. **2,30,00,000/- (Rupees Two Crore Thirty Lakh Only)** in respect of goods covered under 11 Bills of Entry as mentioned in Annexure – B to the subject SCN under Section 114AA of the Customs Act, 1962, on M/s Global Mind.

(xiii) I order that the Security Deposit of Rs.70,70,550/- (Rupees Seventy Lakh Seventy Thousand Five Hundred Fifty Only) tendered by M/s Global Mind against the provisional release of the goods covered under Bill of Entry No. 6808700 dated 08.02.2020 and 6871448 dated 13.02.2020, be enforced and encashed and appropriated forthwith against differential duty, interest and other liability in respect of goods covered under Bills of Entry No. 6808700 dated 08.02.2020 and 6871448 dated 13.02.2020.

(xiv) I impose a penalty of Rs. **5,00,000/- (Rupees Five Lakh Only)** under Section 112(a) of the Customs Act, 1962, and penalty of Rs. **50,00,000/- (Rupees Fifty Lakh Only)** under Section 114AA of the Customs Act, 1962, on M/s Sigma Forwarders.

5. This order is issued without prejudice to any other action that may be taken in respect of the goods in question and/or the persons/firms concerned, covered or not covered by this show cause notice, under the provisions of Customs Act, 1962, and/or any other law for the time being in force in the Republic of India.

 18/7/25

(अनिल रामटेके / ANIL RAMTEKE)

सीमा शुल्क आयुक्त / Commissioner of Customs

एनएस-V, जेएनसीएच / NS-V, JNCH

To:

1. M/s. Global Mind (IEC: CHEPK5508E).
230, Danapur, Kyampur,
Ghazipur, Barabanki,
Uttar Pradesh, PIN-225405

2. M/s Sigma Forwarders,
No. 36/71, Thambu Chetty Street,
2nd Floor, Mannady,
Chennai-600 001.

Copy to:

1. The Addl. Commissioner of Customs, Group VB, JNCH
2. AC/DC, Chief Commissioner's Office, JNCH

3. AC/DC, Centralized Revenue Recovery Cell, JNCH
4. AC/DC, SIIB(I), JNCH
5. Superintendent (P), CHS Section, JNCH – For display on JNCH Notice Board.
6. EDI Section.
7. Office copy

